

Decision No. 35367

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 regu-)
lations 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 trans-)
portation for compensation or hire)
of any and all commodities.)

Case No. 4246

CRAEMER, COMMISSIONER:

APPEARANCES

- O'MELVENY & MYERS, by L. M. Wright, for Riverside Cement Co.
- GEORGE T. HURST and G. E. DUFFY, for The Atchison, Topeka & Santa Fe Railway Company.
- WILLIAM GUTERIE and J. L. DARTT, for California Portland Cement Company.
- N. E. KELLER and J. RICHARD TOWNSEND, for Pacific Portland Cement Company.
- R. E. WEDEKIND and E. L. VAN BELLEN, for Southern Pacific Company, Northwestern Pacific Railroad Company, Central California Traction Company, Sunset Railway Company and Visalia Electric Railway Company.
- WALDO A. GILLETTE and JOSEPH T. ENRIGHT, for Monolith Portland Cement Company.
- TREMAINE & KNOX by Raymond Tremaine, for Associated Contract Truckers, the Hartley Trucking Company and Paul Odom.
- ROY B. THOMPSON, EDWARD M. BEROL and MARVIN HANDLER, for The Truck Owners Association of California.
- L. N. BRADSHAW and F. W. STEEL, for The Western Pacific Railroad Company, Sacramento Northern Railway and Tidewater Southern Railway.
- RALPH B. MITCHELL, for Henry Cowell Lime & Cement Company.
- A. H. VAN SLYKE, for Yosemite Portland Cement Company.
- W. G. HIGGINS, for Santa Cruz Portland Cement Company,
- E. W. HOLLINGSWORTH and L. R. Bishop, for Permanente Corporation.
- LEWIS A. PARSONS, for the Calaveras Cement Company,
- J. A. STANTON, in propria persona.

O P I N I O N

Case No. 4246 is a general investigation proceeding embracing rates, rules and regulations for the transportation of all classes of property by for-hire carriers between points in this state. This opinion is concerned only with the movement of cement (and empty sacks returning) to and between points in California lying generally north of the Tehachapi Mountains and Gaviota Pass. Evidence relating to this transportation was received at public hearings in San Francisco, briefs have been filed, and the matter is ready for decision.

An association of highway carriers¹ urged that minimum rates be promptly established for the transportation of cement by motor vehicle, asserting that carriers were receiving subnormal and noncompensatory charges and that unless this situation were corrected the maintenance of adequate transportation facilities was threatened. No one opposed the fixation of minimum rates, but cement manufacturers expressed some concern lest excessive or otherwise improper rates be prescribed. Pacific Portland Cement Company took the position that the establishment of rates for highway carriers must be preceded or accompanied by the correction of asserted maladjustments in the existing carload rail rates. It vigorously assailed the rail rate structure, and asked that the rail lines be required to remove alleged discriminations. Monolith Portland Cement Company also criticized some features of the rail rates, but other mills expressed satisfaction with the existing adjustment and asked

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The Truck Owners Association of California, hereinafter referred to as "the Association."

that it not be disturbed. The rail lines explained the historical development of the assailed rates, and maintained that they were lawful. With respect to the establishment of truck rates, the rail lines asked only that the highway carriers be not given an unfair competitive advantage.

The position of Pacific Portland Cement Company that maladjustments in the rail rates must be corrected before highway carrier rates may be lawfully established was predicated upon the contention that otherwise, unlawful discriminations, alleged to be present in the former, would necessarily be brought into the highway rate structure by reason of the provisions of Section 10 of the Highway Carriers' Act and Section 32(d) of the Public Utilities Act.² By virtue of the language of the Highway Carriers' Act quoted in the margin, minimum rates established for highway carriers must not exceed current rates of common carriers by land for transportation of the same kind of property between the same points.³ In instances where the action of this provision brings the truck rates below the level which would otherwise be established as minimum, maladjustments

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The pertinent provisions of Section 10 of the Highway Carriers' Act and 32(d) of the Public Utilities Act follow:

Section 10. "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 by land subject to the provisions of the Public Utilities Act for the transportation of the same kind of property between the same points."

Section 32(d). "In any rate proceeding where more than one type or class of carrier as defined in this act or in the Highway Carriers' Act, is involved, the commission shall consider all such types or classes of carriers, and, pursuant to the provisions of this act or the Highway Carriers' Act, fix as minimum rates applicable to all such types or classes of carriers the lowest of the lawful rates so determined for any such type or class of carrier."

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See Decision No. 35212 dated March 31, 1942, in this proceeding.

in the rail rates will be carried forward and accentuated in the truck rate structure. It should not be assumed from this however that an affirmative finding that rates of competing common carriers are in all respects lawful must necessarily be made before minimum rates can be established for highway carriers. The Commission will order the correction of common carrier rates whenever their unlawfulness is made to appear.

In considering the present record, evidence relating primarily to highway transportation will be first discussed.

Highway Transportation

Studies of the cost of transporting cement by motor vehicle were presented by two engineers of the Commission's staff and by an engineer testifying for the Association. In addition, information and estimates relating to the cost of operating proprietary vehicles were introduced by shipper witnesses. The record thus developed shows that motor trucks are used to transport a substantial portion of the output of the northern California mills. For-hire carriers are employed by all of the mills, and several of them also use their own vehicles to a limited extent. Shipments from the mills and bulk storage plants move principally to warehouses, wharves and points of direct consumption. Loads vary in weight from 38,000 pounds, the minimum sales unit of the industry, to approximately 47,500 pounds.⁴ Cement is generally transported in paper or cloth sacks, although there is some bulk movement to projects consuming large quantities.⁵

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The maximum may be somewhat greater, as highway weight restrictions in this state have been recently revised.

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So-called bulk shipments are transported in covered dump trucks, in large metal tanks, or in specially constructed canvas containers of one-ton capacity.

The cost studies of the Association and Commission witnesses were based principally upon information obtained from carrier and shipper records and through interviews with truck operators and mill representatives. While there were various differences in the studies, the methods used by the several witnesses were generally similar. Each made use of a composite of costs developed by gasoline, butane and diesel equipment, and each used a load factor of 50 per cent.⁶ Separate studies of the costs of bulk transportation were introduced by the Association witness and by one of the Commission's engineers. The latter witness also presented estimates of the costs to the mills of operating their own vehicles. The costs were in each case for transportation over "level roads," and the witnesses explained that additional costs due to such factors as grades, congestion and tolls should be compensated for in the establishment of rates.⁷ The several estimates stated in cents per 100 pounds for selected distances are shown in the following table:

Miles	Commission Witnesses			Association Witness	
	Proprietary	Sacked	Bulk	Sacked	Bulk
10	2.12	2.73	2.25	2.96	3.10
50	4.38	5.95	5.82	5.96	6.46
100	7.28	9.58	9.86	9.47	10.33
150	10.09	13.74	14.40	12.97	14.20
200	12.90	17.90	18.94	17.63	19.25
400	24.58	35.41	38.05	34.03	37.48
600	36.26	52.92	57.16	50.40	55.7

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The Commission's study shows an approximate relationship of fuels used by for-hire carriers to be 57 per cent gasoline, 28 per cent butane and 15 per cent diesel. The Association's study used a somewhat similar ratio.

