

Decision 88 05 036 MAY 11 1988

ORIGINAL MAY 12 1988

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
UC OPERATING SERVICES for an order)	Application 88-01-017
of the Commission exempting wood)	(Filed January 19, 1988)
residues used as fuel from rate)	Amended February 23, 1988)
regulation.)	
_____)	

OPINION

UC Operating Services (UCOS), a general partnership whose general partners are Ultrapower Services, Inc. and COSI Ultra Inc., seeks an exemption from rate regulation for the transportation of certain waste products which are used as power plant fuel.

Specifically UCOS requests that the following commodity description be added to the Commission's list of Commodities and Geographic Areas Exempt from Rate Regulation:

"Power Plant Fuel - wood, plant fiber, or biomass residues from manufacturing facilities, forests, solid waste dumps and other locations, including wood scrap, pieces, chips, sawdust or bark, and agricultural wastes that are to be used as fuel."

The application states that:

"UCOS during the last five years has managed fuel procurement for waste fuel boilers located at Blue Lake, Burney, Chinese Station and Westwood Station in California. These facilities burn over 70,000 tons of solid waste per year, offsetting use of 120,000 barrels of fuel oil a year that would be required for that combustion energy. The solid waste includes wood shavings, sawdust, scrap, pieces, chips, and bark from saw mills, agricultural residues, ground or shredded waste wood from city dumps and land-fills and waste wood from forestry operations. An average of 110 truckloads a day of these waste materials move into those facilities. All that material would wind up in

a land-fill or dump, or be open-burned, were these facilities not operating.

"Within the next 18 months UCOS intends to bring two new wood waste burning facilities on line, a 25 megawatt ('MW') facility located in Rocklin, California and a 25 MW facility located in Fresno, California. These two facilities will burn over 527,000 tons of solid waste per year, offsetting 895,000 barrels of fuel oil a year. An average of 45 truckloads a day of waste materials must be transported to each plant. It is expected that approximately 45% of the transported wood waste will be backhauled to these two facilities from urban areas."

The application further states that:

"Applicant believes that the public interest does not require the establishment of minimum rates or regulatory control over for-hire truck rates on wood residues moving within the State of California to facilities operated by or supplied with fuel by UCOS and further believes that the public interest would best be served by a Commission order directing the addition of 'wood residues', as previously defined in this application, to the Commission's list of exempt commodities for the following reasons.

"1. Such exemption is consistent with state energy policy.

"The wood wastes used in facilities operated or supplied with fuel by UCOS is obtained from lumbering sites, sawmills, farms and orchards and existing land fills. Absent their use to generate steam and electricity for industrial and other processes, these wood wastes would be open-burned or disposed of in land-fills, approved and unapproved, aggravating the problems caused by the already dwindling space available for disposal of other solid waste products. As noted in Decision No. 84-10-093: 'in 1977, the State Legislature and Assembly Concurrent Resolution (ACR) 48 determined that the productive recycling and reuse of materials found in solid waste are in the public interest and that intrastate truck rates to transport

those materials had a negative impact on the marketability.' (See Decision No. 84-10-093, at page 5.)

"Applicant notes that of the five counties where Applicant's projects are located, four were counties in which at least two active landfills have closed during the last six years. Collectively, these landfills were reported to have accepted wastes, including wood waste as defined herein, of approximately 2,300 tons per day. Applicant is informed and believes that, absent these landfills, the wastes would be hauled to more remote landfills or open-burned at cost to the environment and the taxpayer. In conjunction with this observed decline in landfill availability, applicant notes that the population is projected to approximately double in many central and southern California counties during the next thirty-five years. Prudent land management and less costly energy for this growing population follow from the expedited movement of wood residues into electric power facilities.

"Therefore, as the Commission found with respect to Fiberboard's request for an exemption, the exemption of wood residue used only as fuel from intrastate rate regulation, as requested by Applicant, would result in significant economic benefit and serve the public interest.

"2. Current regulation of for-hire transport of wood residues used only as fuel is unduly burdensome.

"Currently existing pre-transport filing requirements in conjunction with minimum commodity transport rate creates an onerous burden in obtaining economic wood waste transport. All rates are negotiated for individual hauls of waste material. Carriers are often small, specialized carriers with one to ten trucks. They use van equipment to transport forest products, agricultural, and animal feed commodities. This equipment is suitable for hauling general commodities and is

ideal for handling wood residues as backhaul traffic.

"Because these small operators do not have the time or facilities to prepare the contracts, rate schedules, and costs justifications required by the Commission's General Order 147, the shipper or Applicant is required to do the work for them. Under this arrangement, it takes at least seven days after an agreement has been negotiated to comply with the requirements of General Order No. 147. In addition, where responsive rates are not established, movement cannot occur without prohibitive delay because of the need to file an application for authority to charge a competitive rate, a delay which extends at a minimum for 30 days. In several cases, the delay between the negotiation of the agreement and Commission approval averages over two months. Because equipment for this transportation becomes available when the specialized carriers make deliveries and are looking for return movements, the delay in securing the necessary authority from the Commission prevents movement and the truck returns empty.

