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ORIGINAL

Decision No. 88045 OCT 25 1977

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of HARRISON-NICHOLS CO. LTD., CALIFORNIA SAND TRANSPORT, DONALD TALLEY, A. H. DISSINGER, DENNIS TRANSPORT, DANIEL C. REYNOLDS, CLIFFORD E. WALTERS, F. L. HART, SR., F. LE ROY HART, JR., JOHN ATKINS, WILLIAM VON SLOMSKI, W. L. DOBBS, TOMMY PLUMMER, for authority to depart from the minimum rates, rules and regulations of the Minimum Rate Tariff No. 7A, pursuant to the provisions of Section 3666 of the Public Utilities Code, for OWENS-ILLINOIS, INC.

Application No. 56093
(Filed November 25, 1975;
amended January 13, 1976
and March 2, 1977)

H. Randall Stoke, Attorney at Law, for Harrison-Nichols Co., Ltd., et al, applicants.
C. D. Gilbert and H. Hughes, for California Trucking Association; James R. Foote and Don Warner, for Associated Independent Owner Operators, Inc.; E. O. Blackman, for California Dump Truck Owners Association; and Geoff Cross, for Bulk Transportation; interested parties.
Harry E. Cush, Raymond Toohey, and Everest A. Benton, for the Commission staff.

O P I N I O N

Statement of Facts

After 40 years of producing silica sand at its Corona production plant for its glass making business, in August of 1970 Owens-Illinois Glass Company (Owens-Illinois) began construction of a new multi-million dollar production plant in the Mission Viejo area of the city of San Juan Capistrano to replace the Corona plant. Silica sand is a combination of pure silica and feldspar. It is kiln dried with no variation in consistency and density, and must be transported from Mission Viejo to the Owens-Illinois glass factory at Vernon in dome covered trailers to prevent contamination. In 1971, when the Mission Viejo facility began production, Harrison-Nichols Co., Ltd. (Harrison-Nichols), a California corporation, sought authority to perform this transportation, and pending hearing following protests, was granted interim authority to deviate from MRT 7-A for this service by Decision No. 79243 dated October 13, 1971 in Application No. 52895. This interim authority was thrice extended,[1/] until in May 1973, as a consequence of production and environmental problems, Mission Viejo ceased operations. Between March 1972 and February 1973, 3,200 loads were transported. However, the Harrison-Nichols application never did get to hearing, having been consolidated (together with other deviation applications) with Case No. 5437 and, under OSH 233, set for hearing in March 1973. At the March 13, 1973 hearing, because of the then mootness of the application, the matter was taken off calendar and aborted.[2/] By Decision No. 82095 dated November 7, 1973, the Commission terminated the interim deviation authority.

By approximately December 1975 Owens-Illinois had overcome its problems and was ready to resume production, utilizing loading

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1/ By Decision No. 79801 dated March 14, 1972; Decision No. 80405 dated August 29, 1972; and Decision No. 81087 dated February 23, 1973.

2/ See Decision No. 81472 dated June 17, 1973 in Case No. 5437, OSH 233.

facilities consisting of a 5,000-ton storage bin feeding a 150-ton bunker located over a 100-foot truck scale so that the tractor-trailer units would be loaded and weighed simultaneously. Initial unloading at the Vernon facility was to be done on a daytime 8-hour day basis until Owens-Illinois completed construction of a new unloading and batching facility with a 1,270-ton storage capacity. Upon completion of this new facility it was anticipated that unloading would be performed on a continuous 24-hour basis, year round.