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By Decision No. 31605, as amended, in this proceeding the Commission established a system of constructive miles throughout the state designed to give effect to the factors referred to.

The witness who introduced the proprietary cost estimates stated that one of the principal reasons why these costs were lower than those experienced by contract carriers was that the proprietary vehicles developed a greater use factor due to the fact that the mills favored their own equipment in the allocation of tonnage.

The mills directed considerable criticism to the cost studies and endeavored to show that the estimates were too high, particularly for for-hire transportation. They asserted that estimates should be based upon the use of diesel equipment exclusively, which they said produced lower costs, instead of averages obtained from the study of vehicles actually used by contract carriers. They declared also that the cost witnesses gave improper treatment to vehicle use factors, particularly in the application of varying factors for different lengths of haul. Load factors were also criticized, the mills contending that shipments greater than the averages of 40,000 and 42,760 pounds used in the cost studies were common, and the Monolith mill declaring further that back hauls (said by the cost witnesses to be negligible) were not unusual. In this connection Monolith offered testimony to show that both contract and proprietary vehicles transporting cement from its mill to northern California points regularly returned with loads of iron cinders.⁸ In addition, the shippers declared that the studies used excessive ratios of overhead costs to operating expenses.

⁸ The witness asserted that both proprietary and for-hire trucks delivering cement to Salinas, Modesto and points north regularly called at Martinez for return loads of iron cinders, which are used by Monolith in large quantities in the manufacture of certain cements.

Two highway carriers offered testimony concerning their cost experience in transporting cement from Monolith. Information submitted by these witnesses was confined to costs per mile, and no attempt was made to develop load or use factors or to relate the mileage expenses to over-all costs per 100 pounds for specified lengths of haul. Moreover, the witnesses did not specify clearly what elements of expense were included in their computations.

Information relative to rates paid by shippers to for-hire carriers was furnished by a senior engineer of the Commission's staff, and by the traffic manager for the Monolith company. The engineer's study shows that rates paid to carriers by shippers other than Monolith are both lower and higher than the estimated for-hire costs up to 200 miles, and beyond that distance are in all cases lower. Varying rates are paid for comparable hauls, even from the same plant, and there appears to be little if any consistency or relationship between charges paid by the several mills. Rates from Monolith are based upon a comprehensive zoning plan developed by that company. They appear to be generally lower than those paid by the other mills, and are in all instances lower than estimated for-hire costs heretofore discussed. A peculiar feature of the Monolith rate plan is that movements involving an outbound haul of cement and a return load of cinders are paid for in a uniform lump sum for the round trip. It appears that subsequent to initial hearings in the present phase of this proceeding the Monolith Company increased rates paid to its contract carriers approximately 10 per cent.

Specific proposals for the establishment of minimum rates, rules and regulations for the transportation of cement by highway carriers were made by a Commission rate witness and by a representative of the Association. Both witnesses recommended mileage scales

of rates applicable to minimum quantities of 38,000 pounds from cement mills and bulk storage plants, and the Commission witness proposed that all other movements be governed by minimum class rates named in Highway Carriers' Tariff No. 2.⁹ The witnesses suggested that the recommended rates be permitted to alternate and combine with common carrier rates when lower charges would result thereby.

The rates recommended by the Association were designed to produce costs developed by its cost witness. Commodity rates proposed by the Commission witness were based in general upon the same cost information, but were in most instances slightly lower than the Association proposal. This witness expressed the opinion that the rates which he suggested would be equally proper for the transportation of sacked or bulk cement.

The rate witnesses recommended that the cement rates be incorporated in Highway Carriers' Tariff No. 2, and that with certain exceptions the rules therein provided be made applicable to this transportation. In this connection the Commission witness recommended against the use of split pickup and delivery rules, declaring that split shipments were unnecessary and undesirable in cement transportation. He proposed also that exception be made to a rule which equalizes rates from and to Oakland and San Francisco for distances beyond 70 miles. The Association witness proposed modification of the rule which permits 20 minutes per ton for unloading shipments without assessment of demurrage charges; 7 minutes per ton, he declared, was ample for unloading cement.

⁹ Highway Carriers' Tariff No. 2 names class rates for the transportation of general commodities, with certain exceptions, between points throughout the state. It is governed by Western Classification No. 70, (C.R.C.-W.C. No. 3 of R. C. Fyfe, Agent), which accords cement a 4th-class rating in less-carloads and a Class C rating in carloads.

Both rate witnesses proposed that rates established for cement be made applicable to return movements of empty cement sacks, subject to a minimum charge of 50 cents per shipment. This proposal was predicated primarily upon the fact that a similar basis has been used by the rail lines for some time.

The cement companies declared that the recommended rates were excessive, and asserted that if either proposal were adopted the inevitable result would be increased use of proprietary vehicles operated by the mills or their consignees. In addition to their criticism of the cost estimates, upon which the rates were based, the shippers asserted that the rate proposals gave insufficient consideration to the general level of "going" rates and to the relatively low value of the commodity.

The mills generally agreed that rates should not be restricted to movements from mills and bulk storage facilities, and that no rate distinction should be made between sacked and bulk cement. With respect to the form of the rates, most of the shippers favored the naming of rates on a point-to-point basis rather than by mileage blocks. Pacific Portland Cement Company urged that the rates be so graded that differences between competing destinations would not in any case exceed one-half cent per 100 pounds. The Monolith company, on the other hand, proposed the use of large zones with resulting larger rate differences between destinations located in separate zones. Several of the mills suggested that cement rates be published in a separate tariff limited to that commodity.

The shippers did not take exception to the rules of Highway Carriers' Tariff No. 2, as proposed to be modified by the rate witnesses, nor to the proposed method of determining rates and charges for the return transportation of empty sacks. Two of the mills sug-

gested that provision be made for diversion of shipments en route, but no specific rule was proposed.

Rail witnesses asserted that if highway carriers were to be permitted to use rail rates for the purpose of developing charges below the normal minimum truck level, they should in such circumstances be required to make appropriate charges for any additional or accessorial services performed but not included in the rail rate. No services or charges were specified, except in connection with unloading of the vehicles. The witnesses recommended that for the service of unloading motor vehicles, highway carriers should be required to assess not less than one cent per 100 pounds. Cost evidence was not offered in support of this particular charge, but it was explained that under some circumstances an allowance of this amount was paid by the rail lines to consignees in lieu of unloading rail cars. The opinion was expressed that this allowance approximated the cost which the rails would experience if they were to perform the service.

Discussions and Conclusions

Although by no means the sole consideration, cost of performing the service is one of the principal elements to be considered in the establishment of minimum rates for highway carriers, particularly where the commodity under consideration is one of relatively low value. Estimates available in this record indicate the approximate cost level, and the rate proposals were designed to return these costs. However, consideration of the evidence leads to the conclusion that the estimates are somewhat above the costs which should reasonably be expected to be developed by efficient carriers. To the extent that the rate proposals are pred-

icated upon the cost estimates, it follows therefore that they are higher than necessary or desirable for establishment as minimum.

