

Decision No. _____

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Suspension by the Commission on its own motion of various rates of LOS ANGELES & SALT LAKE RAILROAD COMPANY, PACIFIC ELECTRIC RAILWAY COMPANY, THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, PACIFIC FREIGHT TARIFF BUREAU, for the transportation of cement and cement clinkers, carloads, from Colton, Crestmore, Victorville, Oro Grande, Monolith, Los Angeles and Wingfoot to points in Southern California.

Case No. 3981

In the Matter of the Investigation by the Commission on its own motion into rates, rules, etc., of every highway carrier, doing business within the State of California, in so far as said rates, etc., relate to the transportation of cement, etc.

Case No. 4071

In the Matter of the Establishment of just, reasonable and nondiscriminatory maximum or minimum or maximum and minimum rates, rules, classifications and regulations for the transportation of property for compensation or hire over the public highways of the City of Los Angeles.

Case No. 4121

In the Matter of the Application of ASSOCIATED CONTRACT TRUCKERS, a corporation, and others, for an order establishing new minimum rates to be charged by any highway carriers for the transportation of cement within Southern California.

Application
No. 21172

For list of appearances see Decision No. 28334 of November 4, 1935, and Decision No. 30074 of August 28, 1937, in Cases Nos. 3981 and 4071, and Decision No. 30600 of February 7, 1938, in Case No. 4121.

RILEY, Commissioner:

OPINION ON FURTHER HEARING

Collectively these proceedings involve rail and truck rates for the transportation of cement and cement clinker in carload and truckload quantities from mills located at Colton and Crestmore (inner mills), at Oro Grande, Victorville and Monolith (outer mills), and at Los Angeles and Wingfoot to points in southern California, as well as incidental drayage rates in the Los Angeles metropolitan area.¹

The present controversy is the result of an application filed by the Associated Contract Truckers (Application No. 21172) seeking an increase of not less than 1 cent² in the established minimum truck rates and a similar increase in the corresponding rail rates. Prelim-

¹ The early history of the cement rate adjustment in southern California will be found in Decision No. 28334 of November 4, 1935, in Cases 3981 and 4071 (39 C.R.C. 498). In that decision the Commission found that certain suspended rail rates were unreasonably low and not justified by transportation conditions. It ordered the cancellation of such rates, without prejudice to the publication of rates $\frac{1}{2}$ cent per 100 pounds higher than the rates proposed at the hearings. However, it authorized the rails " * * * to file appropriate provisions for absorbing up to $\frac{1}{2}$ cent per 100 pounds the cost of moving cement from mill to job through the rail facility point in minimums of not less than 75 barrels."

That decision also established minimum rates for highway carriers upon the basis of the authorized rail rates to rail facility points plus an additional charge of $\frac{1}{2}$ cent per 100 pounds for the first 2 $\frac{1}{2}$ miles of the distance from the nearest rail facility to point of delivery, and $\frac{1}{2}$ cent per 100 pounds for each 5 miles or fraction thereof thereafter.

In Southwestern Portland Cement Company et al. vs. Railroad Commission (February 13, 1936), S.F. No. 15591, the Supreme Court of California denied a petition of the outer mills seeking a writ of review of the Commission's order.

² Rates and absorptions are stated in cents per 100 pounds.

inary public hearings were held at Los Angeles and an interim opinion and order was issued increasing the minimum truck rates to off-rail points by $\frac{1}{2}$ cent (Decision No. 30074 of August 28, 1937). Thereafter further public hearings were held at which the propriety of the entire structure of rail and truck rates for this transportation was brought into issue, both as to theory and rate volume. Exhaustive briefs were filed by respondents and by the interested shippers, and the matter was submitted for final disposition.

There is also before the Commission a related matter involving the clarification or modification of the $\frac{1}{2}$ cent absorption provision, regarding which separate hearings were had at Los Angeles. Extensive briefs were filed in this phase of the proceedings also. The two matters are interrelated and will be discussed concurrently.

As stated in the interim opinion and order, supra, the trucks, represented by the Associated Contract Truckers, introduced comprehensive truck cost studies which are convincing that truck operating costs have increased approximately 20 per cent since 1935, the year in which the minimum truck rates were originally prescribed. Figures developed by C. H. Jacobsen, senior engineer in the Commission's Transportation Department, also support the foregoing conclusion. It was conceded by most of the parties represented that the increased costs of truck transportation justified increased minimum rates, although it was urged by some that such increased rates would divert the traffic to the rails or to proprietary carriage, and might so disrupt competitive relationships between mills as to retard the volume of movement.

On the other hand, the rails presented detailed cost studies for the purpose of supporting their position that, despite recent increases in operating expenses, the rail rates then in effect not only covered

the out-of-pocket cost of transporting cement by rail but covered full costs as well. The rails readily conceded that the final figures shown in the rail cost studies were at best approximations, and that certain intervening calculations were of necessity based upon judgment to some extent. They urged, however, that such cost estimates represented the sincere efforts of trained cost analysts, and that ordinarily any errors in judgment would not affect the final result to any appreciable extent.

The shippers, opposed in general to an increase in transportation charges or a disturbance of differentials, introduced evidence to the effect that any substantial advance in rates would divert the cement traffic to proprietary vehicles, and might encourage movements of cement by vessel from northern mills or from Japan. An exception was the Victorville plant (which already operates its own trucking equipment). The traffic manager of that mill stated that if the carriers needed additional revenue he would not object to a reasonable rate increase.

