

Decision 84 06 139

JUN 20 1984

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of an Application for
Vincent P. Loduca Trucking, to
deviate from rates in MRT 14-A for
the account of Solar Dry Systems of
Modesto, CA. under Section 3666 of
the Public Utilities Code.

Application 84-04-061
(Filed April 12, 1984)

O P I N I O N

By this application Vincent P. Loduca (applicant) requests authority to assess rates less than those named in Minimum Rate Tariff (MRT) 14-A for the transportation of bulk sugar beet pulp for Solar Dry Systems.

Applicant proposes to assess a rate of \$4.00 per ton (20 cents per 100 pounds) minimum weight 44,000 pounds per unit of equipment, for the 23-mile haul from the Holly Sugar Corp. located near Imperial to Solar Dry Systems' facility at the abandoned Holtville Air Strip.

The shipper has furnished a letter supporting the proposal.

Notice of filing of the application appeared in the Commission's Daily Transportation Calendar of April 18, 1984. No objection to the request has been received.

In support of the request applicant alleges the following:

1. The wet beet pulp is gravity loaded into applicant's dump type semi-trailers. Shipments are gravity unloaded at destination.
2. Transportation is performed 24 hours each day during the sugar beet harvesting season.
3. There are no other carriers employed in this operation, so a grant of the request will not divert revenues from any competing carrier.

On occasion, applicant states, shipper may load, with its own equipment at the destination air strip, a shipment of solar dried pulp for return to the origin sugar refinery. During the 1983 season, applicant hauled 136 tons of dried beet pulp in this return movement. Applicant requests that the 20-cent rate include this return haul.

Applicant alleges that this commodity is essentially a waste material; that it contains 80% moisture and has no value with such a moisture content; and that it must be dried before being used as an animal feed.

Applicant states that it does not request in this proceeding an opinion on the question of whether minimum rates are applicable to the commodities involved in this transportation; rather it "seeks only a decision on the language and intent" of Public Utilities (PU) Code § 3666.

A request to deviate from the provisions of one of our minimum rate tariffs requires, perforce, that we examine the circumstances surrounding the request, including any question of whether the commodity is ratable under the particular tariff involved.

MRT 14-A names rates for the transportation, in bulk of, inter alia, "Feed, as described in Items 66700 through 67480...of the Governing Classification, other than liquid, not frozen." (Item 520) "Governing Classification" (Classification) is defined in Item 10 of MRT 14-A as "National Motor Freight Classification NMF 100-E, including supplements thereto or reissues thereof..." Items 66820 and 66830 of the Classification list, respectively, under "Feed Group" "Beet Pulp, dry" and "Beet Pulp, wet." No particular moisture content is specified in connection with either of these listings.

The "wet" beet pulp listed in Item 66830 cannot be considered "liquid," (and, therefore, not included in Item 520 of MRT 14-A) because other items listed in the Classification "Feed Group" are specifically described as "liquid." (See, for example, the shipping form description for Gluten Liquor, listed in Item 67240.)

We conclude that the wet beet pulp which is the subject of this application on outbound moves to the air strip, is properly ratable under MRT 14-A, notwithstanding applicant's statement that it has no value as a feed with a moisture content of 80%. The return loads of dry beet pulp are also ratable under MRT 14-A.

Cost information furnished with the application shows that average round-trip running time for this transportation is 105 minutes; terminal time (loading and unloading) is 12 minutes; estimated total miles for 1984 season is 411,930; and estimated duty hours for drivers during the 1984 season is 17,100. Total fixed, running, labor and indirect expenses have been developed. For the 1984 season, revenues for this transportation (based on \$4.00 per ton) are projected at \$788,000 and operating costs at \$535,123 for a net profit of \$252,877, and an operating ratio of 67.9%.

A financial statement for Loduca's 1983 operations included with the application shows a net income of \$128,532, and an operating ratio of 88.48%. A balance sheet indicating Loduca's financial position as of December 31, 1983 shows total assets of \$317,597 and total liabilities of \$264,867.

Applicant states it commenced this operation with the shipper in 1981 and has performed the transportation exclusively since that time.