The commodity rates hereinafter established, while somewhat lower than those recommended by the rate witnesses, are in our opinion sufficiently high to return to efficient carriers the cost of performing the service plus a reasonable profit. They are the same as those recently established by the Commission for transportation of cement between points in southern California under conditions substantially similar to those here encountered.¹⁰ For shipments smaller than those considered in the cost studies, and for shipments originating at points other than those from which there is a regular and steady movement, the class rates set forth in Highway Carriers' Tariff No. 2 will be made applicable. The commodity and class rates, like those established in the southern California decision, vary with the constructive distance from point of origin to point of destination, following the usual mileage blocks. These rates will be permitted to alternate and combine with rates of common carriers when lower charges result. With minor exceptions, the rates will be governed by the rules, regulations and accessorial charges of Highway Carriers' Tariff No. 2 which apply to the transportation of general commodities throughout the state. For the convenience of carriers and shippers, and in order to avoid duplicate publication, the rates will be incorporated in this tariff.

The form and manner in which the minimum rates, rules and regulations hereinafter provided are set forth appear to constitute

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Decision No. 35211 of March 31, 1942 in Cases Nos. 3981, 4071, 4121, 4246, 4464, 4501, 4511, 4512 and Application No. 21172.

the most practicable method of satisfying the requirements of a clear, concise and complete rate structure. The use of mileage blocks provides a ready means of relating rates to the length of haul, and is free from serious difficulties associated with either point-to-point rates or zone rates. The point-to-point method of publication would necessitate the naming of rates separately from and to the limitless number of points between which cement might be transported by highway carriers. The use of large zones would result in departures from cost considerations, and would moreover be impracticable in the absence of information from which appropriate and non-discriminatory zone boundaries may be determined.

In the absence of supporting time studies or cost data, the more liberal time allowance applicable to the unloading of cement under the southern California decision, and to the unloading of general commodities throughout the state, will be used rather than the maximum limit of seven minutes per ton proposed by the Association. For similar reasons, the rail proposal to establish an unloading charge of one cent per 100 pounds for highway carriers when using rail rates will not be adopted. In the absence of more specific cost information, the charge of one-half cent which applies under the same circumstances in southern California will be made applicable here.

A tariff rule providing rates and charges on returning empty cement sacks substantially similar to those recommended by the rate witnesses will be authorized.¹¹

The evidence here considered relates primarily to transportation within that part of the state lying generally north of Gaviota Pass and the Tehachapi Mountains, including Monolith. The rates hereinafter established will be made applicable between all points within this territory.

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See Item No. 270 series of Pacific Freight Tariff Bureau Exception Sheet No. 1-Q, C.R.C. No. 39 of J. P. Haynes, Agent.

The issuance of a shipping document by the carrier showing the name of the shipper, the point of origin and point of destination of the shipment, a description of the commodity or commodities shipped, the weight thereof and the rate and charges assessed, and the preservation by the carrier of a copy of such document for a reasonable period of time, are manifestly necessary to proper enforcement. The order herein will require all carriers to issue an appropriate shipping document for each shipment transported, containing all the information necessary to a determination of the established minimum charge.

The practice of quoting charges in a form inconsistent with that in which minimum rates are stated results in serious enforcement difficulties, inasmuch as it is impossible to ascertain until after the work has been performed and all factors necessary to compute the minimum rates are known, whether or not the quoted charge is in compliance with the minimum rate order. It also results in inconvenience and dissatisfaction on the part of shippers and consignees, due to the fact that the quoted rates must be disregarded whenever they result in lower aggregate charges than would accrue under the established minimum rates. The order herein will require that rates be quoted and assessed in a form consistent with the form of the established minimum rates.

Article XII, Section 21 of the State Constitution makes it unlawful for a railroad or other transportation company to charge less for the transportation of property for longer than for shorter distances over the same line or route, the shorter being included within the longer distance, unless authority to do so shall first have been secured from the Commission.¹² Of necessity, the granting

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As to common carriers subject to the provisions of the Public Utilities Act, this prohibition is also carried in Section 24(a) of that Act.

to carriers of permission to meet the rates of competing for-hire carriers between the points served by such competing carriers, and requiring at the same time that they observe the established minimum rates otherwise, will result in rates which, in some instances, are less for longer than for shorter distances over the same line or route.

It is apparent that the presence of competition at the more distant point and its absence at intermediate points justifies such departures as may result from the application of the minimum rates here established. In so far as any carriers affected by this order, other than those subject to the Public Utilities Act, may be deemed to be "transportation companies" within the meaning of Article XII, Section 21 of the State Constitution, authority should be granted such carriers to depart from the provisions of that section to the extent necessary to enable them to observe the provisions of the order herein. All common carriers subject to the provisions of the Public Utilities Act desiring similar authority should file application therefor under Section 24(a) of that Act.

Rail Rates

This proceeding, as hereinbefore indicated, embraces the transportation of property by all classes of for-hire carriers. In the instant phase no evidence was offered respecting the costs of performing transportation by rail, and no proposals were made by either carriers or shippers for any general readjustment of the existing level of carload rail rates. However, Pacific Portland Cement Company attacked specific features of the present rail rates, asserting particularly that they were in certain respects prejudicial to its mills and preferential of the mills of other manufacturers. Monolith Portland Cement Company also offered testimony intended to

show that certain carload rail rates discriminated against its plant.¹³

The objections of Pacific Portland Cement Company to the present carload rail rates¹⁴ are based upon alleged failure of the rail carriers to accord its mills the benefits of their geographical locations. The traffic manager for Pacific Portland Cement Company introduced a series of exhibits showing the differences in miles and rates from the various mills in northern California to destinations in the San Francisco Bay area, the Sacramento and San Joaquin Valley territories, on the Northwestern Pacific, and on the coast south of Watsonville.¹⁵ The table which follows, taken from one of the exhibits, shows in detail the existing rates and differentials to San Francisco Bay points, and also sets forth certain rates and differentials which the witness recommended be substituted for those now

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Pacific Portland Cement Company took the position that in an investigation proceeding of this nature the burden was upon respondent rail lines to justify their existing rates. With this position the rails disagreed. It is established that a proceeding on the Commission's own motion accuses a respondent of nothing, but is simply an instrumentality through which the Commission seeks to ascertain whether rates are unjust, unreasonable, discriminatory or preferential. (Home Gardens Water Company, 26 C.R.C. 359). Thus in the instant record the Pacific and Monolith companies may be said to have adopted the roles of complainants, the rail lines may be considered as defendants, and the other cement companies as intervenors in support of the rail lines.

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Carload rail rates referred to herein as "present" or "existing" are those in effect without application of the increases authorized by Decision No. 35271 of April 14, 1942, in Application No. 24670 et al., General Increases, 1942. Rate differentials referred to hereinafter have not been changed materially.

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Mills of Pacific Portland Cement Company are located at Redwood City and at San Juan (in northern San Benito County). Mills of other manufacturers are located as follows: Monolith Portland Cement Company at Monolith, in Kern County; Henry Cowell Lime and Cement Company at Cowell, in Contra Costa County; Yosemite Portland Cement Company near Merced, in Merced County; Permanente Corporation at Permanente, in Santa Clara County; Calaveras Portland Cement Company at Kentucky House, in Calaveras County; and the Santa Cruz Portland Cement Company at Davenport in Santa Cruz County. The latter company also maintains silos at Alameda and Stockton which are filled by use of the company's steamer.

maintained. The other exhibits are similar, and this table is illustrative of the manner in which comparisons were offered covering all of the destination areas.