Currently operating under various authorities including highway dump truck carrier permit No. T-875, Harrison-Nichols by this application again seeks authority in accordance with Section 3666 of the Public Utilities Code to deviate from the minimum rates named in MRT 7. The current application was questioned by the California Dump Truck Owners Association who asked (1) the propriety of applicant seeking rate relief for unnamed independent contractor subhaulers, and (2) whether the deviation rate requested would be compensatory to the subhaulers supplying the tractors? This query led to the filing on January 13, 1976 of an amended application wherein California Sand Transport, Silica Sand Transport, Donald Talley, A. H. Dissinger, Dennis Transport, Daniel C. Reynolds. Clifford E. Walters, F. L. Hart, Sr., F. L. Hart, Jr. and G. W. Hart, Allan Branch, Robert R. Worley, and John Atkins, the independent contractor subhaulers involved, joined Harrison-Nichols in the application. Consequently, on January 19, 1976 the California Dump Truck Owners Association withdrew its protest but continued as an interested party.

The California Trucking Association concurrently filed a protest, objecting to ex parte interim authority being granted, suggesting that the application raises "...anew many of the questions intended to be addressed by the Commission pursuant to its now defunct Order Setting Hearing 233 in Case 5437."

In its application, Harrison-Nichols noted that under MRT 7 there are no zone rates applicable. While there are hourly and mileage rates,[3/] applicant contended that these were not reflective of the special circumstances and economics applicable to its proposed service, and argued that its proposed service was more similar to service set forth in MRT 17-A. Although there is no actual rate for the proposed service set forth in MRT 17-A, applicant contended that a valid hypothetical MRT 17-A rate could be constructed using the cost and rate formulae for rock, sand, and gravel set forth in the California Dump Truck Owners Association report in Case No. 9819.[4/] The cost and rate formulae set forth in that report were based on composite cost factors weighed to reflect 70 percent truck and transfer equipment costs and 30 percent bottom dump equipment costs. Based on such cost factors and using applicant's asserted terminal time, traverse time, and distance data (gleaned from applicant's 1972-1973 experience)[5/] and a 28-ton payload, applicant computed a hypothetical MRT 17-A rate of $2.92 per ton. The applicant next asserted that bottom dump equipment costs are lower than truck and transfer trailer equipment costs, and that by using the cost and rate formulae set

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3/ MRT 7-A rates are:

Hourly rate: $35.78 per hour.
Mileage rate: $ 3.49 per ton.

4/ Exhibit 1, Case No. 9819, Petition 10, dated July 1975.

5/ Data assertedly experienced in 1972-1973:

Average running time: 147 minutes (2 ways)
Terminal end time: 15 minutes
One way distance: 55 miles

forth in the Case No. 9819 report above mentioned, adjusted to reflect 100 percent bottom dump cost factors, applicant's terminal time, traverse time and distance factors, and the larger payloads, applicant's computations resulted in a rate of $2.58 per ton for an 8-hour day operation, and $2.41 per ton for a 24-hour day continuous operation. In that it appeared that the proposed rates would be compensatory for the transportation involved; that Owens-Illinois requested and supported the application; and that the staff recommended that interim authority be granted pending full hearing, we issued Decision No. 85538 dated March 9, 1976 granting interim authority to expire September 9, 1976.

Subsequently, applicant requested extension of the interim authority to enable it to obtain more reliable data and information. By Decision No. 86358 dated September 1, 1976, we extended the expiration date of the interim authority to March 9, 1977. By Decision No. 87036 dated March 1, 1977 the expiration date of the interim authority was further extended to May 9, 1977.

On March 1, 1977 the applicant submitted a "First Revised Application," the purpose of which was to drop three of the named applicants no longer involved in the service, and to add three new applicants.[6/]

On March 2, 1977 the applicant filed a "Second Amendment" to its application,[7/] which amendment had the effect of increasing the deviation rate requested from $2.58 per ton to $2.71 per ton for 8-hour day operation. The applicant asserted that the increase was to

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6/ Dropped applicants were: James W. Harrison dba Silica Sand Transport, Allan Branch, and Robert R. Worley. Added applicants were: William Von Slomski, W. L. Dobbs, and Tommy Plummer.