With respect to the drayage of cement in the Los Angeles metropolitan area (involved in Case No. 4121) a stipulation was entered into whereby all parties agreed that a rate of 2½ cents for the first two and one-half miles, plus an additional ½ cent for each additional five miles or fraction thereof, not to exceed seventeen miles, would approximate the "going" rate for transportation from rail facility points in the city of Los Angeles to warehouses or jobs, and would be reasonable as a minimum rate for the transportation of cement by truck from railheads in quantities of 28,500 pounds or more. It was agreed that the entire shipment, while not necessarily moving in a single vehicle, should be transported within a 24-hour period; and it was further stipulated that the rates specified should include loading and unloading of the vehicles.

At the further hearing on the $\frac{1}{2}$ cent absorption feature it was conceded by carriers and shippers alike that the rails were making the absorption on all cement other than that actually used at railhead points, regardless of the quantities in which the cement moved beyond the rail facility. In other words, the prescribed minimum of 75 barrels was being observed only in connection with the inbound rail shipment and not with the through movement from mill to job through the rail facility.³ It was explained that upon issuance of Decision No. 28334, supra, the inner mills attempted to induce their customers to accept deliveries by railroad at rail facility points and take advantage of the absorption. The customers demanded deliveries by truck, however, partly because of the faster and more frequent service afforded, but mainly because the absorption would not offset the cost of unloading cars and transportation from the rail facility points to jobs. The higher rail minimum weight was also a factor. Determined to continue shipping by rail, the inner mills then carried out the plan of establishing warehouses at centrally located rail facility points and distributing to their customers from such warehouses. Under this arrangement the mills paid the inbound freight charges and distributed from the rail facility warehouses by contract carriers, or paid transportation costs of purchasers who took delivery at the warehouses in their own equipment. The mills received the $\frac{1}{2}$ cent absorption allowance on all cement moved out from the rail facility warehouses, whether carried

3

The tariff provision published by the rails to accomplish the absorption reads as follows:

"In cases where the consignor or the consignee produces proof that Cement, Portland (Building), in minimums of not less than 75 barrels, or 300 sacks, equal to 28,500 lbs., has been shipped for movement by motor trucks or drays through rail facility point to points beyond rail facility, the rail carrier hauling cement to rail destination will absorb one-half cent per 100 lbs. of the cost of such cartage."

by contract truckmen or in the purchasers' equipment. Handling in this manner largely eliminated the disadvantages of railroad service and removed the objections of the inner mills' customers, although the cost to the mills was said to average at least 1.7 cents per 100 pounds in excess of the cost of shipping directly from the mills to jobs by trucks. A small portion of the cement moving out of the rail facility warehouses was transported in quantities less than the specified minimum. However, the mills refused to segregate the shipments (as between 75 barrel lots and smaller lots) and took the allowance on this portion as well, in accordance with the published tariff provision.

It was further pointed out that a large proportion of the cement moving by truck from the outer mills is not transported directly to jobs but is delivered to dealers' warehouses pending resale. The ultimate movements from dealers' warehouses to jobs are treated as separate shipments and no absorption of the cost of transportation beyond such warehouses is made by highway carriers. Thus, the outer mills and the highway carriers claim, the total transportation charges for handling by truck through dealers' warehouses which are located on rail facilities to jobs actually exceed the aggregate charges for handling through the same warehouses by the rail-truck means, due to the absorption made by the railroads.

The conflicting interests of the various parties, as they now appear in the record, may be summed up in general terms. The highway carriers seek increased rates to offset increased costs, and urge that the rail rates be increased in the same amount in order that the competitive position of the two classes of carriers may remain unchanged. The rails, apparently fearing that an increase in their rates will result in reduced tonnage, ask that their charges

and practices be not disturbed,⁴ but offer no objection to an increase in the truck rates. The shippers, as in previous phases of these proceedings, are interested primarily in the amount of the differential between the inner and outer mills on shipments to the Los Angeles area, a situation which is further complicated by the fact that the inner mills favor rail transportation,⁵ the outer mills favor the trucks, and one of the outer mills has a substantial investment in proprietary trucking equipment. Blue Diamond Corporation, Ltd., which operates a mill at Los Angeles for the production of cement from cement clinker obtained in the vicinity of the inner and outer mills, is not particularly interested in the volume of the cement rates nor in the differential between the inner and outer mills. However, it is anxious to have increased or at least preserved the $\frac{1}{2}$ cent differential on clinker under the cement rates which the Commission fixed in Decision No. 28334, supra. It claims that such differential, at least, is justified by the transportation characteristics of cement clinker and by the cost of proprietary hauling, but that such differential has, in effect, been eliminated by the present absorption practice of the railroads.

The various interests were naturally reflected in conflicting proposals and suggestions. Diametrically opposite views

⁴ Since these proceedings were concluded the rail lines have requested authority to increase rates on cement and other commodities in California 10 per cent with certain exceptions. This authority was granted in Decision No. 30784 of April 11, 1938, in Application No. 21603.

⁵ The inner mills are ardent advocates of railroad transportation in the cement industry. They believe that the practice of selling cement f.o.b. rail cars avoids many of the inconveniences attending highway transportation, tends to stabilize the unit sales volume and is conducive to good marketing.

were expressed regarding (a) the proposed increase in truck rates, (b) the proposed increase in rail rates, (c) the establishment of truck rates on the basis of rail rates plus various additions, (d) the establishment of the truck rates on a mileage basis, and (e) the cancellation or restriction of the railroad absorption provision. However, in spite of this opposition of interests and the mass of evidence to be considered in these proceedings, two facts stand out quite clearly. It is apparent that the highway carriers need additional revenue if they are to continue to serve in this field and it is evident that on this record the present rail rates, without the absorption, cannot be said to be unreasonably low or not justified by competitive transportation conditions.