RATES AND DIFFERENTIALS IN CENTS PER 100 POUNDS

FROM	TO	Miles Over Redwood City	PRESENT			PROPOSED		
			Rate	Differentials Over Redwood City		Rate	Differentials Over Redwood City	
				In Cents	In Miles per Cent		In Cents	In Miles per Cent
Redwood City	San Fran- cisco	-	4 $\frac{1}{2}$	-	-	3 $\frac{1}{2}$	-	-
Cowell	Oakland	17.0	4 $\frac{1}{2}$	0	0	4 $\frac{1}{2}$	1	17
Permanente	(San Fran- cisco	17.0	4 $\frac{1}{2}$	0	0	4 $\frac{1}{2}$	1	17
Sargent	Bay Points)	58.7	6 $\frac{1}{2}$	2	29.4	7	3 $\frac{1}{2}$	16.8
Davenport		96.5	6 $\frac{1}{2}$	2	48.3	8 $\frac{1}{2}$	5	19.3
Ky House		112.0	8 $\frac{1}{2}$	4	28.0	9 $\frac{1}{2}$	6	18.7
Merced		115.0	8 $\frac{1}{2}$	4	28.8	9 $\frac{1}{2}$	6	19.2
Monolith		323.0	20	15 $\frac{3}{4}$	20.5	19 $\frac{1}{2}$	16	20.2

* The mileage from Davenport is figured through Watsonville Junction. Former mileage available through Vasona Junction approximately 41 miles shorter.

The proposed rates were developed by converting to "average miles per cent of differential" the present rate differentials from certain mills to selected destinations, and applying the developed averages to selected "base" rates. The averages were determined by a complex process as briefly outlined in the margin, ¹⁶ and the base

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For short hauls the average "miles per one cent of differential" was obtained from existing distance and rate differentials to Sacramento and Woodland from Cowell, Kentucky House, Redwood City and Merced. For long hauls the "average miles per one cent of differential" was the average differential of Monolith over the above mills to the same destinations. Additional "miles per one cent of differential" for intermediate distances were obtained by averaging the above results and then averaging that result with the first result. The through rate was obtained by adding to a base rate, i.e., a rate from the mill nearest destination, an appropriate differential. This latter differential was obtained by dividing the distance between the base point and the mill from which the differential was to be determined by that one of the four "miles per one cent of differential" which most nearly corresponded to the distance used.

rates were apparently chosen with a principal view to minimizing rate increases resulting from the proposed adjustments.

The witness criticized the relationship in rates from Redwood City and San Juan as compared with those from all other mills. He asserted also that the nonintermediate application of certain rates maintained to San Francisco Bay points was not justified under existing conditions. He declared that most of the authorities to depart from the long-and-short haul statutes were obtained from the Commission many years ago, and rested upon threats of water or water-truck competition which were no longer present except under substantially changed conditions. He stated that costs of transportation via the competitive routes now far exceeded the existing rates, and that in certain instances the competitive routes were impracticable or not physically available.

This witness criticized also the lack of uniformity in rail tariffs in allowances granted to consignees for delivery and unloading in connection with rates from the several mills, pointing out that allowances applied from certain mills to specific destinations whereas similar allowances did not apply from Redwood City and Sargent to the same destinations. This difference in treatment was said to be unduly preferential of the favored mills. The witness also objected to the form in which rates were stated from San Juan shipping points to various destinations but did not contend that the form of publication in itself made the rates unlawful.

The traffic manager of Pacific Portland Cement Company argued that the extent of prejudice to his mills and preference to the other mills could be measured by the rate differences, since only a limited amount of cement could be sold in each territory and his

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The tariff in question names rates from Davenport, Betabel, Chittenden and Sargent, but by a rule their application was limited to destinations provided with routings. In numerous instances no routes were provided in connection with movements from the latter three points.

mills were forced to absorb any rate disadvantage in order to reach a market which could be supplied by mills with more favorable rates.

The Monolith mill was not in accord with rate revisions sought by Pacific Portland Cement Company but introduced testimony intended to show that in other respects the rail rates were discriminatory. The rate witness for this company asserted in particular that the rail lines maintained depressed rates to the San Francisco Bay area from other shipping points in order to meet transportation competition, while declining to publish similarly depressed rates from Monolith to the same destination area to meet similar competition. This difference in treatment he declared to be unduly prejudicial to Monolith and preferential of its competitors. The witness asserted also that the rail lines had failed to give full effect to a decision of this Commission ¹⁸ in which the carriers were ordered to adjust rates to certain specified and unspecified destinations in the southern portion of the San Joaquin Valley. It was argued that the rails, in carrying out the ordered adjustment had not graded the rates from Monolith to points between Bakersfield and Tulare with that degree of uniformity which they had accorded to rates from northern mills to the northern end of the valley.

The Association took no position with respect to the rail rates, except to challenge the lawfulness of rules by which certain allowances were made to shippers or consignees for unloading rail cars or transporting shipments beyond railhead. Through cross-examination of the rail witness the Association showed that although the allowances were published and paid, Southern Pacific had seldom if ever been called upon to perform the services, and Santa Fe did not even hold itself out to do so. It argued on brief that the

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Monolith Portland Cement Co. vs. Southern Pacific Co., et al.
38 C.R.C. 730 (1933).

assailed allowances were in effect merely an unlawful device for reducing rail rates to meet truck competition.

Testimony in support of the present rail rates and rules was offered by a rate witness for Southern Pacific Company. He explained in considerable detail the history and development of the present rate structure, beginning with the first manufacture of cement in this state in 1902. In general it appears from this testimony that until 1924 the rates to San Francisco Bay points from Cowell, Napa Junction, Cement and Davenport were on the same basis.¹⁹ With construction of the Redwood City mill in that year, rates were published from that point and from Cowell 2 cents under the Davenport rates. Mills later established at Kentucky House and Merced were given rates 4 cents over Cowell, and the recently established mill at Permanente was given rates the same as Redwood City. To other destinations the rates have in general been related to the Cowell rates, although some exceptions were made, particularly in the San Joaquin Valley where the entry of local mills affected the rate structure. With each upward or downward fluctuation of the rate level the differentials between the various mills have been retained without substantial change.

The rail witness expressed the opinion that the present rates were free from undue discrimination, and were in all other respects lawful. He recognized that in many cases they bore little direct relationship to the length of haul, but declared that distance should not be given dominant importance in the fixation of rates on cement. He declared that numerous other factors should be considered also, including market competition, carrier competition, and long acquiescence of interested parties in an established basis of rates.

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The mills at Napa Junction and Cement have discontinued operations.

i In explanation of relatively low rates accorded the Davenport mill, this witness stated that rates from that point were based upon the short-line mileage via a route through Los Gatos and Vasona Junction. This route was abandoned in 1940, thus increasing the distance to San Francisco and Northwestern Pacific points by approximately 41 miles, and to Sacramento and San Joaquin Valley points by some 34 miles.²⁰ The witness explained that his company felt that the shippers should not be penalized by the carrier's abandonment of an unprofitable route.

