

**ORIGINAL**

TD-22

Decision 82 11 074 NOV 17 1982

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )	
PAR Trucking, Inc. for authority to )	
deviate from the otherwise applicable )	Application 82-04-54
minimum rates for the transportation )	(Filed April 26, 1982;
of gypsum for the account of )	amended June 1, 1982)
Southwestern Portland Cement Co. )	

Philip A. Rivera and Carol Schmidt, for Par Trucking, Inc., applicant.  
Steven L. Gale, for Apex Bulk Commodities;  
George G. Cross, for Bulk Transportation;  
James D. Martens and J. M. Jenkins, for California Dump Truck Owners Association;  
William Mitze, for Riverside Cement Company;  
Sharon A. Testman, for Sunrise Transportation;  
Alvin L. Cox, for General Portland, Inc.;  
and Paul E. Pence, for Southwest Portland Cement Company; interested parties.  
Russell D. Corning, for the Commission staff.

O P I N I O N

By this application, as amended, Par Trucking, Inc. (Par) requests authority to assess less than the minimum rate in Minimum Rate Tariff 7-A (MRT 7-A) for the transportation of gypsum in dump truck equipment for Southwestern Portland Cement Company (Southwestern) from the plant of U.S. Gypsum Company (USGC) at Plaster City to Southwestern's plant at Victorville. The requested authority was opposed by the California Dump Truck Owners Association (CDTOA).

This application, as amended, was consolidated for hearing with requests by Apex Bulk Commodities (Apex), a corporation, in A.82-04-40 and A.82-04-58, both as amended, and by Bulk Transportation, a

corporation, in A.82-05-26 for authority to charge less than the minimum rates in MRT 7-A for certain other similar-type transportation. Hearing on the four matters was held before Administrative Law Judge Arthur M. Mooney in Los Angeles on July 22 and 23, 1982. All were submitted on the second day. Because the evidence, arguments, and positions of parties relating to the requests by each applicant were heard separately and to avoid any confusion among the matters, this decision covers the Par application only, and the requests by each of the other two will be the subject of separate decisions.

Par proposes a rate of \$10 per ton, minimum weight 26 tons per shipment, for the gypsum haul. Additionally, it proposes a charge of \$6 for each 15 minutes or fraction of that time for excess loading and unloading time over one hour. The applicable minimum rate, including a 16½% surcharge, in MRT 7-A for this transportation at the time of the hearing was \$16.10 per ton, minimum weight 24 tons per shipment.

Following is a summary of the evidence presented by the president of Par and its bookkeeper:

1. Par has been in business for a number of years. It holds various operating authorities from the Commission, including authority to operate as a dump truck carrier and a cement carrier. Par's principal place of business is located at Lancaster and it has some equipment stationed at Victorville. It operates 23 tractors and 26 sets of trailers, of which 23 are pneumatic hoppers, one is gravity bottom unload, and two are flatbeds. Par does not use subhaulers extensively.
2. Par now transports cement at the applicable tariff rate from Southwestern's Victorville plant to a company in El Centro that services geothermal wells. It has handled this transportation for some time and will continue to

do so. The frequency of this transportation depends on the needs of the consignee and ranges from one to six loads per week with an average of three shipments per week. The equipment returns empty. Because of this, it is not a profitable haul.

3. The distance from the El Centro consignee's plant to USGC at Plaster City is approximately 27 miles. If the sought rate is authorized, Par would then have a revenue backhaul with only 27 empty miles on the 491-mile round-trip cycle.
4. A two-axle tractor with a set of pneumatic hopper trailers would be used for the transportation. The equipment is based in Victorville. It has bottom gravity unloading capability, and the gypsum would be unloaded in this manner. Additional equipment is available if needed.
5. Loading and unloading facilities for the fronthaul and backhaul are open 24 hours a day, Monday through Friday, which assures maximum use of equipment. There would be no layover time. Par does not pay drivers an overtime premium.
6. Southwestern buys sufficient quantities of gypsum from USGC to assure a return haul of this commodity for every cement haul to El Centro. The backhaul would average three loads and a total of 78 tons per week, and this would amount to 156 loads and 4,056 tons per year.
7. The proposed gypsum haul would not be profitable by itself, and Par would not haul it at the sought rate without a cement shipment. The two hauls together are profitable.
8. Par does not anticipate using subhaulers for this transportation. If it should do so, it would be willing to pay them the applicable MRT 7-A charges.

According to the revenue and cost data developed by Par for the 491-mile round trip, the revenue would be \$421.20 for the cement haul at the applicable tariff rate and \$260 for the gypsum haul at the proposed rate for a total of \$681.20; the cost would be \$497.93, the net income would be \$183.27, and the operating ratio would be 73.1%.

As of December 31, 1981, Par had assets of \$1,230,501, liabilities of \$820,922, and a net worth of \$409,579. For the year 1981, it had total income of \$1,885,375, and a net income of \$234,852 before income taxes.

The traffic manager of Southwestern, who has been with the company for 19 years, testified that his company uses a substantial amount of gypsum each week. He stated that if the sought rate were authorized, Southwestern would use Par to transport gypsum for it from Plaster City.

The Commission staff presented a written opening statement of position and assisted in the development of the record. In its statement the staff asserted that it would be opposed to the proposed reduced rate unless Par meets the following standards for justifying such requests enunciated by the Commission in various policy decisions:

1. The combined revenue from the total operation must be profitable to the carrier.
2. The combined traffic is not only expected, but is assured.
3. Either the combined traffic is controlled by a single shipper or

the transportation at the proposed rate is so related to the other transportation to constitute an integrated operation.