Moreover, it has been adequately demonstrated that the existing rail and truck rates are not properly coordinated and fail to give due recognition to the superiority of service which each type of carrier is able to offer in its particular field. The fault is inherent to some extent in the rate structure itself, in that truck rates are at all times based over a railhead, regardless of the circuitry of the rail-truck route. However, it is also attributable in part to changed policies and methods of distribution (such as handling through railhead warehouses, distributing directly from rail cars spotted on team tracks under changed demurrage provisions and allowances by the mills to purchasers accepting delivery by rail) which were not indulged in nor contemplated when the rates were originally established.

It has also been clearly shown that any adjustment of the present rail and truck rates in order to cure apparent inconsistencies or inequalities would inevitably create new and unforeseen complications, unless the entire conception under which such rates were predicated be revised. The problem confronting the Commission, then, is to provide new schedules of minimum rates for both rails and trucks which in the light of present developments will be lawful and equalize competitive conditions between the two forms of transportation. At the same time, care must be taken that the competitive relationships enjoyed by the several mills under the existing rates be not unnecessarily disturbed.

Theoretically, minimum rates for truck transportation of any given commodity should be those rates which will enable efficient truck carriers to realize the cost of performing the service plus a reasonable return on invested capital. In the absence of compelling competitive influences, it would be expected that minimum truck rates for the transportation of cement, as for transportation in general, would be established on the basis of a mileage scale, designed to conform rather closely to the cost level. Under ideal conditions such mileage scale would be made subject to the minimum weight which would best promote the efficient use of the carriers' equipment.

It would be possible from the cost information of record here to construct a mileage scale of rates reasonably consistent with the cost of performing the service by highway carriers. However, such operators are at all times faced with actual or potential competition from plant facility trucks, for which the cost of operation may in some instances actually be less, or for which the shippers may believe the cost of operation to be less. This factor cannot be ignored in fixing minimum rates.

Considerable evidence as to the cost of plant facility truck operations is available in the record, and it is therefore advisable to modify the full cost mileage scale so as not to unnecessarily encourage the growth of proprietary trucking. This modification should be somewhat greater on the longer than on the shorter hauls inasmuch as the inner mills do not threaten to use proprietary equipment unless rail and highway carrier rates be increased substantially or unless compelled to do so by stress of competition from other mills. The modified scale should be made subject to a minimum weight of 28,500 pounds (the equivalent of 300 sacks or 75 barrels) this being the minimum sales unit observed by all the mills and the minimum weight now in effect for truck transportation. A scale so constructed and established as minimum for truck transportation between points where the competitive influence of rail rates is not felt, would not, according to the evidence in this record, impede the free movement of the cement traffic or prevent any of the mills from marketing within the territory in which they now compete commercially. It is recommended that such a modified cost scale be substituted for the present basis, for transportation by highway carriers between points where direct or indirect rail competition is not encountered. This scale will hereinafter be referred to as the "overhead truck scale."

Distribution of the sales unit from the mill by highway carriers can be made by hauling -

(a) Directly from the mill to an individual job in one or more pieces of equipment;

(b) Directly from the mill to two or more jobs in one or more pieces of equipment (split delivery);

(c) From mill to a dealer's warehouse, then to individual jobs according to resales made by the dealer;

(d) From mill to one or more individual jobs, the balance or "tailings" to be delivered to a dealer's warehouse.

In order to enable the railroads to participate in this traffic the cement must be transported:

(a) In a continuous through movement from the mill to a rail facility point, thence by truck to one or more jobs, to one or more dealers' warehouses pending resale, or partly to jobs and partly to dealers' warehouses;

(b) From the mill to a mill-maintained warehouse at a rail facility point, thence by truck to one or more jobs, to one or more dealers' warehouses pending resale, or partly to jobs and partly to dealers' warehouses;

(c) From the mill to a dealer warehouse at a rail facility point, thence to individual jobs according to resales made by the dealer.

Let us now analyze the competitive conditions encountered in these various types of movements under existing sale policies and distribution methods as developed in this record, and determine to what extent minimum truck rates should be reduced below the overhead scale, in order to create an equality of competitive opportunity with the rails, or in order to fulfill the requirements of Section 10 of the Highway Carriers' Act. ⁶

Mill to Job Located at Railhead

Movements from mills for ultimate use at a railhead job are sometimes encountered, although they are comparatively rare. As to such traffic, the trucks are clearly entitled to meet the rail charges for the same transportation, even though rates produced by use of the overhead truck scale may result in higher charges.

6 Section 10 of the Highway Carriers' Act provides, in part:

"In the event the Commission establishes minimum rates for transportation services by such highway carriers, such rates shall not exceed the current rates of common carriers or highway common carriers as those terms are defined in the Public Utilities Act, for the transportation of the same kind of property between the same points."

However, in meeting competitive rail rates lower than the cost of truck transportation, in so far as the transportation of cement is concerned, the trucks should be subjected to the same restrictions and limitations (including minimum weight) to which the rails are subject under the corresponding rail rates. This does not mean that trucks should be required to transport a shipment weighing equal to the rail minimum of 60,000 pounds in a single piece of equipment, nor could they legally be required to do so.⁷

If the specified quantity be tendered to them at one time as a single shipment, they should be permitted to handle it in as many pieces of equipment as may be necessary, and neither the trucks nor the rails will be prejudiced.

