

ORIGINAL

Decision No. 34845

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Establishment of maximum or minimum, or maximum and minimum rates, rules and regulations of all common carriers as defined in the Public Utilities Act of the State of California, as amended, and all highway carriers as defined in Chapter 223, Statutes of 1935, as amended, for the transportation for compensation or hire, of any and all commodities.) Case No. 4246

In the Matter of the Establishment of maximum or minimum, or maximum and minimum rates, rules and regulations of all carriers as defined in the City Carriers' Act of the State of California (Statutes 1935, Chapter 312, as amended), for the transportation over the public highways within any city or city and county in the State of California, for compensation or hire, of any and all commodities.) Case No. 4434

ADDITIONAL APPEARANCES

WALLACE L. WARE and DEWITT N. MANNING,
for petitioner,
E. O. BLACKMAN and FRANKLIN L. KNOX,
for California Dump Truck Owners
Association, protestants.

BY THE COMMISSION:

O P I N I O N

By Decision No. 32566 of November 14, 1939, as later amended, the Commission established minimum rates, rules and regulations for the transportation of property in dump trucks throughout California by radial highway common and highway contract carriers and carriers defined in the City Carriers' Act.

By a petition, Raymond Lewis, doing business as Buena Park Granite and Gravel Company, seeks the establishment of a Production Area to be located in the northwesterly portion of Orange County near the community of Buena Park, and the establishment of a rate of 47¢ per ton for the transportation of property

in dump trucks between this proposed Production Area and Delivery Zone No. 43 located in Los Angeles County. The petition sets forth that within this proposed Production Area two permanent plants have been in existence for a number of years producing decomposed granite and gravel; that at the present time no minimum zone rates are provided in City Carriers' Tariff No. 6, Highway Carriers' Tariff No. 7, for transportation from these production plants; that the establishment of reasonable zone rates from the proposed production area will greatly simplify the calculation of transportation charges and place the petitioner on an equality with producers who are moving this kind of property under zone rates.

The petition further states that the petitioner has a contract to supply large quantities of decomposed granite to the Long Beach Airport, the construction of which is under direction of the Corps of Engineers of the United States Army and represents an essential item in National Defense; that a discrimination now exists against the petitioner by reason of the fact that all decomposed granite now moving from the plants in the proposed area to Long Beach Airport moves under distance rates or hourly rates as established in the aforementioned decision.

A hearing in this matter was held before Examiner Hall at Los Angeles on January 15, 1942. The petitioner testified that the contract to build the Long Beach Airport carried a government priority rating of A-1-A, which is the highest issued by the Priority Board; that the distance to the farthest side of the Airport from one plant was 16 3/4 miles and from the other plant 19 miles; that the traffic congestion was very low and the highways used are in good condition.

The petitioner also stated that the distance from two production areas located in Production Area "W" ⁽¹⁾ which is

(1) Described in City Carriers' Tariff No. 6, Highway Carriers' Tariff No. 7, Decision No. 32566, as amended, by Decision No. 33002.

situated in the Palos Vordes hills west of San Pedro, to the Long Beach Airport is 18 and 20 1/2 miles respectively; that the traffic conditions from said Production Area "W" are less favorable than from the proposed area and that the established zone rate from Production Area "W" to Delivery Zone 43 is 47 cents per ton.

Two cost studies were introduced by truck operators transporting material for the petitioner indicating that each can make a profit on the operations from the proposed area to the Airport at a rate of 47¢ per ton.

Protestants testified that they do not oppose the theory of zone rates for the transportation of property in dump truck equipment. They did testify, however, that the rate of 47¢ per ton for such movement, considering the mileage involved to the Airport, under normal operations is not compensatory to the carrier; that several members of the protestant association discontinued working on the project after a few days of operations due to the low volume of the rate and the working conditions tending to increase the cost of operation; that cost studies submitted by petitioner witnesses were based upon a use factor that cannot under normal operating conditions be developed in this operation.