7/ The verification sheet to this "Second Amendment" was filed separately on April 25, 1977.

offset increased operating costs. Owens-Illinois supported the change. This "Second Amendment" developed a more current \$3.15 per ton[8/] hypothetical MRT 17-A rate. Then, using the same formulae, but substituting exclusively 5-axle bottom dump costs, and using terminal end and traverse times and distance figures assertedly derived from experience, the applicant developed an updated deviation rate of \$2.67 per ton applicable for his service. Applicant adjusted this to \$2.71 per ton.

A duly noticed public hearing was held in Los Angeles on March 2, April 18, and April 25, 1977 before Administrative Law Judge John B. Weiss. At conclusion of the hearing on April 25, 1977 the matter was submitted. At onset of the hearing on March 2, 1977 the ALJ advised the participants that the Commission would consider as an issue the cost viability of the entire package with reference not only to Harrison-Nichols, but also with reference to the co-applicant subhaulers involved. Noting that Harrison-Nichols not only rents the trailers to the co-applicant subhaulers but also makes other proprietary type charges to them for service, the ALJ expressed an intent to assure that the co-applicant subhaulers would not in actual effect be shouldering or "packing" the burden of any deviation which might be granted. Each of the interested parties to the proceeding thereupon expressed the same concern, and stated its primary interest would be

8/ Applicant here used updated cost and rate formulae based on composite cost data dated August 1976 supplied by the Commission staff and set forth in Exhibit 5, Case No. 9819, Petition 16. This is the underlying cost exhibit used in developing the present MRT 17-A rates (See Decision No. 86988 issued February 23, 1977, Appendix A).

to determine whether or not the co-applicant subhaulers could economically do business at the proposed rates. The applicant acknowledged that it had not broken out cost information applicable to the subhaulers in its application, and asked for a continuance to enable it to do so. All parties concurred and a continuance was granted.

During the interval of the continuance, the Commission staff made a field trip to verify certain of the applicant's data and assertions. The staff determined the equipment of both Harrison-Nichols and the co-applicant subhaulers to be in good condition. After checking weight ticket bills of lading for a year's period, they verified the mean loading and unloading times and confirmed that all loads transported weighed over 28 tons. They discovered some minor route deviations, primarily done to avoid traffic congestion, and ascertained one-way traverse time to be 82 minutes resulting in an approximate 63-mile one-way trip, concluding that a round trip could comfortably be achieved within three hours. They verified applicant's costs, and found the fixed cost formulae used to be reasonable. All parties stipulated to the staff's determinations.

When the hearing resumed on April 18, 1977 the applicant asked to amend its application to change its requested deviation rate to be applicable to its service to become $2.96 per ton for 8-hour operations and $2.82 per ton to be applicable for 24-hour operation. To support this change the applicant submitted additional exhibits setting forth developed costs broken out to apply to operation of each of its own vehicles used in this service as well as operation of those of each co-applicant subhauler. It also submitted a Summary of Operations exhibit covering revenue and expenses for each of the co-applicant subhaulers to show the compensability of the deviation to these co-applicant subhaulers.

Using its initially determined terminal end time, traverse time, and distance figures, an allowance for indirect expense of 10 percent (5 percent brokerage and 5 percent service fees) and an 8 percent profit allowance, the fixed expenses and running costs for each co-applicant subhauler vehicle, and incorporating direct labor costs (including vacation and holiday pay, premium pay, compensation insurance, payroll charges, health and welfare, and pension components) based upon a $7 per hour basic labor rate, applicant developed computations to show that rates of $2.22 per ton for 8-hour operation, and $2.12 per ton for 24-hour operation, would be required to enable the co-applicant subhaulers to recover indicated "actual" costs exclusive of trailer rental fees. After addition of 25 percent of gross revenue for trailer rental, the indicated costs become $2.96 and $2.82, respectively. These then became the requested deviation rates.