As to movements of this type, it is recommended that provision be made for alternative use of the rail rate, subject to the rail minimum weight, or the overhead scale rate and minimum weight, whichever produces the lower total charge. When charging the rail rates trucks should also be permitted to accord whatever added services or privileges may be included in such rates. On the other hand, where truck rates are reduced below the overhead truck scale by rail competition, and truck carriers perform accessorial services which the rails do not undertake to perform, suitable additional charges should be provided, based upon the value of such accessorial service.

Mill to Rail Facility Warehouses

As has already been mentioned, the inner mills, in order to continue patronizing the rails, to satisfy customers requiring immediate deliveries, and to compete with the greater speed of

7 Section 703 of the Vehicle Code provides a maximum gross weight limit of 68,000 pounds for a truck and trailer load, which will only permit a net load of approximately 42,000 pounds.

trucks, were distributing through rail facility warehouses. There is also some movement by truck to such mill-maintained warehouses, and, in addition, there are rail facility warehouses operated by dealers at which shipments are received by both truck and rail. Here again, for the reasons discussed under the preceding heading, the trucks should be given the alternative of computing charges upon the rail rate and rail minimum weight or upon the overhead truck scale with its lower minimum weight, whichever produces the lower total charge. When charges are based on rail rates the trucks should be permitted to accord the same privileges (including absorptions) as do the rails. If the trucks perform added service, such as unloading, appropriate charges should, of course, be provided.

Direct Movement Mill to Off-Rail Job

By far the great bulk of the cement production of southern California is used at jobs which are not served directly by rail facilities. In transporting from mills to such jobs the trucks must compete (a) with shipments transported by rail to nearby rail team tracks and moved from such team tracks by truck, (b) with shipments transported to rail facility warehouses either by truck or rail and moved from such warehouses to the jobs by contract truck, and (c) with shipments similar to those described in (b), moved from the rail facility warehouses to the jobs by purchasers in their own equipment. The intensity of the competition which these several alternative methods of transportation offer to the trucks differs according to the distance from the railhead to the job. To properly equalize the competitive opportunity of the trucks under all conditions, it would again be necessary to provide alternative bases of rates for truck carriers, enabling them to meet competition where it exists and earn their full costs where competition is absent.

A mileage scale (hereinafter sometimes referred to as a

"drayage" scale) of rates should be provided, to apply in connection with shipments transported from rail facilities to jobs. This being a specialized drayage operation which differs in its inherent features from a mill to job movement, the overhead truck scale would not be appropriate. The proper scale would appear to be $2\frac{1}{2}$ cents for the first two and one-half miles, plus $\frac{1}{2}$ cent for each five miles or fraction thereof thereafter, stipulated as reasonable for drayage within Los Angeles. The rate of progression should be reduced somewhat as the distance increases, so that the overhead scale will not be exceeded for the longer hauls. The trucks should then be permitted to use the overhead truck scale or a combination of the rail rate to a rail team track plus the minimum truck rate beyond (whichever results in the lower aggregate charge) as minimum for movements from mill to off-rail jobs or warehouses. Technically the rail minimum weight should govern the rail factor if a strict equality were to be achieved. However, this would unduly complicate the computation of charges and it does not appear that the rails would be seriously prejudiced if the minimum weight of 28,500 pounds be made applicable on the through combination rate.

Competition Faced by the Rails

Just as the trucks face competition from the rails, so do the rails face intense truck competition in certain fields. The rails are of course in active competition with the trucks for shipments to railhead points, and as to such traffic they are clearly entitled to a rate parity. If, then, the overhead truck scale, with its lower minimum weight, produces lower total charges than are produced by the basic rail rates, the rails are entitled to meet such lower charges if they so desire.

However, as before stated, little of the cement moving to rail facility warehouses is ultimately consumed there. It may be moved from the warehouse to the job by a contract trucker or by the

purchaser in his own equipment. If cement is to continue to move by rail for a portion of the haul, the rails may not hope to collect their full local rate between railheads, unless the ultimate destination is so located that the mill-to-job truck rate is constructed by use of the rail rate to the railhead plus the truck rate beyond. If the through truck rate is based on the overhead truck scale the rails are, theoretically at least, entitled to charge the difference between such through truck rate and the cost of transportation from the railhead to job. Carried to its ultimate conclusion, this basis would of course depress the rail rates (in connection with certain traffic) far below their present rates and below the out-of-pocket cost of operation. Consequently, a bottom level should be fixed below which the rails should not be permitted to go in meeting off-rail competition. On the present record, this bottom level may well be the present rail rates, less the $\frac{1}{2}$ cent absorption, or rates based on the overhead truck scale, whichever produce the lower total charge.

Moreover, as a practical matter, the difference between the overhead truck rate and the cost of drayage from the railhead is often difficult to ascertain, due to the many hundreds of possible destinations, and the many points at which rail team tracks are located. Publication problems would preclude the prescription of rates on this basis for general application. However, it may well be used as a basis for determining proper rates for particular movements, and as an indication of the need for continuance of the present absorption provisions.⁸

⁸ From Colton to Los Angeles, for example, the recommended overhead truck scale rate is 6 cents. The rail rate, without the absorption (as increased under authority of Decision No. 30794, supra), is $4\frac{1}{2}$ cents. Under the basis outlined, the rails would be entitled to charge the difference between the overhead truck scale rate and the drayage cost of $2\frac{1}{2}$ cents. The resulting $3\frac{1}{2}$ cent net rate is 1 cent less than the present rail rate. It is apparent that the rails are entitled to absorb at least $\frac{1}{2}$ cent if they are to compete for this business.

