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Decision 90-11-069 November 21, 1990

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of Glen Wilson Trucking, Inc., for )  
renewal authority pursuant to the )  
provisions of the Public Utilities )  
Code, to depart from the Minimum )  
Rate Tariff 7-A to transport rock )  
and sand at less than minimum rates. )

**ORIGINAL**  
Application 90-08-013  
(Filed August 8, 1990)

O P I N I O N

Glen Wilson Trucking, Inc. (applicant) is a California corporation based in Modesto (Stanislaus County). Its Articles of Incorporation has been filed with the Commission. Applicant is authorized to operate as a dump truck carrier, tank truck carrier, heavy specialized carrier, and a highway contract carrier under Commission File T-143,680.

Applicant requests Commission authority, under Public Utilities (PU) Code § 3666 and pursuant to Resolution TS-682, to continue to deviate from the provisions of Minimum Rate Tariff (MRT) 7-A for the transportation of rock, sand, and gravel for the account of George Reed, Inc. and between the following points:

1. From Ardis to Escalon, a distance of 20.3 miles.
2. From Table Mountain to Escalon, a distance of 36 miles.
3. From Ardis to Table Mountain, a distance of 24.7 miles.

The deviation was initially authorized by Decision (D.) 87-09-044 dated September 10, 1987 in Application (A.) 86-06-031. The deviated rates were renewed by Order No. Special Deviation

Docket (SDD) 139 on November 2, 1988, and by Order No. SDD-183 on September 5, 1989.

Applicant further requests that the Commission delegate authority to the Transportation Division (TD) to grant future applications to renew this particular rate, upon a showing that the renewal is substantially similar to this current application, and otherwise complies with the applicable rules and regulations of the Commission.

Notice of the filing appeared in the Commission's Daily Transportation Calendar on August 15, 1990. A copy of the application was served on the California Dump Truck Owners Association, the only party of record in the original deviation proceeding. There are no other parties of record in the subsequent renewals of the deviation. There have been no protests or requests for a hearing. TD recommends that the application be granted, and that applicant be allowed in the future to renew the deviation, without substantial change, by the Full Cost Deviation (FCD) method outlined in D.89-09-104. TD further recommends that applicant not be required to submit subhauler costs as normally required by the FCD method.

#### Discussion

The Commission no longer has an SDD procedure for the deviation process. D.89-09-104 provides an FCD method for rates less than 90% of the applicable minimum rate. Applicant could file under that procedure, except for provision four, which requires that costs of subhaulers be provided if they provide more than half the transportation. Applicant alleges that it cannot provide this information since it necessarily uses different subhaulers because of the peak requirements of the shipper and the backhaul nature of most of the traffic.

We note that applicant pays subhaulers 100% of the deviated rate. For that reason we can assume that the rate covers subhaulers' full costs and produces a profit as well; we conclude

that it is not necessary for applicant to submit the costs of subhaulers.

Applicant was originally granted the deviation after hearing in A.86-06-031; the deviation was renewed twice by SDD. We recognized that applicant's operation justified the deviation at those times. The application indicates and TD agrees that the operation continues substantially unchanged. Applicant requests that the renewal authorize the same rates as currently in effect, shown in Appendix C attached to the application, except that the rates not apply to transfer dump equipment.

TD requests that future renewals be handled by the FCD method, without subhauler costs. We agree that this is a proper method for handling future renewals. TD will then review the filing to determine whether the operation of applicant remains substantially unchanged, and warrants renewal.

We will renew applicant's rate deviation authority for one year as allowed under PU Code § 3666.

Findings of Fact

1. Applicant is authorized to operate as a dump truck carrier at rates deviating from MRT 7-A as authorized by D.87-09-044.
2. Applicant requests the Commission to renew the authority to operate at the deviated rates last authorized by Order No. Special Deviation Docket 183 on September 5, 1989.
3. The deviated rates have previously been found reasonable by the Commission.
4. Applicant's operation continues substantially unchanged.
5. Applicant utilizes subhaulers on the routes that are subject in this application.
6. Applicant pays subhaulers 100% of the deviated rates less trailer rental, if applicable.

7. Cost data submitted with the application indicate that transportation performed at the deviated rates will be compensatory.

8. The proposed rates are reasonable.

9. A public hearing is not necessary.

10. Future requests for renewal of the deviated rates may be made using the FCD method outlined in D.89-09-104, without subhauler costs.

Conclusions of Law

1. The application should be granted.

2. Under PU Code § 3666, the authority granted in the following order should expire in one year.

3. This order should be effective on the date signed because there is an immediate need for rate relief.

4. Applicant should be authorized to file for future renewal of these deviated rates by the FCD method without subhauler costs.

ORDER

IT IS ORDERED that:

1. Glen Wilson Trucking, Inc. (applicant) is authorized to depart from the provisions of Minimum Rate Tariff (MRT) 7-A to the extent set forth in Appendix A attached.

2. The authority granted shall expire one year after the effective date of this order.

3. Applicant is authorized to file for renewal of this authority using the Full Cost Deviation method pursuant to Appendix A to D.89-09-104, without subhauler costs.

4. In all other respects, the provisions of MRT 7-A shall remain in effect.

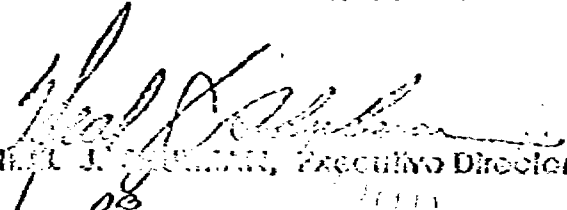
This order is effective today.

Dated November 21, 1990, at San Francisco, California.

G. MITCHELL WILK  
President  
STANLEY W. HULETT  
JOHN B. OHANIAN  
PATRICIA M. ECKERT  
Commissioners

Commissioner Frederick R. Duda,  
being necessarily absent, did  
not participate.

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

  
NEIL J. BRENNAN, Executive Director

## APPENDIX A

## AUTHORIZED RATES

Rates in Cents Per Ton 2,000 Pounds

Sand, in Dump Truck Equipment  
Minimum Weight 25 Tons Per Truckload

<u>From</u>	<u>To</u>	<u>Miles</u>	<u>Rate</u>
Ardis Pit 7.2 miles east of Oakdale	Munn & Perkins 1-1/2 miles east of McHenry	40.6 Round Trip	213 <sup>1/</sup>
Table Mountain 9 miles west of Jamestown one mile off Highway 108 on O'Brien Road	Munn & Perkins Escalon	36 One Way	255 <sup>2/</sup>
Ardis Pit (See Above) east of Oakdale	Table Mountain (See Above) of McHenry	49.4 Round Trip	239 <sup>1/</sup>

1/ Will not apply in transfer dump equipment.

2/ Rate applies only when carrier has equipment returning to the Escalon-Modesto area from outbound paying load.

Condition:

When this transportation is performed by subhaulers, such subhaulers shall be compensated at rates not less than those named in this appendix less trailer rental, if applicable.

(END OF APPENDIX A)