Subsequently on the final hearing day, April 25, 1977, the applicant introduced Exhibit 8 designed to show applicant's costs per ton after incorporation of the staff's determinations on time, distance, etc. By this exhibit the applicant modified earlier figures, applied the actual minimum payload factor of 28 tons, developed revised non-revenue en route time derived from the staff determinations, and modified the various cost determinations made earlier by limiting them to tractor, semi-, and pull trailer applications. Utilizing the resultant cost figures in the dump truck cost formulae, applicant developed an overall composite cost per ton figure of $2.7487, and a final hypothetical MRT 17-A rate of $2.9886 per ton to support its application as modified.

On August 9, 1977, in that this final decision was not completed, by Decision No. 87704 we ordered extension of the interim authority to expire November 9, 1977.

Discussion

Before we authorize deviation rates under provisions of Section 3666 of the Public Utilities Code we must first ascertain that the requested deviation rates are reasonable. As used in this context, reasonableness contemplates something more than a mere showing that the carrier will recover more than his costs, or that he can operate at lower costs than his competition: rather it involves consideration of those unusual circumstances and conditions in the transportation under consideration which lead to cost savings, as well as a showing that the proposed rate is compensatory (William E. Daniel (1964) 63 CPUC 147, at 149 and 150, respectively).

The transportation under consideration will exclusively use dome covered bottom dump equipment to transport kiln dried silica sand of constant consistency and density, utilizing newly constructed loading facilities consisting of a 5,000-ton storage bin feeding a 150-ton bunker located over a 100-foot truck scale which provides simultaneous loading and weighing, assuring maximum payloads at all times. Unloading at Vernon will be by gravity into an underground grizzly, assuring minimal dumping time. The nature of the customer's glass-making operation is such that silica sand deliveries must be made consistently regardless of weather conditions year around. The carrier receives a week's advance notice on the loads required, enabling it to efficiently schedule and obtain a high use factor. Accordingly, the instant application had its genesis in the fact that the hourly and mileage rates provided by MRT 7-A are not reflective of the transportation services provided Owens-Illinois by this applicant. Rather, as applicant contends, the services set forth in MRT 17-A are more apropos of its operations. But under MRT 17-A there are no zone rates to cover transportation of silica sand between San Juan Capistrano and Vernon, and the rates currently in effect under provisions of this latter tariff are based upon an admixture of operating costs and fixed expenses for both 5-axle truck and transfer trailer dump trucks and 5-axle tractor trailer combinations with 2 bottom dump trailers. Rates are based upon a mix of 70 percent use of transfer trailer equipment and 30 percent use of bottom dump equipment. Seeking an acceptable approach, the applicant in preparing this application proposed to determine a hypothetical MRT 17-A rate applicable to this kind of service: a rate to be arrived at by using composite data based on cost and rate formulae for rock, sand, and gravel as set forth in the report submitted by the California Dump Truck Owners Association in Case No. 9819, Petition 10, dated July 1975, but substituting its own end time, traverse time, and distance factors, as well as its higher payload factors. After determination of this hypothetical MRT 17-A rate, the applicant used those cost and rate formulae, adjusted to reflect 100 percent bottom dump equipment cost factors, as well as applicant's terminal end and traverse times, distance factors, and payload, and arrived at a proposed deviation rate of $2.41 and $2.58 per ton, respectively, for 8-hour and 24-hour operation. By hearing date the applicant updated his computations to reflect the effect of increased wage and payroll costs as contained in the staff's August 1976 report used in Case No. 9819, Petition 16,[9/] and arrived at a deviation rate request of $2.71 per ton. After the staff presented its conclusions from the field

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9/ The underlying cost exhibit used in determination of the present MRT 17-A rate (See Decision No. 86988 dated February 23, 1977 in Case No. 9819, Petition for Modification No. 16).

testing of applicant's operation,[10/] the applicant stipulated to them and incorporated these conclusions into its exhibits, deriving a composite cost per ton of $2.9886, and amending its final requested deviation rates to $2.96 and $2.82 per ton, respectively, for 8-hour and 24-hour operations.