Application of the Absorption

Clearly, cement cannot reasonably be required to be moved from the rail facility warehouses to the dealers' warehouses or to the jobs in minimum quantities of 75 barrels in a single truck in order to obtain the benefit of the absorption. Such a method of distribution would be impracticable within the confines of a city or when the equipment of the dealers or customers must be utilized. The record shows that in Los Angeles, at least, the movement of such an amount in a single load is prohibited by city ordinance. It seems clear, also, that the restriction of the absorption allowance to apply only in connection with a continuous through rail-truck movement from mill to job would foreclose the railroads from the opportunity of obtaining any substantial part of this traffic. It does not follow, however, that the rails should be permitted to apply the $\frac{1}{2}$ cent absorption indiscriminately on all shipments moving beyond rail facilities, as they admittedly are doing under present tariff provisions. Their right to an equality of opportunity would be sufficiently recognized if they be permitted to absorb $\frac{1}{2}$ cent where cement is transported to warehouses located on rail facilities and is ultimately transported by motor vehicle beyond such rail facility warehouses to a single consignee in sales units of not less than 75 barrels. The entire unit need not be transported beyond the rail facility warehouse in a single piece of equipment but should be transported within 24 hours from the time delivery is made of any portion thereof.

In applying the absorption the rail carriers should in the first instance collect the full tariff rate without absorption and upon satisfactory evidence being submitted by the consignor

or consignee that there was a subsequent movement of this cement in lots of not less than 75 barrels to one consignee and the entire shipment moves within 24 hours from the time delivery is made of any portion thereof, the rails should be permitted to refund $\frac{1}{2}$ cent per 100 pounds.

The rails should also be permitted to continue to absorb $\frac{1}{2}$ cent where cement is transported in a continuous through rail-truck movement from the mill to destinations not located on rail-track facilities.

Cement Clinker

No reason appears on this record for disturbing the $\frac{1}{2}$ cent differential under the cement rates established by Decision No. 28334, supra, for the transportation of cement clinker and it seems to be justified by the difference in transportation characteristics. The $\frac{1}{2}$ cent differential should also be observed in providing an overhead scale for truck transportation of cement clinker.

Upon careful consideration of all the facts of record, therefore, it is recommended that the Commission find:

1. That the rates, rules and regulations provided in Appendix "A" of the order herein should be established as the just, reasonable and non-discriminatory minimum rates, rules and regulations for radial highway common carriers and highway contract carriers, as defined in the Highway Carriers' Act, and carriers as defined in the City Carriers' Act, and the reasonable and sufficient rates, rules and regulations for highway common carriers, for the transportation of the commodities and within the territory for which rates are provided in said Appendix "A".

2. That the record does not justify a change in the rail rates except that tariff rules and practices of rail carriers should be amended to provide substantially as follows:

(a) Where cement in quantities of 75 barrels or more moves in a continuous through movement from mill to destinations not located on rail track facilities, using the railroad to a rail facility point and highway vehicle to destination, the railroad will absorb not to exceed $\frac{1}{2}$ cent per 100 pounds of the cost of transportation from the rail facility point to destination, provided that the cement be transported beyond the rail car in lots of not less than 75 barrels within 24 hours from the time any portion thereof is moved.

(b) Where cement in quantities of 75 barrels or more is transported by railroad to a warehouse located on rail track facilities, and is ultimately moved beyond such warehouse by highway vehicle, the railroad will absorb not to exceed $\frac{1}{2}$ cent per 100 pounds of the cost of transportation beyond the rail facility warehouse; provided that the movement beyond the rail facility warehouse be in sales units of not less than 75 barrels to one purchaser and that the entire unit be delivered from the warehouse within 24 hours after delivery is made of any portion thereof. (See note).

NOTE: In applying the provisions of paragraph (b) the railroad shall in the first instance collect the full tariff rate without absorption. Upon satisfactory evidence being submitted by the consignor or consignee that the requirements of paragraph (b) have been met, the amount therein authorized may be refunded.

The following form of order is recommended:

O R D E R

Further public hearings having been held in the above entitled proceedings, and based upon the evidence received at the hearings and upon the conclusions and findings set forth in the preceding opinion,

IT IS HEREBY ORDERED that the rates, rules and regulations provided in Appendix "A" attached hereto and hereby made a part hereof, be and they are hereby established and approved to become effective thirty (30) days from the effective date of this order as the just,

reasonable and non-discriminatory minimum rates, rules and regulations to be charged, collected and observed by any and all radial highway common carriers and highway contract carriers, as defined in the Highway Carriers' Act (Chapter 223, Statutes of 1935, as amended) and all carriers as defined in the City Carriers' Act (Chapter 312, Statutes of 1935, as amended) operating wholly within the incorporated city limits of Los Angeles, for the transportation of the commodities and within the territory for which rates are provided in said Appendix "A".

IT IS HEREBY FURTHER ORDERED that all highway common carriers, as defined in the Public Utilities Act, be and they are hereby ordered and directed to establish on or before thirty (30) days from the effective date of this order, on not less than five (5) days' notice to the Commission and to the public, rates, rules and regulations no lower in volume or effect than those provided in said Appendix "A", for the transportation of the commodities and within the territory for which rates are provided in said Appendix "A".