In defense of the assailed nonintermediate rates to the San Francisco Bay area, the rail witness declared that these rates were in each case necessary to permit the carriers to meet competitive conditions present at the San Francisco and Oakland markets while maintaining normal rates at intermediate points not affected by the competitive factors. The competition, he explained, was actual proprietary vessel movement from Davenport, threatened and potential vessel movement (proprietary or for-hire) from Redwood City, and various combinations of truck and vessel movement from the other mills. He asserted that there had been no material change in the competition, either actual or threatened, since the nonintermediate rates were first authorized and published. The witness declared that it was a principle of long standing that deviations from long-and-short haul restrictions may be authorized by the Commission when the lower rate is necessary to permit an industry to dispose of its products in competition with competing industries having available cheaper transportation to the same market. He stated that the

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The abandonment was authorized by I.C.C. Finance Docket No. 12815, decided October 31, 1940.

principle had been followed in the adjustment and expansion of non-intermediate cement rates in California since 1916.²¹

In this connection, several of the mills offered testimony for the purpose of showing that the present nonintermediate rates from their plants to the San Francisco Bay area were necessary to meet the costs of transportation by proprietary vessels or motor vehicles. The witnesses declared that they would divert the traffic to proprietary equipment if their rates were increased or the differentials changed unfavorably.

Referring to the Monolith allegations, the rail witness declared that the existing rates from Monolith to San Francisco Bay points were depressed below a normal level, and should not be further lowered merely in the interest of bringing about a more nearly uniform rate of increase per mile. He said that the distance from Monolith to the San Francisco markets made it impracticable for the rail lines to extend to that movement a rate of increase per mile comparable to that found between the closer shipping points. He declared that there was a limit to the carrier's ability to maintain a constant relationship in rates regardless of distance, and expressed the belief that if the Monolith request were granted, similar requests would be made by mills south of the Tehachapis for even longer hauls to the San Francisco markets. With reference to the alleged failure of Southern Pacific Company to give complete effect to the Commission's order in Monolith Portland Cement Co. v. S. P. Co., supra, the rail witness declared that the claimed differences in gradation of rates in the northern and southern ends of the San Joaquin Valley were explained by the unequal geographical distribution of actual and potential cement markets within the two

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He cited Decision No. 3440 of June 19, 1916 (10 C.R.C. 387).

territories. He urged that these rates should not now be revised in any event except in a proceeding embracing the complete record in the earlier case.

In support of the allowances which were assailed by the Association, the rail witness said that the granting of allowances to shippers or consignees in lieu of unloading rail cars and performing off-rail delivery was necessary in order to permit the rail lines to compete effectively and in a practical manner with highway carriers whose rates and services include unloading and delivery at the consignees' places of business.

Discussion and Conclusions

The record shows without question that the existing carload rail rates for the transportation of cement within the territory here considered, although following in general a distance pattern, are not related uniformly to the length of haul. The rates paid by some mills to various destinations are higher, distance considered, than rates paid by other mills. In particular, the present record shows that Pacific Portland Cement Company is in some cases required to pay more to certain markets than is paid by competing manufacturers to reach equally distant markets in the same general territory. The Pacific company charges that these differences constitute unlawful discrimination, and asks in effect that the rail lines be required to substitute for the present rate structure one which would be more directly related to distance. ²² It concedes that some deviations from a

²² Although Pacific Portland Cement Company alleges that the rail rates are unreasonable in violation of Section 13 of the Public Utilities Act as well as preferential and prejudicial in violation of Section 19, it made no attempt to show that any of the assailed rates were unreasonable in and of themselves, nor that they were above or below a general level which affords a fair standard for comparison. In such circumstances, the alleged unlawfulness of the rates should be tested by the language of Section 19 rather than of Section 13. (See Decision No. 35211, supra.)

strict distance formula are necessary in order to permit the maintenance of selected rate differentials between the various mills, but asserts that the differentials presently maintained do not adequately or properly reflect the differences in length of haul.

It is well established that deviations from a distance formula do not necessarily constitute unlawful discrimination. ²³ Discrimination, prejudice and preference are questions of fact to be determined by the Commission in the exercise of its administrative function, not arbitrarily but in the light of all relevant circumstances and conditions; ²⁴ and to be unlawful must be unjust and undue. ²⁵

Directing attention to the particular rate differentials here complained of, it is found that to points in the San Joaquin Valley, rates are the same from Redwood City, Cowell and Kentucky House. Cowell has a distance advantage over Redwood City of approximately 9 miles, and Kentucky House has an advantage or disadvantage (depending upon the destination considered) of about the same distance. Rates from Permanente and Davenport to the same territory are respectively one-half and one cent greater than from Redwood City for increased distances of 16 and 81 miles. To destinations in the Sacramento Valley immediately north of Sacramento the rates from Redwood

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See Decision No. 23476, California Portland Cement Co. et al. v. Southern Pacific Co. et al., 35 C.R.C. 904, and cases cited therein.

²⁴

Texas and P.R. Co. v. Interstate Commerce Commission, 162 U.S. 197-219; Interstate Commerce Commission v. Alabama Ry., 168 U.S. 144, 170; Interstate Commerce Commission v. Delaware L. & W. R. Co. 220 U.S. 235, 255; United States v. Louisville & N.R. Co. 235 U.S. 314, 320; Pennsylvania v. United States, 236 U.S. 351, 361; Manufacturers R. Co. v. United States, 246 U.S. 457, 482; Nashville C. & St. L.R. Co. v. Tennessee, 262 U.S. 314; C.P. Cement Co. v. S.P. Co., 35 C.R.C. 904, 906; C. F. Cement Co. v. S.P.Co. et al., 42 C.R.C. 92, 117.

²⁵

Re Tariff Suspension, 36 C.R.C. 135, 137.

City, Permanente and Davenport are 2½, 3 and 5 cents higher than from Cowell for differences in distance of 46, 62 and 129 miles, respectively, while to points further north the differentials decrease with the length of haul. To points in the same territory the rates from Kentucky House and Merced are comparable, distances considered, to those from Redwood City. To Northwestern Pacific points the rates from Cowell and Redwood City are the same, while the latter has an advantage in distance of 9 miles. From Permanente, Davenport, Kentucky House and Merced the differentials over Redwood City are, respectively, one-half cent for 17 miles, 2 cents for 103 miles, 4 cents for 107 miles and 4 cents for 116 miles. The rates from Davenport and Sargent are on a parity, while the distance differentials favor Sargent by 10 miles to points south of Watsonville and approximately 37 miles to points north of Sargent.

Generally speaking, these differentials are of long standing. In some cases they have been previously considered, and in certain instances were suggested or approved by the Commission.²⁶ The record shows that the differentials are the result of a studied effort to establish rates which will permit the several cement manufacturers to market their products in each of the principal consuming territories. For many years they have been accepted without complaint, and the policies and practices of the several mills

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The existing relationship of the rates from Cowell and Davenport to all points in the San Joaquin Valley was suggested by the Commission in 1912, and was adopted by the carriers. (Case No. 232, 1 C.R.C. 809.) Subsequent to the commencement of operations at Redwood City the adjustment was reviewed and the differential found not unlawful for the then difference in distance of 65 miles. (Pac. Port. Cement Co. et al., v. Santa Fe, 33 C.R.C. 300.) The rate differential of Davenport over Cowell to points in the Sacramento Valley was originally fixed by the Commission at 6 cents (Pac. Port. Cement Co. v. S.P. Co., 23 C.R.C. 568), and Pac. Port. Cement Co. v. S.P. Co., 24 C.R.C. 618), and was later reduced to the existing differential of 5 cents.

have been built around them. At this time particularly, when manufacturers and transportation agencies are confronted with many new and extraordinary problems arising out of the present war emergency, it is undesirable to disturb unnecessarily a delicately adjusted rate structure of long standing and substitute therefor other relationships, the consequences of which are unpredictable and may prove to be far reaching. In such a situation as this, the present differentials should be left undisturbed except upon a convincing showing that they are unlawful or result in unlawful rates. Careful consideration of all of the facts and circumstances of record leads to the conclusion that the rates and differentials here assailed have not been conclusively shown to be unduly preferential, prejudicial or otherwise unlawful.