Based on the unique facts and circumstances surrounding the transportation in issue, we are of the opinion that the application, as amended, should be granted subject to several conditions discussed below. The evidence and cost data of record presented by applicant establish that:

1. The combined revenue from the total operation, gypsum at the proposed rate and cement at the applicable tariff rate, will be profitable.
2. Par now transports on the average three loads of cement from Victorville to El Centro per week and will continue to do so. Southwestern will use Par to transport gypsum from Plaster City to Victorville at the proposed rate.
3. Both hauls are an integrated operation. There will be a gypsum haul for every cement haul. In the event this should not be so for any reason, Par would not haul the gypsum at the proposed rate.

The main concern of CDTOA was that Par did not present any costs for subhaulers. In this connection a guide for filing rate deviation applications was adopted by Commission Resolution TS-284 dated January 24, 1978. It provides in part that if subhaulers are to be used to perform any of the proposed transportation at a lesser rate than that sought, certain subhauler information, including their costs for providing the service, shall be furnished with the application. However, as stated by Par's witness, his company does not anticipate using subhaulers for any of this

transportation, and if it did, it would pay them the MRT 7-A charges.

To avoid any misunderstandings regarding the application of the sought rate and the possible use of subhaulers, the authority granted will include the following conditions:

1. Loading and unloading time in excess of one hour to be charged at rate of \$6 per  $\frac{1}{2}$  hour or any fraction of that time.
2. Rate applies only when transportation of a truckload of cement from Victorville to El Centro at the applicable tariff rate and charge immediately precedes the shipment in the same unit of equipment.
3. Any subhaulers employed shall be paid no less than the rate authorized without any deduction for use of Par's trailing equipment.
4. In all other respects, the rates and rules in MRT 7-A shall apply.

We recognize that Par is willing to pay the applicable MRT 7-A charges to any subhaulers it might use to transport the gypsum. The third condition above requires that they be paid 100% of the authorized rate with no deduction for the use of Par's trailing equipment. This is in conformity with Resolution TS-284 and does not prohibit Par from paying subhaulers on the MRT 7-A basis if it wishes to do so.

Since there is an immediate need for the relief, the following order should be made effective on the date it is signed.

Findings of Fact

1. Par seeks authority to assess less than the minimum rates and charges stated in MRT 7-A for the transportation of gypsum for Southwestern from the plant of USGC at Plaster City to Southwestern at Victorville.

2. The gypsum will be transported in pneumatic hopper trailers with bottom gravity unloading capability, and the gypsum would be unloaded in this manner.

3. Par now transports on the average three truckloads of cement per week from Southwestern's Victorville plant to a consignee in El Centro.

4. Southwestern uses substantial amounts of gypsum at its Victorville plant. If the sought authority is granted, it intends to have Par transport a return load of gypsum for it from USGC at Plaster City for each cement shipment the carrier hauls to El Centro.

5. All loading and unloading facilities for the transportation described in Finding 4 are open 24 hours per day, Monday through Friday.

6. Cost data of record indicate that the proposed gypsum transportation will be compensatory provided it is handled as part of a round-trip cycle as described in Finding 4.

7. Par does not intend to use subhaulers for the transportation in issue. Should it do so, it intends to pay them on the basis of MRT 7-A.

8. The transportation in issue involves unique circumstances.

9. The sought rate is reasonable provided the proposed gypsum shipments are transported as part of round-trip cycles as described in Finding 4.

10. The following order has no reasonably foreseeable impact upon the energy efficiency of highway carriers.

Conclusions of Law

1. The application, as amended, should be granted as provided in the following order.

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

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

O R D E R

IT IS ORDERED that:

1. Par Trucking, Inc. may depart from the rates in MRT 7-A by charging not less than the rates in Appendix A.

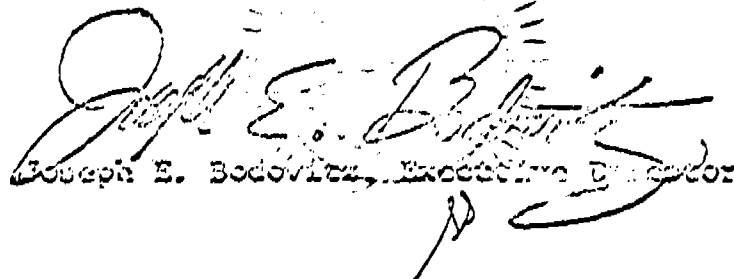
2. This authority shall expire one year after the effective date of this order.

This order is effective today.

Dated NOV 17 1982, at San Francisco, California.

JOHN E. BRYSON  
President  
RICHARD D GRAVELLE  
LEONARD M. GRIMES, JR.  
VICTOR CALVO  
PRISCILLA C. CREW  
Commissioners

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

  
Joseph E. Bodovitz, Executive Director



APPENDIX A

Carrier: Par Trucking, Inc. (Par).  
Commodity: Gypsum, not further processed than crushed.  
Origin: U.S. Gypsum Company, Plaster City.  
Destination: Southwestern Portland Cement Company, Victorville  
Rate: \$10 per ton.  
Minimum Weight: 26 tons.

Conditions:

1. Loading and unloading time in excess of one hour to be charged at the rate of \$6 per  $\frac{1}{4}$  hour or any fraction of that time.
2. Rate applies only when transportation of a truckload of cement at the applicable tariff rate immediately precedes the shipment in the same unit of equipment.
3. Any subhaulers employed shall be paid no less than the rate authorized without any deduction for the use of Par's trailing equipment.
4. In all other respects, the rates and rules in Minimum Rate Tariff 7-A apply.

(END OF APPENDIX A)