IT IS HEREBY FURTHER ORDERED that all radial highway common carriers and highway contract carriers, as defined in the Highway Carriers' Act, all carriers as defined in the City Carriers' Act operating wholly within the incorporated limits of Los Angeles, and all highway common carriers, as defined in the Public Utilities Act, be and they are hereby ordered to cease and desist on or before thirty (30) days from the effective date of this order and thereafter abstain from charging, collecting or observing rates, rules or regulations lower in volume or effect than those provided in said Appendix "A".

IT IS HEREBY FURTHER ORDERED that all railroad corporations, as defined in the Public Utilities Act, be and they are hereby ordered to amend their tariffs on or before thirty (30) days from the effective date of this order, on not less than five (5) days' notice to the Commission and to the public, in conformity with the findings set forth

in the opinion which precedes this order.

IT IS HEREBY FURTHER ORDERED that all railroad corporations, as defined in the Public Utilities Act, be and they are hereby ordered and directed to cease and desist on or before thirty (30) days from the effective date of this order and thereafter abstain from absorbing all or any portion of the cost of transportation beyond rail facilities, inconsistent with the findings set forth in the opinion which precedes this order.

IT IS HEREBY FURTHER ORDERED that to the extent the rates, rules and regulations herein established are different from those heretofore established in these proceedings for the same transportation, the rates, rules and regulations herein established shall apply.

The effective date of this order shall be twenty-five (25) days from the date hereof.

The foregoing opinion and order are hereby adopted and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 5th day of

May, 1938.

William H. Hall

Frank R. Dwyer

Barth W. H. H. H.

W. L. H. H.

COMMISSIONERS

APPENDIX "A"

NAMING

MINIMUM RATES FOR TRANSPORTATION

OF

CEMENT, CEMENT CLINKER AND EMPTY SACKS

WITHIN DEFINED TERRITORY

IN

SOUTHERN CALIFORNIA

BY

RADIAL HIGHWAY COMMON CARRIERS

HIGHWAY CONTRACT CARRIERS

AND

CARRIERS OPERATING WITHIN THE CITY OF LOS ANGELES

ITEM NO.	RULES AND REGULATIONS
5	<p data-bbox="601 609 1154 643" style="text-align: center;">EXPLANATION OF TECHNICAL TERMS</p> <ol style="list-style-type: none"> <li data-bbox="348 677 1397 783">1. POINT OF ORIGIN means the precise location at which property is physically delivered into the custody of the carrier for transportation. <li data-bbox="348 812 1359 911">2. POINT OF DESTINATION means the precise location at which property is physically delivered into the custody of the consignee. <li data-bbox="348 940 1417 1130">3. SHIPMENT means a quantity of freight received from one shipper on one shipping order or one bill of lading at one point of origin at one time for one consignee at one destination, whether or not transported in a single unit of equipment. (See Item No. 55 for exception.) <li data-bbox="348 1158 1405 1382">4. RAILHEAD means a point at which property is usually and ordinarily loaded into or unloaded from rail cars. It includes all points served by railroad spur track, as well as all truck loading facility points immediately adjacent thereto and under the ownership or control of the warehouse, plant or industry maintaining and using the spur track. <li data-bbox="348 1411 1422 1635">5. COMMON CARRIER RATE means any intrastate rate or rates of any common carrier or common carriers as defined in the Public Utilities Act, lawfully in effect at time of shipment, together with the minimum weights, rules and regulations, limitations, allowances and privileges which govern such rate or rates. <li data-bbox="348 1663 1367 1786">6. RATE includes minimum weight, rules, regulations, limitations, conditions governing the same, and allowances and privileges applicable in connection therewith. <li data-bbox="348 1814 1386 1979">7. SAME TRANSPORTATION means transportation of the same kind and quantity of property and subject to the same limitations, conditions and privileges, although not necessarily in an identical type of equipment. <li data-bbox="348 2007 1425 2077">8. TEAM TRACK means a point at which the public generally may load and unload rail cars.

ITEM : NO. :	RULES AND REGULATIONS (Continued)
10	<p>APPLICATION OF APPENDIX - CARRIERS</p> <p>Rates provided in this appendix are minimum rates, applying for transportation by radial highway common carriers, highway contract carriers and carriers operating wholly within the incorporated city limits of Los Angeles.</p>
15	<p>APPLICATION OF APPENDIX - TERRITORIAL</p> <p>Rates provided in this appendix apply within the following described boundaries (see Note):</p> <p>Commencing at Santa Barbara; thence along an imaginary line extending northeasterly from the northeasterly city limits of Santa Barbara to the junction of U. S. Highway 99 and State Highway 138, continuing thence northeasterly to the junction of State Highway 7 and U. S. Highway 466 at the town of Mojave; thence easterly along U. S. Highway 466 to the town of Barstow; thence easterly along U. S. Highway 66 to the town of Daggett; thence along an imaginary line extending southeasterly from the town of Daggett to Winterhaven Post Office (Southern Pacific Co. Colorado Station) on U. S. Highway 80 at the California-Mexico border line; thence westerly along said border to the Pacific Ocean; thence northerly and westerly along the shore line of the Pacific Ocean to point of beginning.</p> <p>NOTE.- Where the boundary line intersects the limits of an incorporated city, the boundary line shall follow the city limits so as to include the city within the boundary.</p>
20	<p>APPLICATION OF APPENDIX - COMMODITIES</p> <p>Rates provided in this appendix apply for the transportation of the following commodities:</p> <p>Cement, Portland (building) Cement Clinker Empty Sacks, returning from an outbound pay load.</p>
25	<p>SHIPMENTS TO BE RATED SEPARATELY</p> <p>Each shipment shall be rated separately. Shipments shall not be consolidated or combined, except as specifically authorized in Item No. 55.</p>