The non-intermediate rates to San Francisco Bay terminals, although given special attention by Pacific Portland Cement Company, do not appear to require separate treatment. The rates themselves have not been shown to be preferential, prejudicial or otherwise unlawful. The Pacific company endeavored to show that the particular rates maintained were no longer necessary to meet competitive forms of transport, and upon this showing would apparently have us order that the rates be increased. However, in the absence of a showing that the rates themselves are unlawful, no reason or justification appears for ordering their revision. The authorities under which the rail lines are permitted to maintain higher rates at intermediate points may be revoked if conditions which justified the authorities have materially changed, but this action would not necessarily affect the terminal rates. Some evidence that conditions may have been altered appears in the record but it is by no means substantial or conclusive, and is moreover contradicted by other evidence that there has been no material change.

The incidental complaints of Pacific Portland Cement Company relative to the application of car unloading allowances and the absence of published routes from San Juan shipping points may be dismissed without discussion, since it appears from our tariff files that the rail lines have recently published revised tariff pages removing the causes of complaint.²⁷

The testimony offered by Monolith Portland Cement Company relative to the rail rates, as will be seen from the previous discussion of the record, consisted principally of allegations supported only by tariff rate comparisons. No substantial evidence was introduced to show that the assailed rates were unlawful. On brief, the Monolith company explained that "if it were not for the fact that many of these witnesses asserted that all rates maintained by the rail carriers were non-discriminatory ... Monolith would not have presented evidence as to the rail rate structure."

There remains for consideration the charges made by the Association that rail tariff rules providing allowances to shippers and consignees for unloading rail cars or transporting shipments beyond railhead in instances where such services are not included in the rates, are improper and should be discontinued. It argued that the allowances "really reduced the rate in order to combat truck competition," and of this there seems to be no dispute. No allegation was made by the Association that the allowances were not published and paid in a uniform and non-discriminatory manner, or that the resulting rates were unreasonable or otherwise unlawful. It did not direct attention to any provision of the Public Utilities Act or other statute believed to be violated. Under these circumstances, no reason or basis appears on this record for requiring the rail lines to change or discontinue the practice in question.

Findings

Upon careful consideration of all of the evidence of record, we are of the opinion and find:

1. That in the interest of carriers, shippers and the general public, minimum rates, rules and regulations should be established for the transportation of cement, and empty cement sacks returning, between all points within the territory here involved.
2. That the distance commodity rates hereinafter provided will be just, reasonable and non-discriminatory minimum rates for the transportation by highway carriers of shipments of cement subject to a minimum weight of 38,000 pounds from Alameda, Stockton and cement mills

²⁷ Items Nos. 105-A and 2275-A of Supplement No. 3 to Pacific Freight Tariff Bureau Tariff No. 28-R, C.R.C. No. 74 of J. P. Haynes, Agent, effective March 28, 1942.

located in or adjacent to Cowell, Davenport, Kentucky House, Merced, Monolith, Permanente, Redwood City and San Juan to destinations within the territory here involved.

3. That the applicable class rates provided in Highway Carriers' Tariff No. 2, supra, will be just, reasonable and non-discriminatory minimum rates for the transportation within the territory here involved of cement, and empty cement sacks returning, from points of origin other than Alameda, Stockton and cement mills named in the preceding finding; and for the transportation of shipments subject to weight minima of less than 33,000 pounds from all points of origin.

4. That the applicable rules and regulations provided in Highway Carriers' Tariff No. 2, subject to the modifications hereinafter made, will be just, reasonable and non-discriminatory rules and regulations to govern the transportation of cement, and empty cement sacks returning, by highway carriers between points within the territory here involved.

5. That for the purpose of applying the minimum rates, rules and regulations to be hereinafter established, the territory here involved should be defined and construed to be all that part of the state of California lying generally north of a boundary which has its beginning at the shoreline of the Pacific Ocean due south of Gavieta, then runs in a straight line to the point at which Santa Barbara, Ventura, and Kern Counties intersect, thence easterly along the northerly boundary of Ventura and Los Angeles Counties to a point due south of the community of Tehachapi, thence in a straight line to the point at which Highway U.S. 395 intersects the northerly boundary of Kern County, thence easterly along the northerly boundary of Kern and San Bernardino Counties to the California-Nevada line.

6. That in order to preserve minimum rate equality between carriers, the minimum rates, rules and regulations to be hereinafter established should be made applicable to all classes of for-hire carriers, other than those carriers specifically named in Finding No. 14 of Decision No. 31606, supra, as amended, to the extent said carriers have been thus granted exemption; and to all cement, and empty cement sacks returning, other than that traffic transported by the rail lines at carload rates.

7. That in the interest of enforcement of the established minimum rates, rules and regulations, all carriers should be required to issue a shipping document for each shipment transported, containing all information necessary to a determination of the established minimum rates and charges; and to preserve a copy thereof, subject to the Commission's inspection, for a period of not less than three years.

8. That all carriers should be required to quote and assess rates, rules and regulations in a form consistent with that in which the established minimum rates, rules and regulations are stated.

9. That in so far as any carriers affected by the following order, other than those subject to the Public Utilities Act, may be deemed to be "transportation companies" within the meaning of Article XII, Section 21 of the State Constitution, authority should be granted such carriers to depart from the provisions of that section to the extent necessary to enable them to observe the provisions of the order.

10. That the carload rail rates and rules and regulations under attack in this phase of this proceeding have not been shown on this record to be unjust or unreasonable in violation of Section 13 of the Public Utilities Act, preferential or prejudicial in violation of Section 19 of the Act, or otherwise unlawful.

I recommend the following order:

O R D E R

Public hearings having been held in the above entitled proceeding, 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:

1. That the rates, charges, accessorial charges, rules and regulations set forth in Highway Carriers' Tariff No. 2 (Appendix "D" to Decision No. 31606 of December 27, 1938, as amended, in Case No. 4246), as further amended by the revised pages attached hereto and made a part of this order, be and they are hereby established and approved, effective July 15, 1942, as the just, reasonable and nondiscriminatory minimum rates, charges and accessorial charges to be assessed, charged and collected and the rules and regulations to be observed by any and all radial highway common carriers and highway contract carriers, as defined in the Highway Carriers' Act, for the transportation of cement, and empty cement sacks returning, between points for which rates and charges are therein provided for such transportation, and for accessorial services rendered incidental thereto.

