

Decision 82 11 076

NOV 17 1982

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Apex Bulk Commodities, )  
 a corporation, for authority to )  
 deviate from the otherwise applicable )  
 minimum rates in the transportation )  
 of Gypsum Rock for the account of )  
 Riverside Cement Company. )

Application 82-07-29  
 (Filed July 12, 1982)

O P I N I O N

Apex Bulk Commodities (Apex), a corporation, requests authority to assess less than the minimum rates in Minimum Rate Tariff (MRT) 7-A for the transportation of gypsum in dump truck equipment for Riverside Cement Company (Riverside) from the plant of U.S. Gypsum Company (USGC) at Plaster City to Riverside's plants at Crestmore and Oro Grande.

Apex proposes a rate of \$10 per ton, minimum weight 25 tons, for each of the two gypsum hauls. The applicable minimum rates, including the current 22½% surcharge, in MRT 7-A are \$14.05 for the Crestmore haul and \$17.64 for the Oro Grande haul. Both MRT 7-A rates are subject to a minimum weight of 24 tons.

The application states as follows:

1. Apex will use two-axle tractors with semi-trailers and pull trailers operating in a train for the proposed transportation. The equipment can also be used for transporting cement and has bottom, gravity dump capability, which is the unloading method that will be used for the gypsum. It is stationed in San Diego, and the drivers live there. There would be no layover time for either haul, and Apex does not pay an overtime premium to the drivers.

2. If the authority is granted, Apex will transport approximately five to seven loads of gypsum a week for Riverside.
3. Apex will have cement as a backhaul from Colton to San Diego for each of the proposed gypsum hauls. This will reduce costly empty miles. The cement will be transported at applicable rates in Western Motor Tariff, Inc., Tariff 17.
4. Loading and unloading facilities for the gypsum and cement hauls are open 24 hours a day, Monday through Friday.
5. The efficiencies resulting from the available backhaul traffic and favorable loading and unloading conditions will maximize equipment use and add to Apex's profit.
6. Apex does not intend to use subhaulers for the proposed transportation. Should it be necessary to do so, it would pay them on the basis of MRT 7-A rules.
7. The proposal is financially sound.

According to the revenue and cost data included with the application, the two gypsum hauls at the proposed rates by themselves would not be compensatory. However, as the data show, each of the two hauls when combined with the cement backhaul would be a profitable round-trip operation. The operating ratios shown for the gypsum-cement round trips are 72% via Crestmore and 86% via Oro Grande.

As of December 31, 1981, Apex had assets of \$747,589, liabilities of \$582,844, and a net worth of \$164,745. For the year 1981, it had total operating revenue of \$4,926,404 and ordinary income of \$82,295, after income taxes.

A support letter from Riverside is attached to the application. It states that if the application is granted, it will use Apex to transport some of its gypsum requirements, which exceed 30,000 tons annually.

The application was listed on the Commission's Daily Calendar and Daily Transportation Calendar. Copies of it were served on the California Trucking Association and the California Dump Truck Owners Association. No protest to the granting of the application has been received.

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 the conditions set forth in attached Appendix A. Since no costs for subhaulers have been furnished by applicant, we have included in Appendix A a restriction requiring Apex to pay any subhaulers that might be used no less than the authorized rates without any deduction for the use of its trailing equipment.

We recognize that Apex is willing to pay the applicable MRT 7-A charges to any subhaulers it might use to transport the gypsum; however, we will require that they be paid not less than 100% of the authorized rate with no deduction for the use of Apex's trailing equipment. This is in conformity with Resolution TS-284 and does not prohibit Apex 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. Apex seeks authority to assess less than the minimum rates in MRT 7-A for the transportation of gypsum from the plant of USGC at Plaster City to Riverside's plants at Crestmore and Oro Grande.
2. The proposed service will be provided in equipment that can also be used for transporting cement and has bottom, gravity dump capability, which is the method that will be used to unload the gypsum.

3. If the authority is granted, Apex will transport five to seven loads of gypsum per week for Riverside at the sought rates.

4. Apex has available to it as a backhaul for each of the proposed loads of gypsum a shipment of cement from Colton to San Diego at the applicable tariff rate.

5. Loading and unloading facilities for the gypsum and cement hauls are open 24 hours a day, Monday through Friday.

6. Cost data of record indicate that the proposed gypsum transportation will be compensatory provided it is immediately followed by a shipment of cement as described in Finding 4 in the same unit of equipment.

7. Apex does not intend to use subhaulers for this transportation. If it does so, it intends to pay them on the basis of MRT 7-A rules.

8. The transportation in issue involves unique circumstances.

9. The sought rates are reasonable provided the proposed gypsum shipments are immediately followed by a shipment of cement as described in Finding 4 in the same unit of equipment.

#### 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:

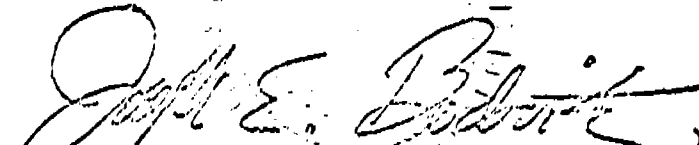
1. Apex Bulk Commodities may depart from the rates in MRT 7-A by charging not less than the rates in Appendix A.
2. This authority shall expire one year after the effective date of this order.

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: Apex Bulk Commodities, a corporation.

Commodity: Gypsum, not further processed than crushed.

Origin: U.S. Gypsum Company, Plaster City.

Destination: Riverside Cement Company, Crestmore or Oro Grande.

Rate: \$10 per ton.

Minimum Weight: 25 tons.

Conditions:

1. Shipment shall be delivered to a single destination only, either Crestmore or Oro Grande.
2. Rate applies only when transportation of a truck-load of cement from Colton to San Diego at the applicable tariff rate immediately follows the shipment in the same unit of equipment.
3. Any subhaulers used shall be paid no less than the rate authorized without any deduction for 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)