

Decision No. 46729

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the investigation )  
into the rates, rules, regulations, )  
charges, allowances and practices of )  
all common carriers, highway )  
carriers and city carriers relating )  
to the transportation of property. )

Case No. 4808

Appearances

Austin H. Peck, Jr. and Ralph A. Wise, for Livingston Rock  
and Gravel Co., Inc., petitioner.

Herbert Cameron and E. O. Blackman, for California Dump  
Truck Owners' Association, interested party.

Charles H. Jacobsen and Milton S. Baum, for the Transpor-  
tation Department of the Public Utilities Commission  
of the State of California.

SUPPLEMENTAL OPINION

Minimum rates, rules and regulations have been established  
heretofore for the transportation of sand, rock, gravel and other  
materials in dump truck equipment. Zone rates are provided for move-  
ments in southern California between designated production areas and  
delivery zones, and mileage rates are provided for movements not  
covered by the zoning arrangements. In addition the tariff sets forth  
hourly rates which may be applied under specified conditions in lieu  
of the zone or distance rates.<sup>1</sup>

By petition filed November 16, 1951, Livingston Rock and  
Gravel Co., Inc., a producer of rock, sand, gravel and related  
materials, seeks extension of the basis of zone rates to cover

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The minimum rates, rules, regulations and zone descriptions are set  
forth in City Carriers' Tariff No. 6 - Highway Carriers' Tariff No. 7  
(Appendix "A" of Decision No. 32566, as amended, in Cases Nos. 4246  
and 4434).

deliveries of sand and dirt from a pit in the Wilmington area of the City of Los Angeles. Specifically, it seeks enlargement of the territorial description of production area "P" to include the area in which its pit is located.

Public hearing of the petition was held before Examiner Abernathy at Los Angeles on December 13, 1951. Evidence was presented by petitioner's traffic manager and by two witnesses for the California Dump Truck Owners' Association.

The pit which is involved herein is located in a 30-acre tract adjacent to production area "P". According to petitioner's traffic manager, the production potential of the pit is about 1½ million tons of sand and dirt of which amount about two-thirds is sand containing a small quantity of clay and the remainder is earth and loam. Practically all of the material is used for fill purposes in the Long Beach, Torrance and Wilmington areas. Present production approximates 75,000 tons monthly. About 90 percent of this production is sold f.o.b. the pit to contractors for major construction purposes such as the development of harbor facilities at Long Beach. The remainder is sold at retail to the public generally.

Petitioner's concern herein is primarily with the minimum rates insofar as they apply to its retail operations. By the proposed extension of the zone rates petitioner seeks (a) to simplify the matter of determining the transportation charges applicable to its retail shipments, and (b) to accomplish a reduction in its operating expenses. Petitioner's traffic manager explained that his company's price quotations to retail buyers usually must include the delivery costs of the material purchased. He said that without making test runs to determine the time or mileage factors involved it is difficult to calculate accurately in advance of shipment the delivery charges which apply, and that in the absence of advance

information of delivery costs his company is handicapped in competing with producers of fill materials who utilize their own vehicles to make their deliveries. Assertedly, extension of the zone rates as proposed would enable petitioner to meet more effectively the competition of other producers.

Regarding the matter of reducing operating expenses, petitioner's witness testified that his company's experience shows that under hourly rates the carriers have less incentive to produce a full measure of work than they do when transportation charges are based upon the tonnage transported, as in the case of zone rates. He said that as a consequence when petitioner engages carriers on an hourly basis it undertakes to supervise them closely in order to compensate for the difference in incentive. He anticipated that under zone rates lesser supervision of the carriers would be necessary and that his company would be able to reduce its supervisory costs accordingly.

The traffic manager asserted that enlargement of production area "P" as proposed would not result in the carriers being called upon to transport material over substantially greater distances, when hauling from his company's pit, than they do now in providing transportation from the present production area. Petitioner's pit was described as being approximately 600 feet from the production area. The difference in highway distances from the pit and production area "P" to the more frequently served destinations was represented as being less than a mile. Petitioner alleged that in view of the proximity of its pit to the production area the pit should be included within the area in the interest of equity.

Granting of the petition was opposed by the California Dump Truck Owners' Association, an organization composed of more than 500 dump truck carriers in Southern California. Dismissal of the petition

was requested by the association's manager on the grounds that the material which petitioner ships is not a commodity for which zone rates have been established.<sup>2</sup> He asserted, moreover, that the zone rates are not appropriate for the transportation of fill materials and that the application of zone rates to petitioner's shipments and not to shipments of other producers of fill materials would discriminate against the other producers. He and a dump truck carrier who transports fill materials and asphaltic concrete in the Los Angeles harbor area testified to the effect that the present zone rates do not reflect the costs of transporting fill materials, that as compared with the transportation services for which the zone rates are provided the transportation of fill materials is performed under more difficult conditions, that it requires more specialized equipment, and that it is more costly to perform. The carrier witness asserted that his operating experience under the zone rates shows that they are not profitable. He declared that he would not transport fill materials at present zone rates even though the rates were made applicable to such materials.

The association's manager said that the costs of transporting fill materials in dump truck equipment have not been submitted heretofore for the Commission's consideration. He urged that if zone rates for this transportation service are to be established, the matters

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The zone rates are limited in application to sand, gravel, stone, decomposed granite, asphaltic concrete and cold road oil mixture. Petitioner's traffic manager did not specifically contend that the materials involved are properly classifiable as sand or as any of the other commodities for which the zone rates are provided. Apparently he had overlooked the commodity limitations governing the zone rates and had assumed that the same commodities are subject to the zone rates as are subject to the hourly rates. The clay content of the "sand" which petitioner ships was said to be essential to the use of the material for fill purposes since without the clay the material would not possess the proper packing qualities to be suitable for fill.

involved should be specifically developed and considered in a further proceeding. He urged also that in the meantime zone rates to benefit only one of the several producers of fill materials in Los Angeles County not be established.

It is clear from the evidence herein that in seeking enlargement of production area "P" petitioner has misunderstood the application of the zone rates. None of the materials involved --- earth, loam, sand mixed with clay --- appear to be commodities for which zone rates are provided. Under the circumstances territorial extension of the zone rates by enlargement of production area "P" to include petitioner's pit would not affect the rates applicable to petitioner's shipments. It appearing that no useful purpose would be served by enlargement of the production area as proposed, the petition will be dismissed.

Although the petition of Livingston Rock and Gravel Co., Inc. was directed toward revision of the territorial description of production area "P", the record as a whole shows that what the company seeks is either (a) inclusion of the material it ships within the group of commodities for which zone rates are provided, or (b) establishment of specific zone rates for those materials. In either event the issues which are involved may not be decided affirmatively in favor of petitioner on this record since they transcend the scope of the instant phase of this proceeding. If petitioner wishes to prosecute its proposals further, it should do so by the filing of an appropriate petition, and by the submission of evidence in support thereof.

#### O R D E R

Public hearing having been held regarding the petition filed November 16, 1951, in the above-entitled proceeding by Livingston Rock and Gravel Co., Inc., the evidence received therein having been

considered carefully, and the Commission being of the opinion for the reasons expressed above that the application should be dismissed,

IT IS HEREBY ORDERED that the petition of Livingston Rock and Gravel Co., Inc. referred to herein be and it is hereby dismissed.

The effective date of this order shall be twenty (20) days after the date hereof.

Dated at San Francisco, California, this 5<sup>th</sup> day of February, 1952.

A. J. [Signature]  
President

Justin J. [Signature]  
Harold P. [Signature]

[Signature]  
[Signature]  
Commissioners