2. That said Highway Carriers' Tariff No. 2 be and it is hereby amended by substituting therein, to become effective July 15, 1942, the revised pages attached hereto and by this reference made a part hereof, which pages are numbered as follows:

Eleventh Revised Page 15 Cancels Tenth Revised Page 15
Second Revised Page 49-B Cancels First Revised Page 49-B

3. That all radial highway common carriers and highway contract carriers be and they are hereby authorized to assess, collect and charge common carrier rates and accessorial charges, to construct

combinations therewith, and to observe common carrier rules and regulations, lawfully on file with the Commission and in effect on the date of movement, subject to the terms and conditions and in the manner explained in said Highway Carriers' Tariff No. 2, as amended.

4. That all radial highway common carriers and highway contract carriers, as defined in the Highway Carriers' Act, be and they are hereby ordered and directed to cease and desist on July 15, 1942, and thereafter abstain from assessing, charging or collecting rates, charges or accessorial charges lower in volume or effect than those set forth or referred to in said Highway Carriers' Tariff No. 2, as amended, and from observing rules or regulations lower in volume or effect than those set forth or referred to therein, except as provided in ordering paragraph No. 3 hereof.

5. That all radial highway common carriers and highway contract carriers be and they are hereby ordered and directed to cease and desist on July 15, 1942, and thereafter abstain from quoting, assessing, charging or collecting rates or accessorial charges based upon a unit of measurement different from that in which the rates and charges herein established as minimum are stated.

6. That, subject to the exceptions specified in Finding No. 6 of the foregoing opinion, all common carriers as defined in the Public Utilities Act be and they are hereby ordered and directed to cease and desist on July 15, 1942, and thereafter abstain, from publishing or maintaining in their tariffs, rates, charges, accessorial charges, rules or regulations lower in volume or effect than those herein found just, reasonable and nondiscriminatory, or justified, for radial highway common carriers and highway contract carriers.

7. That all carriers who may be deemed to be transportation companies, as that term is employed in Article XII, Section 21 of the Constitution of California, other than carriers subject to the Public Utilities Act, be and they are hereby authorized to charge less for longer than for shorter distances, to the extent necessary to meet the rates of competitive forms of for-hire transport for the same transportation, under the terms and conditions and in the manner provided in said Highway Carriers' Tariff No. 2, as amended.

8. That all common carriers, radial highway common carriers and highway contract carriers be and they are hereby ordered and directed to issue a shipping document for each shipment received for transportation, showing thereon the names of the shipper and consignee, the point or points of origin and point or points of destination of the shipment, a description of the commodity shipped, a statement of the weight of the shipment, a statement of the rate assessed and the charges collected, and a statement of such other information as may be necessary to an accurate determination of the minimum rate and charge applicable under the order herein; and shall retain and preserve a copy of said shipping document, subject to the Commission's inspection, for a period of not less than three (3) years from the date of its issuance; and that the form of shipping document set forth in Appendix "A" hereto will be suitable and proper.

9. That the Commission shall have and it does hereby retain jurisdiction of this proceeding for the purpose of altering or amending the rates, charges, rules and regulations hereby established or prescribed, and for the purpose of establishing or approving such other just, reasonable and nondiscriminatory maximum or minimum or maximum and minimum rates, charges, classifications, rules and

regulations to be charged, collected and observed by radial highway common carriers, highway contract carriers and common carriers, both for transportation services hereinabove described and for such other transportation and accessorial service as may from time to time appear proper in the light of other or further evidence received herein, and for the purpose of establishing and prescribing such rates as will provide an equality of transportation rates for the transportation of the articles and commodities here involved between all competing agencies of transportation.

The effective date of this order shall be thirty (30) days from the date hereof.

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

Dated at San Francisco, California, this 12th day of May, 1942.

Justice J. G. Coleman
Walter H. King
W. H. Hall
Frank J. Hayward
Richard L. Chase
Commissioners

APPENDIX "A"

SHIPPING ORDER AND FREIGHT BILL

Bill No. _____

Name of Carrier _____
 (Name of Carrier must be same as shown on Permit)

Permit No. _____

Point of Origin _____ Date _____, 194__

Shipper _____ Consignee _____

Street Address _____ Street Address _____

City _____ City _____

Packages	Kind	Description of Commodities	Weight	Rate	Charges

Shipper _____	Check here				C.O.D. _____
	Origin		Destination		
By _____ (Show name in full)	Terminal	Store Door	Terminal	Store Door	C.O.D. Fee _____
Received by Carrier in good condition except as noted					*Advances _____
By _____ Driver (show name in full)					*Other Charges _____
Received by Consignee in good condition except as noted					Prepaid _____
By _____ (Show name in full)					Total to Collect _____
*Show each charge separately and what it represents.					

Item No.	SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)		
<p>41-E Cancels 41-G</p>	<p style="text-align: center;">APPLICATION OF TARIFF - COMMODITIES (Concluded) (Items Nos. 40 and 41 series)</p> <p>NOTE 1.-Includes only used empty carriers which are returning from an outbound paying load of traffic for which rates are not provided in this tariff, or which are being forwarded for a return paying load of traffic for which rates are not provided in this tariff (subject to Rule No. 130 of the Exception Sheet).</p> <p>NOTE 2.-Exemption applies only when commodities flagged subject to this note are shipped in milk shipping cans, in bottles in cases or crates, or in bulk in tanks.</p> <p>NOTE 3.-Exemption will not apply to transportation of fresh pears for which rates are provided in Item No. 651 series.</p> <p>NOTE 4.-Exemption applies only as to dried fruit in the natural state and which has not been cleaned, washed, stemmed or otherwise prepared or partially prepared for human consumption.</p> <p>NOTE 5.-Exemption does not apply to sea shells as described in Item No. 652¹/₂ series.</p> <p>NOTE 6.-Exemption applies only to field seeds, viz.:</p> <table border="0" style="width: 100%;"> <tr> <td style="vertical-align: top;"> Adzuki, Alfalfa, Bahia grass, Bean, field, horse, lima, mat or mung, Boro, field or sugar, Bentgrass, Bermuda grass, Bluegrass, Bluestem, Brome, bunch or smooth, Carpet grass, Chick pea (garbanzo), Clover (except sweet clover), Creeping bent, Dallis grass, Dog's-tail, crested, Dolichos, Fenugreek, Fescue grass, Foxtail, meadow, Guar, Guinea grass, Harding grass, Kudzu, Lespedeza, Lupine, </td> <td style="vertical-align: top;"> Mosaic, black, Molasses grass, Mustard (except wild mustard), Napier grass, Oatgrass, tall, Orchard grass, Pea, Austrian winter, Canadian, field, Tangier or wedge, Popcorn, Proso, Redtop, Reed canary grass, Rescue grass, Rhodes grass, Ryegrass, Sainfoin, Sand dropseed, Sesbania, Soybean, Sudan grass, Sweet vernalgrass, Timothy, Velvet bean, Velvet bent, Velvet grass, Wheatgrass, crested or slender. </td> </tr> </table> <p>NOTE 7.-Exemption will not apply to transportation for which rates are provided in Items Nos. 657 and 658 series.</p> <p>NOTE 8.-Exemption will not apply to transportation for which rates are provided in Items Nos. 315 and 605 series.</p> <p>* NOTE 9.-Exemption will not apply to transportation of cement, portland (building),</p> <p>(a) Between points in California generally south of the following boundary, viz.: Beginning at the shoreline of the Pacific Ocean due south of Gaviota, thence northeasterly along a straight line to the point at which the boundaries of Santa Barbara, Ventura and Kern Counties intersect, easterly along the northerly boundary of Ventura and Los Angeles Counties to a point due south of the community of</p>	Adzuki, Alfalfa, Bahia grass, Bean, field, horse, lima, mat or mung, Boro, field or sugar, Bentgrass, Bermuda grass, Bluegrass, Bluestem, Brome, bunch or smooth, Carpet grass, Chick pea (garbanzo), Clover (except sweet clover), Creeping bent, Dallis grass, Dog's-tail, crested, Dolichos, Fenugreek, Fescue grass, Foxtail, meadow, Guar, Guinea grass, Harding grass, Kudzu, Lespedeza, Lupine,	Mosaic, black, Molasses grass, Mustard (except wild mustard), Napier grass, Oatgrass, tall, Orchard grass, Pea, Austrian winter, Canadian, field, Tangier or wedge, Popcorn, Proso, Redtop, Reed canary grass, Rescue grass, Rhodes grass, Ryegrass, Sainfoin, Sand dropseed, Sesbania, Soybean, Sudan grass, Sweet vernalgrass, Timothy, Velvet bean, Velvet bent, Velvet grass, Wheatgrass, crested or slender.
Adzuki, Alfalfa, Bahia grass, Bean, field, horse, lima, mat or mung, Boro, field or sugar, Bentgrass, Bermuda grass, Bluegrass, Bluestem, Brome, bunch or smooth, Carpet grass, Chick pea (garbanzo), Clover (except sweet clover), Creeping bent, Dallis grass, Dog's-tail, crested, Dolichos, Fenugreek, Fescue grass, Foxtail, meadow, Guar, Guinea grass, Harding grass, Kudzu, Lespedeza, Lupine,	Mosaic, black, Molasses grass, Mustard (except wild mustard), Napier grass, Oatgrass, tall, Orchard grass, Pea, Austrian winter, Canadian, field, Tangier or wedge, Popcorn, Proso, Redtop, Reed canary grass, Rescue grass, Rhodes grass, Ryegrass, Sainfoin, Sand dropseed, Sesbania, Soybean, Sudan grass, Sweet vernalgrass, Timothy, Velvet bean, Velvet bent, Velvet grass, Wheatgrass, crested or slender.		

