

Decision 82 11 075 NOV 17 1982

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of)
 BULK TRANSPORTATION, a corporation)
 to perform transportation services) Application 82-05-26
 for the account of GENERAL PORTLAND,) (Filed May 10, 1982)
 INC., in the movement of gypsum at)
 less than minimum rates.)

George G. Cross, for Bulk Transportation,
 applicant.

Steve Gale, for Apex Bulk Commodities;

Philip A. Rivera and Carol Schmidt, for
Par Trucking, Inc.; 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 Bulk Transportation (Bulk), a corporation, 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 General Portland, Inc. (General) from the plant of Dome Tar (Dome) at Long Beach to General's plant at Los Robles, Kern County. According to Bulk the distance is 80 miles. General's plant is located near the boundary line between Kern and Los Angeles Counties approximately 12 miles in a generally easterly direction from Interstate Highway 5.

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

both as amended, and by Par Trucking, Inc. in A.82-04-54, as amended, 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 Bulk application only, and the requests by each of the other two will be the subject of separate decisions.

Bulk proposes a rate of \$6 per ton, minimum weight 25 tons per shipment, for the gypsum haul. Additionally, it proposes a charge of \$3 for each 15 minutes or fraction of that time for excess loading or unloading time over one hour. The applicable minimum rate, including a 16½% surcharge, in MRT 7-A at the time of the hearing for transporting gypsum 80 miles was \$6.71 per ton, minimum weight 24 tons per shipment.

Following is a summary of the evidence presented by the president of Bulk:

1. Bulk has been in business for a number of years. It holds various operating authorities from this Commission, including a dump truck carrier permit. It also holds various operating rights from the Interstate Commerce Commission. Bulk has company-owned terminals in Walnut and Stockton and rents terminal facilities in Fresno, El Centro, and Phoenix, Arizona. It operates a substantial fleet of power units and trailing equipment, including hopper trailers with dome covers and bottom dump capability, which is the type that would be used for the transportation in issue. It hires five owner-operators of tractors to pull some of its trailing equipment. It owns California Ammonia Transportation which also operates many vehicles.

2. Bulk now transports roofing granules for Superior Products Company (Superior) from the plant of U.S. Borax Company (Borax) at Boron, which is in southeastern Kern County, to Superior's plant at Chandler, Arizona, which is approximately 20 miles east of Phoenix. Superior, which is just commencing operations here, will require around 22 loads of the roofing material next month, and the number of loads should increase in future months. Bulk has a verbal commitment from Superior to continue to use its service for this transportation. Bulk also transports cotton seed meal for C. G. Cotton Seed Company (C. G. Co.) from Casa Grande, Arizona, which is about 20 miles from Chandler, to the Los Angeles Harbor Grain Terminal (Grain Terminal) for export. There are about 50 of these movements a month. Generally, there is a shipment of this commodity available for Bulk every time it has an idle truck in the area. The Grain Terminal has a substantial storage capacity. The rates in the applicable interstate tariffs of Western Motor Tariff Bureau are applied to each of these movements.
3. Bulk's equipment now travels empty from its Walnut terminal to Boron to pick up the roofing material for Superior. If the sought rate is granted, it would, by traveling 34 miles from Walnut to Long Beach, have a revenue haul for part of the distance on its way to Boron. This would reduce costly empty miles and add to Bulk's income.
4. General uses about 450 tons of gypsum a month. There are sufficient stockpiles of this product at Dome and ample storage facilities for it at General so that Bulk can pick up loads of it at its convenience. Also, General's unloading facilities are open 24 hours a day, seven days a week. This assures maximum use of equipment. Bulk anticipates that it will transport up to 8 gypsum shipments a week. A support letter from General attached to the application states that it will use Bulk's service if the requested authority is granted.

5. The gypsum haul by itself at the sought rate would not be compensatory. As part of the round-trip cycle with the two Arizona hauls, it would be profitable. Bulk would not haul the gypsum at the proposed rate unless it were tied in with other transportation.
6. Should subhaulers be used for this transportation, Bulk would pay them 100% of the sought rate.

According to the revenue and cost data developed by Bulk for the 1,083-mile round-trip cycle, including all empty miles, the revenue would be \$156 for the gypsum haul at the proposed rate based on an average load of 26 tons and \$1,175.20 for the two Arizona hauls at the applicable interstate tariff rates for a total of \$1,331.20, the cost would be \$1,091.12, the net income would be \$240.08, and the operating ratio would be 81.2%.

As of September 30, 1981, Bulk had assets of \$1,743,926, liabilities of \$932,269, and a net worth of \$811,657. For the six months ending September 30, 1981, it had total carrier operating revenue of \$3,994,032 and ordinary income of \$139,244 after provision for income taxes.

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 Bulk 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 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 the two Arizona hauls at the rates in the applicable interstate tariffs, will be profitable for Bulk
2. Bulk now transports the two Arizona hauls on a regular basis and will continue to do so. General will use Bulk to transport gypsum from Long Beach to Los Robles at the proposed rate.
3. The three hauls will be handled as an integrated operation. There will be a roofing granules shipment followed by a cotton seed meal shipment for every gypsum shipment. In the event other transportation were not available to be tied in with the gypsum movement, Bulk would not transport the gypsum at the proposed rate.

