

Decision 88 03 049 MAR 23 1988

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 Lemore Transportation, Inc., doing)
 business as Royal Trucking Co., for)
 authority to depart from the)
 minimum rates, rules, and)
 regulations of Minimum Rate)
 Tariff 20, pursuant to the provi-)
 sions of Section 3666 of the)
 Public Utilities Code for)
 transportation performed for)
 Sugar City Building Materials Co.)

Application 86-07-057
 (Petition to Modify filed
 May 21, 1987; amended
 September 2, 1987 and
 December 30, 1987)

OPINION

In Decision (D.) 87-01-035 in this application, applicant Lemore Transportation, Inc. (Lemore) was granted authority to charge less than Minimum Rate Tariff (MRT) 7-A rates for the transportation of sand and gravel from Pleasanton to Pinole for the account of Sugar City Building Materials Co. The decision permitted the use of subhaulers only if paid the full deviated rate.

This authority was granted over the protest of California Dump Truck Owner's Association (CDTOA). The decision indicated that the protest did not set forth adequate grounds for demanding a hearing as required by Rule 8.4. This authority has recently been renewed for another year (Order No. SDD-108, effective January 14, 1988).

This Petition to Modify proposed to pay subhaulers the deviated rate less a 5% brokerage fee. A further 20% trailer rental would be deducted if subhaulers utilized the prime carrier's trailing equipment. CDTOA and staff both objected.

CDTOA's protest raised several technical questions concerning the economic showing used to justify the deductions. An

amendment filed September 2, 1987 cured some of the criticized defects and challenged the logic of the remainder. The staff's objection was based on a contention that applicant's costing had not imputed enough labor costs to the proposed operations.

A second amendment was filed. The revised cost estimates imputed the actual labor costs of applicant's employee-drivers. Under the amendment, the trailer rental would be reduced to 17-1/2% for tractor-only subhaulers. Those supplying a full unit will receive 95% of the deviated rate.

Staff has withdrawn its objection to the relief now proposed. CDTOA has not filed any response to the second amendment. No other protests have been filed.

Findings of Fact

1. Applicant's transportation involves unique circumstances.
2. The unique circumstances will cause subhaulers to receive adequate compensation even after deduction of a 5% brokerage fee and 17-1/2% trailer rental from the deviated rate.
3. CDTOA's criticisms of the petition have been satisfied.
4. As this order grants economic relief, it should be effective today.

Conclusions of Law

1. No evidentiary hearing is necessary.
2. The relief proposed by the second amendment should be granted.
3. Since the underlying authority to charge less than minimum rates expires in less than a year, this authority should expire at the same time.

ORDER

IT IS ORDERED that Appendix A of this decision shall be substituted for Appendix A of SDD-108, to expire January 14, 1989. This order is effective today.

Dated MAR 23 1988, at San Francisco, California.

STANLEY W. HULETT
President

DONALD VIAL
FREDERICK R. DUDA
G. MITCHELL WILK
JOHN B. OHANYAN
Commissioners

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


Victor Weisner, Executive Director

APPENDIX A
Page 1

T-88402

Carrier: Lemore Transportation, Inc.

Commodity: Sand and gravel.

Origin: Pleasanton (Kaiser's Radum plant).

Destination: Pinole (Sugar City Bldg. Material plant).

Minimum Weight: 25 tons.

Rate: \$4.75 per ton.

Conditions:

1. Commodity must be hopper loaded and gravity unloaded.
2. Free time will total 25 minutes for loading and unloading; excess time will be \$2.973 for each six minutes of delay.
3. In all other respects, the rates and rules in Minimum Rate Tariff 20 will apply.
4. The authority granted shall expire January 14, 1989.

Payments to Named Subhaulers:

For performing transportation under the authorized deviation, the subhaulers listed below shall be paid not less than \$91.56 per round trip when they furnish a tractor only and 95% of the authorized rate when they furnish a tractor and trailer as provided in Items 255 and 460 of Minimum Rate Tariff 20.:

<u>Name</u>	<u>Address</u>	<u>T Nos</u>
BMT Transport, Inc.	P. O. Box 6620 Concord, CA 94524	T-153608
Albino DeMarco	P. O. Box 6085 Concord, CA 94524	T-78924

APPENDIX A
Page 2

William Eslinger	2309 San Miguel Dr. Walnut Creek, CA 94596	T-151311
Ralph H. Hall	P. O. Box 233 Benicia, CA 94510	T-147697
William Karas	5148 Myrtle Dr. Concord, CA 94521	T-146906
John Knoll	127 Hardy Cir. Pleasant Hill, CA 94523	T-148666
Timothy O' Reilly	36163 Fremont Blvd., #99 Fremont, CA 94536	T-115657
Super Chief Trucking	7638 Millbrook Ave. Dublin, CA 94568	T-144480

Subhaulers, other than the carriers named above, shall be paid in accordance with the provisions of Minimum Rate Tariff 20.

(END OF APPENDIX A)