ITEM NO.	RULES AND REGULATIONS (Continued)
30	<p style="text-align: center;">GROSS WEIGHT</p> <p>Charges shall be assessed on the gross weight of the shipment. No allowance shall be made for the weight of containers.</p>
35	<p style="text-align: center;">COMPUTATION OF DISTANCES</p> <p>(a) Mileages to be used in connection with distance rates named herein shall be the shortest resulting mileage via any public highway route computed in accordance with the method provided in Decision No. 30000 of August 9, 1937, as amended, in Case No. 4088, Part "N", subject to the following exceptions:</p> <p>(1) Distances from or to points located within any incorporated city, other than Los Angeles and those cities wholly or partially within the Los Angeles pick-up and delivery zone as defined and bounded in Item No. 40, shall be computed from or to the point within the incorporated city limits designated by a triangle and circle, as shown on the map appended to Decision No. 30000, as amended.</p> <p>(2) Distances from or to points located within Los Angeles pick-up and delivery zone as defined and bounded in Item No. 40, shall be computed from or to the intersection of 1st and Main Streets, Los Angeles.</p> <p>(3) Distances from or to points located within the city limits of Los Angeles, but outside of the Los Angeles pick-up and delivery zone as defined and bounded in Item No. 40, shall be computed from or to point of origin or point of destination, as the case may be, in accordance with said Decision No. 30000, as amended.</p> <p>(4) Distances from or to a point located within a city which is partially within the Los Angeles pick-up and delivery zone as defined and bounded in Item No. 40, but which point is itself outside of such pick-up and delivery zone, shall be computed from or to the point within the incorporated city limits of such city designated by a triangle and circle as shown on the map appended to said Decision No. 30000, as amended.</p> <p>(5) In computing distances all decimals shall be retained until the final result and then be disposed of as follows: Less than .5 of a mile - drop Over .5 of a mile - increase to next mile</p>

ITEM NO.	RULES AND REGULATIONS (Continued)
40	<p data-bbox="376 561 1339 599">DESCRIPTION OF LOS ANGELES PICK-UP AND DELIVERY ZONE</p> <p data-bbox="320 624 1376 758">Los Angeles pick-up and delivery zone includes all points within the territory bounded as follows; including both sides of the streets, boulevards, roads, avenues or highways named:</p> <p data-bbox="409 783 1405 2313">Commencing at the intersection of North Broadway and Mission Road, thence westerly on North Broadway to Daly Street, northerly on Daly Street to Pasadena Avenue, northerly on Pasadena Avenue to North Figueroa Street, southwesterly on North Figueroa Street to Avenue 26, northwesterly on Avenue 26 to San Fernando Road, northwesterly on San Fernando Road to Elm Street, northeasterly on Elm Street to Isabel Street, southwesterly on Elm Street to San Fernando Road, northwesterly on San Fernando Road to Fletcher Drive, northeasterly on Fletcher Drive to Avenue 32, southwesterly on Fletcher Drive to San Fernando Road, northwesterly on San Fernando Road to Tyburn Street, southeasterly on San Fernando Road to Fletcher Drive, southwesterly on Fletcher Drive to Glendale Boulevard, northwesterly on Glendale Boulevard to Rowena Avenue, westerly on Rowena Avenue to Hyperion Avenue, southerly on Hyperion Avenue to Fountain Avenue, westerly on Fountain Avenue to Sunset Boulevard, northwesterly on Sunset Boulevard to Hollywood Boulevard, westerly on Hollywood Boulevard to La Brea Avenue, southerly on La Brea Avenue to Wilshire Boulevard, easterly on Wilshire Boulevard to Crenshaw Boulevard, southerly on Crenshaw Boulevard to Slauson Avenue, easterly on Slauson Avenue to Van Ness Avenue, southerly on Van Ness Avenue to Manchester Avenue, easterly on Manchester Avenue and Firestone Boulevard to Alameda Street, southerly on Alameda Street to Century Boulevard, easterly on Century Boulevard to Santa Fe Avenue, northerly on Santa Fe Avenue to Tweedy Boulevard, westerly on Tweedy Boulevard to Alameda Street, northerly on Alameda Street to Firestone Boulevard, easterly on Firestone Boulevard to the Los Angeles River, northerly along the west bank of the Los Angeles River to Randolph Street, easterly on Randolph Street to Garfield Avenue, northeasterly on Garfield Avenue to Anaheim-Telegraph Road, northwesterly on Anaheim-Telegraph Road to Ferguson Drive, easterly on Ferguson Drive to Gearhart Street, northerly on Gearhart Street to 9th Street, westerly on 9th Street to Indiana Street, northerly on Indiana Street to Ramona Boulevard, northerly and easterly on Ramona Boulevard to Miller Avenue, northerly on Miller Avenue to Valley Boulevard (Alhambra Avenue), westerly on Valley Boulevard to Mission Road, northeasterly on Mission Road to point of beginning.</p>