"While the dedication of a waste product to producing energy and to avoiding land fill disposal is clearly in the public interest, the regulation of the transportation rates to move these waste materials from disposal site to boiler site creates problems contrary to the public interest. First, the need for a prior contract with the carrier as well as related filings with the Commission causes undue hardship and expense with regard to the procurement of fuel necessary for each particular cogeneration facility. The availability of waste wood by location and size of shipment is uncertain and erratic because of its very nature as a waste product. Consequently, different contracts are required for different movements. Secondly, haulers who are willing to move the waste wood on short notice of availability are not able to wait for the regulatory notices to be filed. In particular, truckers willing to backhaul a load of waste wood after delivering a main cargo to

another client will not be willing to wait for contract filing before picking up another main cargo. The delay in securing the necessary authority from the Commission consequently prevents movement and the truck returns empty.

"3. The economics of wood waste hauling do not support the imposition of minimum rate regulation.

"Intrastate minimum commodity rates may well be inconsistent with the value of the total movement of the waste freight. Most importantly, the economics of wood waste haulage are such that continued insistence upon payment of the minimum commodity transportation rate by wood waste burning facility owners will make these energy substitutes uneconomic to the purchaser. UCOS has estimated that freight costs will comprise in the range of 40-75% of the total cost of fuel under the current tariff. This could be contemplated to increase significantly in future years. With the granting of the exemption requested herein, UCOS anticipates that the transportation component would comprise approximately 33% of the total cost of fuel. In particular, for the two planned facilities that UCOS intends to construct that require significant quantities of urban wood waste, negotiated backhaul transport rates will be critical to the economic feasibility of plant operation.

"4. The Commission has granted previous exemptions for similar commodities.

"The current list of exempt commodities identifies a significant range of waste commodities, which are not dissimilar to wood wastes in that they can be used as fuel in steam generating facilities. These exempted commodities include the following: almond hulls and shells, wood logs, paper scrap, wood shavings used for bedding and machine pressed bails, walnut shells, and scrap tires."

The applicant points out that:

"The relief requested herein is substantially similar to the relief that was granted to

Fiberboard Corporation, a subsidiary of Louisiana-Pacific Corporation by the Commission in Decision No.84-10-093 issued on October 22, 1984 in Application No. 83-12-63. In Decision No. 84-10-093, the Commission concluded that the transportation of wood residues for use as fuel to Fiberboard's Antioch plant should properly be exempted from rate regulation. For the reasons stated in decision No. 84-10-093 as well as additional reasons discussed below, Applicant believes that its request for exemption from rate regulation for specific movements of wood residue used only as fuel should be granted."

Notice of the filing of the application and the amendment thereto appeared in the Commission's Daily Transportation Calendar. No protest to the granting of the application as amended has been received.

The Transportation Division staff has reviewed the application and has advised that it believes that it is one which, in the absence of protest, may be granted by ex-parte order.

Findings of Fact

1. UCOS has managed fuel procurement for waste fuel boilers at various locations in California for the past five years.
2. The waste fuel boilers burn over 70,000 tons of solid waste per year, offsetting use of 120,000 barrels of fuel oil per year that would be required for that combustion energy.
3. Within the next 18 months UCOS intends to bring two new waste burning facilities on line both of which are 25 MW facilities which will be located at Rocklin and Fresno.
4. The materials used in the facilities operated or supplied with fuel by UCOS is obtained from lumbering sites, sawmills, farms, orchards and existing land fills.
5. The use of waste products to produce energy should be encouraged, especially when the production of such energy lessens our dependence on the purchase and use of foreign oil.

6. UCOS estimates that freight costs under current rates will comprise 40-75% of the total cost of the fuel.

7. UCOS anticipates that if the exemption is granted the transportation component of the entire cost would drop to approximately 33%.

8. The commodity for which exemption is sought is similar to commodities for which we have previously granted exemptions from rate regulation.

Conclusions of Law

1. The application should be granted.
2. The list of commodities exempt from rate regulations should be amended as set forth in the ensuing order.
3. A public hearing is not necessary.

ORDER

IT IS ORDERED that:

1. The document "Commodities and Geographic Areas Exempt from Rate Regulation" is amended by incorporating Third Revised Page 4 attached, to become effective 21 days after today.
2. Tariff publications authorized to be made by common carriers as a result of this order shall be made effective not earlier than 21 days after today, and may be made effective on not less than 5 days' notice to the Commission and to the public if filed not later than 60 days after the effective date of the minimum rate tariff pages incorporated in this order.
3. In all other respects D.82-06-091, as amended, shall remain in full force and effect.

