

Decision 83 06 051 JUN 15 1983**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 Les Calkins Trucking, Inc. for the  
 authority, pursuant to the provisions  
 of Section 3666 of the Public Utilities  
 Code, to depart from the minimum rates,  
 rules, and regulations of Minimum Rate  
 Tariff No. 7A.

Application 82-12-62  
 (Filed December 28, 1982;  
 amended March 24, 1983)

O P I N I O N

By this application, as amended, Les Calkins Trucking, Inc. (Calkins) seeks authority to assess less than the minimum rate in Minimum Rate Tariff (MRT) 7-A for the transportation of bulk pebble gypsum for Pabco Gypsum, a Division of Pacific Coast Building Products, Inc. (Pabco), from the plant of Domtar Gypsum America, Inc. (Domtar) near Antioch to the plant of Pabco at Newark, a distance of 60 miles.<sup>1</sup> The rate proposed is \$4.96 per ton. The MRT 7-A rate, including the applicable 22½% surcharge, is \$5.22 per ton for 60 miles. Both rates are subject to a minimum-per-shipment weight of 24 tons. The amount of the reduction is approximately 5%.

The application and amendment state as follows:

1. Calkins holds various certificated and permitted operating authorities, including a dump truck carrier permit. Its terminal and office are located near Lodi.
2. Calkins has performed the gypsum haul in issue for Pabco for the past four years. It has exclusively used the nine active subhaulers on the list attached to the amendment to pull its sets of bottom dump

<sup>1</sup> Appendix A to the application shows the distance to be 61 miles. By undated letter received March 24, 1983, Calkins asserted that the correct distance is 60 miles.

trailers to provide the transportation. As authorized by Items 126 and 210 of MRT 7-A, the subhaulers have been paid 95% of the minimum rate less an additional 20% for rental of Calkins' trailers.

3. In the past, Dometar shipped substantial amounts of bulk gypsum to Pabco and another manufacturer, approximately 24 to 36 loads per day to each. Because of this volume it required 30 to 60 minutes to get a truck loaded and weighed, with an average time of 46 minutes. In October 1982, the other company ceased operations. With the lesser volume of shipments, a truck can now be loaded and weighed in 15 to 20 minutes. This has reduced Calkins' cost of providing the service.
4. Unloading facilities at Pabco are open 24 hours a day, five days a week. It has storage facilities for 3,500 tons of material. This allows Calkins the flexibility to deliver the gypsum efficiently.
5. Because of today's depressed market, Pabco has been forced to drastically reduce its wallboard prices to stay competitive. For this reason, it may commence importing gypsum by rail from its deposit facility near Las Vegas if the sought reduced rate is not authorized. Such action on its part would impact seriously on Calkins and the owner operators it engages. As evidenced by Pabco's letter attached to the application, it will continue to use Calkins' service if the authority is granted.
6. If the sought rate is approved, Calkins will continue to use the subhaulers to pull its trailers. It is its intent to pay the subhaulers on the basis of the proposed rate less the deductions stated in Items 126 and 210 of MRT 7-A except that a trailer rental charge of 15% would be used in place of the 20% charge provided for in the tariff. With the trailer rental reduction, the subhaulers would receive substantially the identical

amount they would receive under the applicable minimum rate with the Items 126 and 210 deductions.

According to the financial data furnished, the proposed transportation will be compensatory for Calkins. No financial or cost data has been presented for the subhaulers. However, they are to be paid substantially the same amount they would receive if payment to them were based on the applicable MRT 7-A rate less the deductions authorized in Items 126 and 210 of the tariff. There is, therefore, no reason for authorizing payments to subhaulers on the basis of the sought rate and a reduced trailer rental charge. The same result is reached by requiring that subhaulers engaged by Calkins for this transportation be paid no less than the amount stated in MRT 7-A. By so doing, the lack of subhauler financial and cost data and the propriety of a reduced trailer rental cease to be issues.

The application and amendment were listed on the Commission's Daily Calendars of December 30, 1982 and March 25, 1983, respectively, and on its Daily Transportation Calendars of December 31, 1982 and March 28, 1983, respectively. Copies of each were furnished to the California Trucking Association, California Carriers Association (CCA), and California Dump Truck Owners Association.

A protest to the application was filed by CCA on January 18, 1983. The matter had been set for public hearing on March 25, 1983. However, Calkins advised on March 22, 1983 that the application would be amended and requested that the matter be removed from the calendar. This was done with the concurrence of CCA. The amendment was filed March 24, 1983. CCA filed a reply to the amendment on April 1, 1983. In its reply it stated that its protest is continued but requested that the matter be decided on the

pleadings without a hearing. The specific bases for CCA's protest are incomplete cost and revenue data for Calkins for the proposed haul and adjusting trailer rental in order to avoid the submission of subhauler costs. As stated, a review of the record does indicate that the proposed transportation will be compensatory for Calkins. Also, as stated above, by requiring that subhaulers be paid not less than the amount provided by the rates and rules in MRT 7-A, the subhauler cost and trailer rental adjustment issues are moot.

The Commission's Transportation Division staff has advised that it has no objection to the application, as amended. It will be granted subject to the condition that subhaulers be paid on the basis of the MRT 7-A rates and rules.

Because Calkins may lose the Pabco gypsum haul unless the sought relief is granted promptly, the following order should be made effective on the date it is signed.

Findings of Fact

1. The transportation in issue involves unique circumstances.
2. Calkins' costs for this transportation are less than those used to set the rates in MRT 7-A.
3. If subhaulers are used, they should be paid not less than the MRT 7-A rate less the applicable deductions in this tariff.
4. The proposed rate is compensatory.
5. The proposed rate is reasonable.
6. A public hearing is not necessary.

Conclusions of Law

1. The application should be granted as set forth 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:

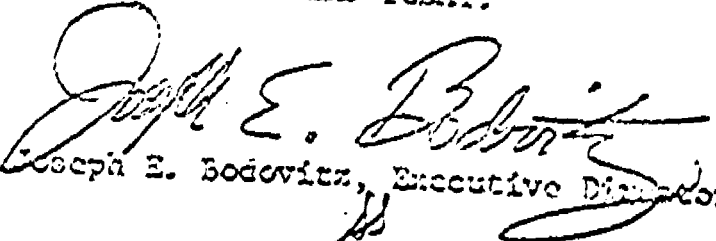
1. Les Calkins Trucking, Inc. may depart from the rate in MRT 7-A by charging not less than the rate in Appendix A.
2. This authority shall expire one year after the effective date of this order unless sooner canceled or extended by order of the Commission.

This order is effective today.

Dated JUN 15 1983, at San Francisco, California.

LEONARD M. GRIMES, JR.  
President  
VICTOR CALVO  
PRISCILLA C. GREW  
DONALD VIAL  
WILLIAM T. BAGLEY  
Commissioners

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

  
Joseph E. Bodovitz, Executive Director

APPENDIX A

Carrier: Les Calkins Trucking, Inc. (Calkins).

Commodity: Bulk pebble gypsum.

Origin: Domtar Gypsum America, Inc., near Antioch.

Destination: Fabco Gypsum, a Division of Pacific Coast Building Products, Inc., Newark.

Rate: \$4.96.

Minimum Weight: 24 Tons.

Conditions:

1. Calkins shall furnish trailing equipment only and subhaulers shall furnish power equipment only.
2. Subhaulers shall be paid not less than the applicable rate in Minimum Rate Tariff 7-A less deductions authorized by this tariff.
3. In all other respects, the rates and rules in Minimum Rate Tariff 7-A apply.

(END OF APPENDIX A)