The methodology used by the applicant in determining its hypothetical MRT 17-A rate and its proposed deviation rates is appropriate under the circumstances. The current MRT 17-A rates are a mixture of operating costs involving two different types of equipment - 70 percent use of transfer trailer equipment and 30 percent use of bottom dump equipment. Transfer trailer equipment costs more to operate. The applicant will use only bottom dump equipment. Its proposed rates reflect the difference in costs shown in Case No. 9819, Petition 16, Exhibit 5, Table 6, the underlying cost exhibit used to develop the present MRT 17-A rates.

There remains the question of compensability. While it is evident from the cost analysis material furnished and tested at the hearing that the proposed rates would not only be compensable to Harrison-Nichols, but also would be profitable, we are concerned in this instance not only with the compensability of the proposed rate to Harrison-Nichols, but also as to the share of it which will develop to the co-applicant subhaulers. Any deviation rate authorized where subhaulers are involved cannot be at the latter's expense (See Trails Trucking, Decision No. 87345 dated May 17, 1975 in Application No. 56520, rehearing denied, Decision No. 87740 dated August 16, 1977).

10/ In the course of its field investigation the staff ascertained that although the applicant contemplates loads of 28 tons in this service, in most instances this load objective was exceeded, and in some instances the load exceeded legal limits. The applicant is cautioned in this regard.

In the operation under consideration, the applicant rents the specialized dome covered trailer equipment to the co-applicant subhaulers, charging 25 percent of the gross revenue the equipment earns. In addition, the applicant charges each co-applicant subhauler an indirect expense fee amounting to 10 percent of that co-applicant's total fixed expense and running costs incurred in this service. This indirect expense fee includes a 5 percent brokerage charge and a 5 percent "office expense" fee.[11/] At the request of the ALJ applicant prepared and introduced operational summaries showing revenues and expenses for each co-applicant subhauler with significant participation in this service. These summaries show that for each co-applicant subhauler the operation would be compensable (See Exhibit 5). One such Operations Summary, representative of the group, appears herein as Table 1:

11/ The "office expense" fee covers bookkeeping and tax service, telephone expenses, etc.

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TABLE I

SUMMARY OF OPERATIONS - REVENUE AND EXPENSE - OWNER OPERATOR

	Furnished	Adjusted*
Revenue		
1. Average Payload - Tons	28.72	28.72
2. Rate per Ton	$ 2.96	$ 2.96
3. Gross Revenue per Load	$85.01	$85.01
Expense		
4. Fixed Expense per Tractor Revenue Mile	$ 2.42	$ 2.42
5. Hours	2.8	3.0
6. Fixed Expense per Load	$ 6.776	$ 7.26
7. Running Cost per Tractor Mile	$ 0.1844	$ 0.1844
8. Round Trip Miles	110	110
9. Running Cost per Load	$20.284	$20.284
10. Total Fixed Expense & Running Cost per Load	$27.060	$27.544
Net Revenue per Load		
11. Gross Revenue per Load	$85.01	$85.01
12. Fixed Expense and Running Cost per Load	$27.060	$27.544
13. Trailer Rental Expense at 25 percent of Gross Revenue	$21.25	$21.25
14. Indirect Expense at 10 percent of Fixed Expense & Running Cost	$2.71	$2.75
15. Gross Revenue Tax	$0.37	$0.37
16. Total Expense per Load at 100 percent Operating Ratio	$51.39	$52.914
17. Profit per Load before Wages	$33.62	$32.09
18. Owner-Driver Labor Rate per Load (9.628 per hr.)1/	$26.96	$28.88
19. Net Profit	$6.66	$3.21
20. Operating Ratio	92%	96.2%

*Adjusted to reflect staff's finding of 3 hours per round trip.

1/ Labor costs used for owner-operator subhaulers, as noted earlier, are not based on the $8.340 per hour base wage taken from

(Continued)

TABLE I

(Footnote - Continued)

1/ Teamster contracts for use in MRT 17-A rates, but rather are labor costs based on a $7.00 per hour basic rate reportedly used in various "sweetheart" contracts in the area (although no copies of such were introduced into evidence). As applicant and co-applicant subhaulers have no labor contract, the $9.628 labor cost per hour is a hypothetical allowance to the subhauler designated "wages" for comparative purposes. As the representative of the California Dump Truck Owners Association so succinctly stated, "Obviously nobody pays a self-employed person".