ITEM NO.	RULES AND REGULATIONS (Continued)
45	<p data-bbox="716 580 1108 614" style="text-align: center;">LOADING AND UNLOADING</p> <p data-bbox="348 639 1443 715">Rates in Item No. 80 include assistance of driver only for loading into and unloading from carriers' equipment.</p> <p data-bbox="439 733 1381 766">Rates in Item No. 85 include loading and unloading.</p>
50	<p data-bbox="728 843 1087 876" style="text-align: center;">ACCESSORIAL CHARGES</p> <p data-bbox="348 894 1471 1021">An additional charge of \$1.00 per man per hour shall be made for stacking, sorting, helpers for loading or unloading, or any other accessorial service for which a charge is not otherwise provided.</p>
55	<p data-bbox="769 1085 1034 1118" style="text-align: center;">SPLIT DELIVERY</p> <p data-bbox="348 1144 1438 1276">A shipment may consist of several component parts delivered to (a) one consignee at more than one point of destination, or (b) more than one consignee at one or more points of destination, subject to the following conditions:</p> <p data-bbox="348 1302 1364 1365">(1) The composite shipment shall be shipped by one consignor at one point of origin.</p> <p data-bbox="439 1391 1248 1424">(2) Charges shall be prepaid by the shipper.</p> <p data-bbox="348 1449 1455 1646">(3) The charge for the composite shipment shall be the charge applicable for transportation of a single shipment of the same kind and quantity of property for the distance from point of origin to the most distant point of destination, using the shortest constructive highway route via the several points of destination.</p> <p data-bbox="348 1671 1438 1867">(4) At time of tender of shipment, carrier shall issue a single bill of lading or shipping document for the composite shipment, and be furnished with manifest or written delivery instructions showing the name of each consignee, the point of destination, and the kind and quantity of property in each component part.</p>
60	<p data-bbox="472 1931 1348 1964" style="text-align: center;">ALTERNATIVE APPLICATION OF COMMON CARRIER RATES</p> <p data-bbox="348 1989 1414 2122">Rates provided in this Appendix shall alternate with the lowest rail rates for the same transportation between the same points of origin and points of destination or between the same railheads.</p>

ITEM NO.	RULES AND REGULATIONS (Continued)
65	<p data-bbox="431 602 1450 636">ALTERNATIVE APPLICATION OF COMBINATIONS WITH RAIL RATES</p> <p data-bbox="343 664 1395 729">Rates provided in this Appendix shall alternate with rates constructed as follows:</p> <ol data-bbox="343 757 1471 922" style="list-style-type: none"> <li data-bbox="343 757 1471 826">1. Ascertain the carload rail rate from point of origin to any team track. <li data-bbox="343 855 1395 922">2. Add to such rate the rate in Item No. 85 for the distance from such team track to point of destination. <p data-bbox="431 953 1433 1051">NOTE:-When point of destination is not located at a railhead, the through rate so constructed shall be subject to a minimum weight of 28,500 pounds.</p>
70	<p data-bbox="563 1136 1230 1200">ACCESSORIAL SERVICES NOT INCLUDED IN COMMON CARRIER RATES</p> <p data-bbox="343 1231 1417 1419">In the event under the provisions of Item No. 60 or Item No. 65 a rail rate is used in constructing a rate for highway transportation, and such rate does not include accessorial services performed by the highway carrier, the following charges for such accessorial services shall be added:</p> <ol data-bbox="343 1445 1430 1573" style="list-style-type: none"> <li data-bbox="439 1445 1430 1483">(1) For loading or unloading, 1/2 cent per 100 pounds. <li data-bbox="343 1509 1359 1573">(2) For other accessorial services - \$1.00 per man per hour.
75	<p data-bbox="764 1651 1029 1682">MINIMUM WEIGHT</p> <p data-bbox="343 1710 1397 1780">The minimum weight in connection with rates in Items Nos. 80 and 85 in this Appendix shall be 28,500 pounds.</p>

ITEM NO.	RATES			
80	RATES OF GENERAL APPLICATION			
	Rates in this Item apply for transportation within the territory described in Item No. 15 of the commodities described in Item No. 20.. (See exception.)			
	Exception: Rates in this Item will not apply for transportation for which rates are provided in Item No. 85.			
	MILES		RATES (IN CENTS PER 100 POUNDS)	
	Over	But not over	Cement, Portland (building) Empty sacks, returning from an outbound pay load	Cement Clinker
	0	25	3½	3
	25	50	4½	4
	50	75	6	5½
	75	100	7	6½
	100	130	8	7½
	130	160	9½	9
	160	190	11	10½
	190	220	13	12½
	220	250	15	14½
250	280	17	16½	
280	310	19	18½	
310	340	21	20½	
340	370	23	22½	
370	400	25	24½	
85	DRAYAGE RATES			
	Rates in this Item apply:			
	(1) For transportation of the commodities described in Item No. 20, moving wholly within the County of Los Angeles.			
	(2) For transportation from railheads of Portland (building) cement which has previously moved into such railheads by rail or truck in minimum quantities of 28,500 pounds or greater.			
	(3) For transportation to railheads of empty sacks which have previously been used as containers for cement moving from such railheads.			

ITEM NO.	RATES (Continued)		
	<u>DRAYAGE RATES (Continued)</u>		
	(4) For use in constructing combination rates, as explained in Item No. 65.		
	<u>MILES</u>	<u>RATES (IN CENTS PER 100 POUNDS)</u>	
	Over	But not over	
85 (Concluded)	0	2½	2½
	2½	7½	3
	7½	12½	3½
	12½	25	4
	25	50	4½
	50	75	6
	75	100	7