The Commission's Transportation Division has informed us it believes applicant has unlawfully assessed the rate requested in this application in connection with transportation performed during the previous season. If this information is correct, applicant is placed on notice that granting the authority requested should not be considered a ratification of any practices he engaged in prior to the effective date of this decision.

Applicant proposes to employ two subhaulers to assist in performing this transportation, and requests authority to pay these carriers 10% less than the requested rate when a subhauler furnishes full units of equipment, and 30% less than the requested rate when a subhauler furnishes only a tractor.

Revenue and expense statements for the two subhaulers who will be working with applicant in this operation, Joe Andrade (T-104,477) and Bob Tonn (T-77,538) show that during the 1983 hauling season, when each carrier furnished only a tractor and rented Loduca's trailers in performing this transportation, Andrade experienced an operating ratio of 43.61%, and Tonn 43.17%. These statements show that the revenues applicant proposes for compensating these carriers will be reasonable.

The application will be granted. Because an immediate financial benefit is available to the debtor involved in this transportation, this decision should be effective today. A public hearing is not necessary.

Findings of Fact

1. The transportation of bulk beet pulp (wet or dry) described in this application is subject to the rates in MRT 14-A.

2. Applicant requests authority to assess less than the minimum rates contained in MRT 14-A for the transportation of bulk beet pulp.

3. Cost data submitted by applicant indicate that transportation at the proposed rate will be compensatory.

4. Applicant's proposed bases for compensating the subhaulers named in the application are reasonable.

Conclusions of Law

1. The proposed rate is reasonable.

2. The application should be granted.

3. Since transportation conditions may change, this authority should expire in one year.

4. There is an immediate opportunity for rate relief; therefore, the effective date of this order should be today.

5. The authority granted should provide that if independent contractor-subhaulers other than those named in the application are engaged to perform the transportation they must be paid not less than the rate authorized without any deductions.

O R D E R

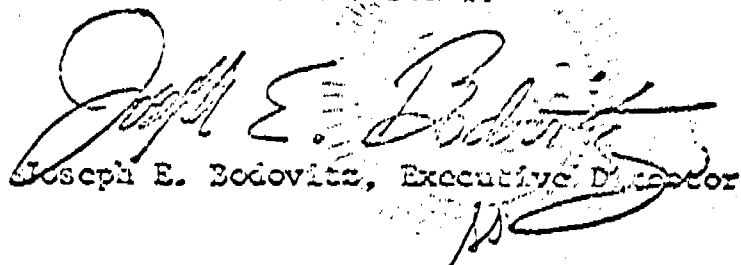
IT IS ORDERED that:

1. Vincent P. Loduca may depart from the provisions of MRT 14-A by assessing not less than the rate in Appendix A.
 2. This authority shall expire one year after the effective date of this order.
 3. The application is granted as set forth above.
- This order is effective today.

Dated JUN 20 1984, at San Francisco, California.

LEONARD M. GRIMES, JR.
President
VICTOR CALVO
EPISCILLA C. GREW
DONALD VIAL
WILLIAM T. BAGLEY
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.


Joseph E. Bodovitz, Executive Director

APPENDIX A

Carrier: Vincent P. Loduca.

Shipper: Solar Dry Systems.

Commodities: Bulk Beet Pulp, Wet; Bulk Beet Pulp, Dried.

Rate: \$4.00 per ton, minimum weight 44,000 pounds per load.

Origin: Holly Sugar Corp. plant near Imperial.

Destination: Solar Dry Systems facility at Holtville Air Strip.

Conditions:

1. Loading shall be performed by shipper.
2. Rate includes return movements of dried beet pulp from Holtville Air Strip to Holly Sugar Corp. near Imperial.
3. When carrier engages subhaulers Joe Andrade (T-104,477) or Bob Tonn (T-77,538) to perform this transportation, they shall be paid no less than 90% of the rate authorized by this decision when they furnish full units of equipment and no less than 70% of the rate authorized by this decision when they use Loduca's trailers. Any other subhauler engaged to perform this transportation shall be paid no less than the rate authorized by this decision.

(END OF APPENDIX A)