From the foregoing, we find that the proposed deviation rates of $2.96 and $2.82 per ton as requested by the applicant are compensatory to both the applicant and the co-applicant subhaulers. Coupling this finding with our earlier finding of unusual circumstances and conditions attending the service to be performed which lead to cost savings, and in the absence of any semblance of predatory practices, we conclude that the proposed deviation rates of $2.96 and $2.82 per ton, respectively, for 8-hour and 24-hour operation are reasonable and should be authorized this applicant and co-applicant subhaulers.

We will require that the applicant pay 100 percent of the authorized applicable deviation rate to each co-applicant subhauler for its services, noting that the applicant's indirect expense fee to each co-applicant subhauler includes its brokerage charge and its "office expense" fee (each 5 percent of the total fixed expense and running cost of that co-applicant subhauler), and that the trailer rental fee charged each co-applicant subhauler by the applicant is 25 percent of that co-applicant's gross revenue derived from the equipment. Accordingly, the MRT 17-A 95 percent subhauler provision is not applicable here.

The standing time provisions requested by the applicant are reasonable and will be authorized subject to a requirement that any amounts charged thereunder and collected will be apportioned and paid 72 percent to the participating co-applicant subhauler and 28 percent to applicant.[12/]

One additional matter remaining for consideration concerns the determination of the triggering point at which the $2.82 per hour rate for 24-hour operation would go into effect. While the plant can operate on as few as 9 loads of silica sand a day, Owens-Illinois has almost constantly stayed within a 15 to 18 loads per day schedule. Therefore, to date the 24-hour operation has been strictly a hypothetical question. Normally the service has employed 6 trucks a day, each vehicle putting in about 3 trips. Of the 6 vehicles used, 2 are usually Harrison-Nichols' vehicles and 4 vehicles are owned by various of the co-applicant subhaulers, although this ratio varies since none of the applicants utilize its vehicle exclusively in transportation for Owens-Illinois - all have other work as well. The applicant asks that the $2.82 rate be available to it if and whenever Owens-Illinois might elect to handle shipping and receiving on a 24-hour a day basis. However, the various parties interested in this proceeding, other than the applicant, were joined by the staff in voicing objection, contending that the primary rationale for a reduction below $2.96 per ton for 24-hour operation is the enhanced use factor

12/ The indirect expenses reported applicable to co-applicant subhaulers in the Summary of Operations in Exhibit 5 average 3 percent of the gross revenue of the co-applicant subhaulers. This 3 percent plus the 25 percent of gross revenue charged for trailer rental equals 28 percent.

an operator could count upon. They argue with logic that the rate should not decrease unless there is increased tonnage to be transported within the 24-hour period. We share their concern and accordingly will require that the $2.82 rate per ton for 24-hour operation not go into effect until there are 24 full loads scheduled and transported within a day's operation involving 24 consecutive hours.

<u>Findings</u>

1. The type of service provided by the applicant and its co-applicant subhaulers under the provisions of this application, as amended, is rendered under unusual circumstances and conditions: circumstances and conditions different from those contemplated by the minimum rate tariffs, and these circumstances and conditions make possible cost savings particular to this service.

2. Applicant and its co-applicant subhaulers have performed this service under various interim authorities at various times since 1972, and have obtained experience at this service and have developed cost data on the service.

3. The proposed $2.96 and $2.82 hourly rates for the service are compensatory, reasonable, and just to both the applicant and its co-applicant subhaulers.

4. The proposed rates involve no predatory practices by applicant or its co-applicant subhaulers.

5. Applicant rents the required dome covered dump trailers to each co-applicant subhauler, charging a rental fee of 25 percent of the gross revenue derived from performance of this service by that co-applicant subhauler.