It is petitioner's contention that the operations referred to above related to a condition that existed during the week of December 7, 1941 when an officer in charge of the Army Engineers ordered the contractor to rent all available dump trucks to deliver decomposed granite to this project; that the large number of trucks in operation created very heavy congestion at the production plants, causing much more delay than was normal; that shortly after the week referred to and the period of time to which the protestants referred in their testimony the number of trucks was reduced, thereby lowering the excessive waiting time at the loading point to a normal period.

The distance from the two plants in the proposed area to the Airport as stated by the petitioner was not contested by the protestants.

The comparison by the petitioner of zone rates between the proposed Production Area and Production Area "W" is not proper in that the distance involved in developing the rate of 47 cents per ton from Production Area "W" is not necessarily measured to the Airport as the central point of the delivery zone. The formula of 10 cents per ton for loading and unloading, plus 2.5 cents per ton per mile for the first ten miles, plus 2.2 cents⁽²⁾ per ton for each mile thereafter, the sum of which is increased by 10 percent,⁽³⁾ applied to an average distance from the proposed area of approximately 17 miles, produces a rate of 55¢ per ton.

A careful review of the record leads to the conclusion that the petitioner has shown the need of the establishment of a point-to-point rate for the transportation of property in dump truck equipment between the proposed Production Area and the Long Beach Airport. This record also convincingly shows that the proposed rate of 47¢ per ton is not a reasonable rate for such transportation.

O R D E R

Adjourned public hearing having been held in the above entitled proceeding and based upon the evidence thus received

IT IS HEREBY ORDERED that City Carriers' Tariff

(2)

Decision No. 32566 applies this formula to movements from Production Areas located on the "East side" of the Los Angeles Area within which Production Area "W" is located.

(3)

By Decision No. 33775 the zone rates in City Carriers' Tariff No. 6, Highway Carriers' Tariff No. 7 were increased 10 percent for movements from production areas located on the "East side" of the Los Angeles area.

No. 6, Highway Carriers' Tariff No. 7 (Appendix "A" to Decision No. 32566, as amended) be and it is hereby further amended by substituting therein and to become effective January 28, 1942, the page designated as:

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which is attached hereto and by this reference made a part hereof.

IT IS HEREBY FURTHER ORDERED that in all other respects Decision No. 32566, as amended, shall remain in full force and effect.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California this 27th day of

January, 1942.

W. B. Kelly
Ray L. Riey
Justus J. Craven

Richard H. Baker
Commissioners

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CITY CARRIERS' TARIFF NO. 6
HIGHWAY CARRIERS' TARIFF NO. 7

Item No.	SECTION NO. 3 - RATES FROM PRODUCTION AREAS TO DELIVERY ZONES IN CENTS PER TON (Continued)	
	MATERIAL, viz: Granite, decomposed, Gravel, Sand	Stone, crushed, chips or waste, Stone, natural, blocks, pieces or slabs, rough quarried, Stone, natural, sawed, not further finished.
*238	TO The Delivery Area described as follows: Beginning at the intersection of Lakewood Boulevard and Carson Street, thence westerly on Carson Street to Cherry Avenue; south- erly on Cherry Avenue to Spring Street; easterly on Spring Street to Lakewood Boulevard, thence northerly on Lakewood Boulevard to point of begin- ning.	FROM The Production Area described as follows: Beginning at the intersection of Fullerton Road (U.S. Highway 101) and Imperial Highway, northerly of the City of Fullerton, thence westerly on Imperial Highway to LaMirada Avenue, southerly on LaMirada Avenue to LaFabra Road; south- westerly on LaHabra Road to Grand Avenue; southerly on Grand Avenue to Commonwealth Avenue; easterly on Commonwealth Avenue to Spadra Road (U.S. Highway 101), thence northerly on Spadra Road and Fullerton Road (U.S. Highway 101) to the point of beginning.
	RATE	55
Reduction) Decision No. <u>34945</u> * Change)		
<p style="text-align: center;">EFFECTIVE JANUARY 28, 1942</p>		
Issued by The Railroad Commission of the State of California, San Francisco, California. Correction No. 83		