It is noted that the 106 empty miles Bulk now travels from its Walnut terminal to Boron to pick up the roofing granules would, with the 80-mile gypsum haul, be increased to 117, 34 from the terminal to Long Beach and 83 from Los Robles to Boron. However, its witness testified that the addition of this haul to the two Arizona hauls would increase its profit approximately 4½ cents per mile for the entire round-trip movement to and from Arizona. Also, as stated

above, Bulk's revenue and cost data indicate that the operating ratio for the entire round-trip cycle, including the proposed gypsum haul, would be 81.2%.

We recognize, as stated by Bulk's witness, that the gypsum haul at the sought rate by itself would not be compensatory and that it is dependent upon the existence of the two interstate Arizona hauls, over which we have no jurisdiction, to be profitable. The fact that we lack jurisdiction over the interstate hauls is not relevant. The certainty of the two Arizona hauls for each proposed gypsum haul and the economics of the entire operation are the issues with which we are concerned. These have been affirmatively established by the record.

The main concern of California Dump Truck Owners Association was that Bulk 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 provide 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. In this regard, Bulk's witness stated that should subhaulers be used for any of this transportation, it would pay them 100% of the sought rate.

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

1. Loading or unloading time in excess of one hour will be charged at the rate of \$3 for each 15 minutes or fraction of that time.
2. Rate applies only when there are also truck-load shipments of roofing granules from Boron to Chandler, Arizona, and cotton seed meal from Casa Grande, Arizona, to the Los Angeles Harbor at the rates in the applicable

interstate tariffs in the same unit of equipment as part of the same round-trip cycle.

3. Any subhaulers employed shall be paid no less than the rate authorized without any deduction for use of Bulk's trailing equipment.
4. In all other respects, the rates and rules in MRT 7-A shall apply.

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

Findings of Fact

1. Bulk seeks authority to assess less than the minimum rates in MRT 7-A for the transportation of gypsum for General from the plant of Dome at Long Beach to General's Los Robles plant.

2. The gypsum will be transported in hopper trailers with dome covers and will be unloaded by gravity.

3. Bulk now regularly transports roofing granules from Borax at Boron to Superior at Chandler, Arizona, and cotton seed meal from C. G. Co. at Casa Grande, Arizona, to Grain Terminal at Los Angeles Harbor at rates in the applicable interstate tariffs.

4. General uses substantial amounts of gypsum at its Los Robles plant. If the sought rate is granted, it intends to have Bulk transport gypsum for it to this plant from Dome at Long Beach. Bulk will transport up to eight of these shipments a week.

5. There is a sufficient stockpile of gypsum at Dome and ample storage facilities for it at General's plant to assure a load of gypsum for every load of the roofing granules. Also, there is a load of the cotton seed meal available when Bulk has an empty truck in the vicinity of Casa Grande, Arizona, and Grain Terminal has adequate storage capacity to accommodate all shipments delivered by Bulk.

6. Cost data of record indicate that the proposed gypsum haul will be compensatory provided it is handled as part of the round-trip cycle described in Finding 3.

7. Should subhaulers be used for any of the transportation in issue, Bulk would pay them 100% of the sought rate.

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 3.

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

Conclusions of Law

1. The application 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:

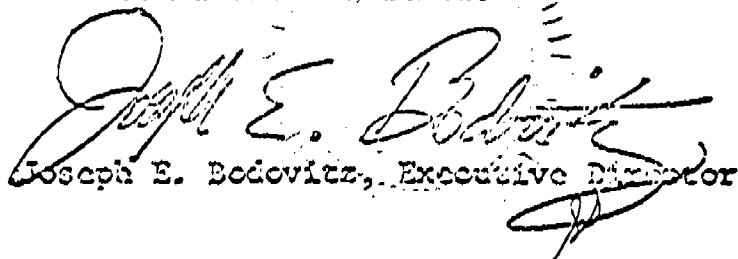
1. Bulk Transportation may depart from the rates in MRT 7-A by charging not less than the rates in Appendix A.
2. This authority shall expire one year after the effective date of this order.

This order is effective today.

Dated NOV 17 1982, at San Francisco, California.

JOHN E. BRYSON
President
RICHARD D GRAVELLE
LEONARD M. CHIMES, 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: Bulk Transportation, a corporation.

Commodity: Gypsum, not further processed than crushed.

Origin: Dome Tar, Long Beach.

Destination: General Portland, Inc., Los Robles.

Rate: \$6 per ton.

Minimum Weight: 25 tons.

Conditions:

1. Loading or unloading time in excess of one hour to be charged at the rate of \$3 per $\frac{1}{4}$ hour or any fraction of that time.
2. Rate applies only when there are truckload shipments of roofing granules from Boron to Chandler, Arizona, and cotton seed meal from Casa Grande, Arizona, to Los Angeles Harbor at the rates in the applicable interstate tariffs in the same unit of equipment as part of the same round-trip cycle.
3. Any subhaulers employed shall be paid no less than the rate authorized without any deduction for the use of carrier's trailing equipment.
4. In all other respects, the rates and rules in Minimum Rate Tariff 7-A apply.

(END OF APPENDIX A)