6. Applicant charges each co-applicant subhauler an indirect expense fee of 10 percent of that co-applicant subhauler's fixed expense and running costs incurred in this service. This indirect expense fee covers brokerage charges and office expenses.

7. The standing time provisions proposed are reasonable provided that where the transportation is provided by the co-applicant subhauler, any amount charged and collected by Harrison-Nichols, for standing time will be apportioned and paid 72 percent to that particular co-applicant subhauler and 28 percent to Harrison-Nichols.

8. There should be a triggering point at 24 full loads scheduled and transported within a 24-hour day at which time the $2.82 per hour rate for 24-hour operation will become operative.

Conclusions

1. Subject to the condition that Harrison-Nichols shall pay co-applicant subhaulers 100 percent of the authorized rates, the application, as amended, should be granted as set forth in the ensuing order.

2. As conditions may change, the authority will be made subject to expire one year after the effective date of this order unless sooner canceled, modified, or extended by order of the condition.

3. As the ranks of co-applicant subhaulers may change, applicant and co-applicant subhaulers may reflect these changes by means of letter filings with the Commission staff provided these filings are made within twenty days of the change.

O R D E R

IT IS ORDERED that:

1. Harrison-Nichols Co., Ltd. and the named co-applicant subhaulers are authorized to depart from the minimum rates set in Minimum Rate Tariff 7-A by charging those rates set forth in Appendix A of this decision.

2. The authority granted shall expire one year from the effective date of this order unless sooner canceled, modified, or extended by order of this Commission.

3. The effective date of this order shall be twenty days from the date hereof. The interim authority existing, as most recently extended by Decision No. 87704, shall be canceled as of the effective date of this order.

4. Changes in the ranks of co-applicant subhaulers shall be made by letter filings with the Commission staff within twenty days of the change.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 25th day of OCTOBER, 1977.

President

William Symons Jr.

Vernon L. Sturgeon

Richard D. Gravelle

Claire T. Dedrick

Commissioners

Commissioner Robert Batinovich, being necessarily absent, did not participate in the disposition of this proceeding.

APPENDIX A

Carriers: Harrison-Nichols Co., Ltd., California Sand Transport, Donald Talley, A. H. Dissinger, Dennis Transport, Daniel C. Reynolds, Clifford E. Walters, F. L. Hart, Sr., F. Le Roy Hart, Jr., John Atkins, William Von Slomski, W. L. Dobbs, and Tommy Plummer.

Shipper: Owens-Illinois, Inc.

Commodity: Processed silica sand.

From: Mission Viejo plant, San Juan Capistrano.

To: Vernon glass factory of Owens-Illinois Glass Company.

Rate: $2.96 per ton for 8-hour day operation.
$2.82 per ton for 24-hour day operation. A 24-hour day operation is defined as any day wherein 24 full loads are scheduled and transported.

Conditions:

(1) California Sand Transport, Donald Talley, A. H. Dissinger, Dennis Transport, Daniel C. Reynolds, Clifford E. Walters, F. L. Hart, Sr., F. Le Roy Hart, Jr., John Atkins, William Von Slomski, W. L. Dobbs, and Tommy Plummer shall be paid no less than 100 percent of the rates herein.

(2) Harrison-Nichols Co., Ltd. shall charge any co-applicant subhauler no more than 25 percent of the gross revenue derived from performance of this service for use of its trailing equipment.

(3) Harrison-Nichols Co., Ltd. shall charge any co-applicant subhauler no more than 10 percent of the fixed expense and running costs incurred in performance of this service for brokerage and office expenses.

(4) Transportation shall be performed exclusively by 5-axle botton dump equipment.

(5) Standing time, where incurred by any co-applicant subhauler, shall be apportioned and paid 72 percent to that particular co-applicant subhauler and 28 percent to Harrison-Nichols Co., Ltd.

(6) In all other respects the rates and rules of Minimum Rate Tariff 17-A shall apply.