Tehachapi, due north to Tehachapi, northeasterly along a straight line from Tehachapi to the point at which Highway U.S. 395 intersects the northerly boundary of Kern County, thence easterly along the northerly boundary of Kern and San Bernardino Counties to the California-Nevada Line; or

(b) Between points in California generally north of the following boundary, viz.: Beginning at the shoreline of the Pacific Ocean due south of Gaviota, thence northeasterly along a straight line to the point at which the boundaries of Santa Barbara, Ventura and Kern Counties intersect, easterly along the northerly boundary of Ventura and Los Angeles Counties to a point due south of the community of Tehachapi, thence northeasterly along a straight line to the point at which Highway U.S. 395 intersects the northerly boundary of Kern County, thence easterly along the northerly boundary of Kern and San Bernardino Counties to the California-Nevada Line.

*Change, Decision No. 35367

EFFECTIVE JULY 15, 1942

Issued by The Railroad Commission of the State of California,
San Francisco, California.
Correction No. 264

Second Revised Page....49-B
 Cancels

First Revised Page....49-B

Rates named on this page are not subject to increased rates and charges contained in Supplement No. 1 of this Tariff, or amendments thereof.

HIGHWAY CARRIERS' TARIFF NO. 2

Item No.	SECTION NO. 3	COMMODITY RATES (Continued) In Cents per 100 Pounds				
	CEMENT, PORTLAND (BUILDING)					
	Rates named in this item apply for the transportation of shipments:					
	<p>(a) From Colton, Crestmore, Glendale, Long Beach, Los Angeles (Subject to Note), Monolith, Oro Grande or Victorville, to points in California generally south of the following boundary, viz.: Beginning at the shoreline of the Pacific Ocean due south of Gaviota, thence northeasterly along a straight line to the point at which the boundaries of Santa Barbara, Ventura and Kern Counties intersect, easterly along the northerly boundary of Ventura and Los Angeles Counties to a point due south of the community of Tehachapi, due north to Tehachapi, northeasterly along a straight line from Tehachapi to the point at which Highway U.S. 395 intersects the northerly boundary of Kern County, thence easterly along the northerly boundary of Kern and San Bernardino Counties to the California-Nevada line; and</p> <p>(b) From Alameda, Stockton and from cement mills located in or adjacent to Corwell, Davenport, Kentucky House, Merced, Monolith, Permanente, Redwood City or San Juan to points in California generally north of the following boundary, viz.:</p> <p>Beginning at the shoreline of the Pacific Ocean due south of Gaviota, thence northeasterly along a straight line to the point at which the boundaries of Santa Barbara, Ventura and Kern Counties intersect, easterly along the northerly boundary of Ventura and Los Angeles Counties to a point due south of the community of Tehachapi, thence northeasterly along a straight line to the point at which Highway U.S. 395 intersects the northerly boundary of Kern County, thence easterly along the northerly boundary of Kern and San Bernardino Counties to the California-Nevada line.</p>					
	Provisions of Items Nos. 160, 170, 220, 230 series and Exception 2 of Item No. 100 series will not apply in connection with rates named in this item.					
	NOTE.-Application of rates from Los Angeles is restricted to shipments originating in Los Angeles Zone 1 as defined in Item No. 30 series of Appendix "A" of Decision No. 31605, as amended, or as may be amended, in Case No. 4088, Part "N", Case No. 4145 and Case No. 4246.					
	MILES	RATES	MILES	RATES	MILES	RATES
	But not Over	Minimum Weight 38,000 Pounds	But not Over	Minimum Weight 38,000 Pounds	But not Over	Minimum Weight 38,000 Pounds
	0	3	2	90	100	9
	3	5	2½	100	110	10
	5	10	2½	110	120	10½
	10	15	2-3/4	120	130	11½
	15	20	3½	130	140	12
	20	25	3½	140	150	13
	25	30	4	150	160	13½
	30	35	4½	160	170	14½
	35	40	4½	170	180	15½
	40	45	5	180	190	16
	45	50	5½	190	200	17
	50	60	6	200	220	18
	60	70	7	220	240	20
	70	80	7½	240	260	21½
	80	90	8½			
	260	280	23	260	280	23
	280	300	24½	280	300	24½
	300	325	26½	300	325	26½
	325	350	28½	325	350	28½
	350	375	30½	350	375	30½
	400	400	32½	400	400	32½
	425	425	34½	425	425	34½
	450	450	36½	450	450	36½
	475	475	38½	475	475	38½
	500	500	40½	500	500	40½
	525	525	42½	525	525	42½
	550	550	44½	550	550	44½
	575	575	46½	575	575	46½
	600	600	48½	600	600	48½

*635-B
 Cancels
 635-A

*Change, Decision No. 35367

EFFECTIVE JULY 15, 1942.

Correction No. 265 Issued by The Railroad Commission of the State of California,
San Francisco, California.