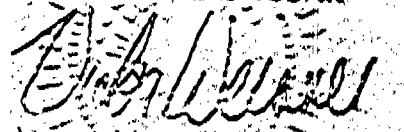
4. The Executive Director shall mail a copy of the revision to the list of Commodities and Geographic Areas Exempt from Rate Regulation to each highway common carrier and each highway contract carrier.

This order is effective today.

Dated MAY 11 1988, at San Francisco, California.

STANLEY W. HULETT
President
DONALD VIAL
FREDERICK R. DUDA
C. MITCHELL WILK
JOHN B. OHEANIAN
Commissioners

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


Stanley W. Hulett, Executive Director

SECTION 2--LIST OF COMMODITIES EXEMPT FROM RATE REGULATION (continued)

Directories, telephone, new, distributed to subscribers, and old, picked up from subscribers, Note -- applies only within East Bay Drayage Area as described in Section 4 and within the City and County of San Francisco.

Eggs (Subject to Note 6).

Farina; Subject to Notes 12 and 13.

Feed, animal or poultry, as described in Note 14; Subject to Notes 11, 12, and 13.

Fertilizers, as described in Note 8; Subject to Notes 1, 2, and 3.

Film, motion picture; Subject to Note 1.

Fodder, bean, cane, corn or pea, in machine pressed bales; Subject to Note 11.

Fruit, dried, unmanufactured and unprocessed (Subject to Note 10).

Fruit, fresh or green, including dates, fresh, not cold pack nor frozen.

Fruit, which are placed in a preservative and are destined to a cannery for processing into a preserved or pickled fruit.

*Fuel, power plant - wood, plant fiber, or biomass residues from manufacturing facilities, forests, solid waste dumps and other locations, including wood scrap, pieces, chips, sawdust or bark, and agricultural wastes that are to be used as fuel.

Fungicides, agricultural; Subject to Notes 1, 2, and 3.

Furniture, household appliances and other home furnishings which have been sold at retail by a retail merchant, transported from retail stores or retail store warehouses, or transported from retail customers to retail stores or retail store warehouses. The exemption applies only when the distance between point of origin and destination does not exceed 35 constructive miles, computed in accordance with the Commission's Distance Table 8. This mileage restriction does not apply for transportation within the East Bay Drayage Area and San Diego Drayage Area as described in Section 5 and the City and County of San Francisco.

Furniture, uncrated, new, of state, county or municipal governments, or transported under an agreement whereby the governments contracted for carrier's services; Subject to Notes 1, 2, and 3.

* Addition, Decision

88 05 036

EFFECTIVE June 1, 1988

ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA,
SAN FRANCISCO, CALIFORNIA.

Correction

SECTION 4--EXPLANATORY NOTES (concluded)

14. Feed, animal or poultry, subject to Notes 11, 12, and 13, viz. (Numbers within parentheses immediately following commodities shown below refer to such commodities as they are described in the corresponding item numbers of the Governing Classification, except as to packing requirements and form in which the commodity is shipped.):

Alfalfa, chopped and pressed into cubes or pellets, air-dry or otherwise dried;

Feed, as described in Items 66700 through 67480 and 67520 through 67882 ("Feed Group") of the Governing Classification, other than liquid, not frozen;

Grit, processed from rock, subject to Note 4.

Grit, processed from shell;

Hulls, cottonseed (54410);

Hulls, sunflower seed (179980);

Hulls, NOI, whole or ground;

Hulls or Shells; cocoa bean, ground or not ground;

Limestone, crushed or ground, feed grade, subject to Note 4;

Meal, feather;

Mineral Mixtures containing Calcium Carbonate, Copperas, Epsom Salts, Crude Salt (feed grade), Sulphate of Soda, Glauber's Salts, Sulphur or Potassium Iodide, with or without not in excess of 10% by weight of other unnamed ingredients, subject to Note 16;

Nut hulls or shells, NOI (175460);

Pomace;

Urea (47220).

15. When shipment is in packages or in containers not exceeding 40 cubic feet capacity, exemption applies only when shipper certifies on the shipping document covering the transportation that the shell marl is being shipped for use as a fertilizer (Subject to Notes 1, 2, and 3).

16. In connection with Mineral Mixtures containing Crude Salt (feed grade), shipper must enter the following notation on the bill of lading or shipping document:

"Crude Salt (feed grade) to be used
only for animal feed."

If the shipper fails or declines to make such notation in writing, the exemption will not apply.

- *17. Exemption does not apply to transportation for which rates are provided in Minimum Rate Tariffs 7-A and 17-A.

* Addition, Decision

ISSUED

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SAN FRANCISCO, CALIFORNIA.

Correction