

Decision No. 50008

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 cement and related products (commodities)
 for which rates are provided in City)
 Carriers' Tariff No. 8--Highway Carriers')
 Tariff No. 10).)

Case No. 5440
 (Pets. Nos. 1 and 2)

Appearances

- Edward M. Berol and Robert D. Boynton for The Truck Owners Association of California, petitioner.
- Kenneth M. Robinson and S. A. Moore for Permanente Cement Company, petitioner.
- Frederick G. Pfommer, J.P. Laxague and G. T. Hurst for The Atchison, Topeka and Santa Fe Railway Company, respondent.
- Charles W. Burkett, Jr. for Southern Pacific Company and Pacific Electric Railway Company, respondents.
- Frank R. Golzen for Universal Transport System, Inc. and West Trucking Service, Inc., respondents.
- Lauren M. Wright for Riverside Cement Company, interested party.
- Joseph T. Enright and Waldo A. Gillette for Monolith Portland Cement Company, interested party.
- J. Richard Townsend and Wallace K. Downey for California Portland Cement Company, interested party.
- Wayne H. Knight and C. R. Boyer for Southwestern Portland Cement Company, interested party.
- William G. Higgins for Santa Cruz Portland Cement Company, interested party.
- John E. Doane for Calaveras Cement Company, interested party.
- Charles O. Cross for Joint Council of Teamsters No. 42 and affiliated Local Unions Nos. 87 and 467, interested party.
- J. T. Phelps, William C. Bricca and Grant Malquist for the staff of the Public Utilities Commission of the State of California.

O P I N I O N

This proceeding is an investigation by the Commission upon its own motion into the rates, rules, regulations, charges, allowances and practices of any and all carriers of property engaged in the transportation of cement and related products for which rates are promulgated in City Carriers' Tariff No. 8, Highway Carriers' Tariff No. 10. By Petition for Modification No. 1, filed on April 13, 1953, The Truck Owners Association of California alleges that because of changed transportation conditions and increased costs of operation the minimum rates and charges heretofore established for such transportation as performed by highway carriers over the public highways are no longer just and reasonable and require adjustment. This petitioner requests that the Commission cause an investigation to be made of the minimum rates as they apply from, to and between points in the northern part of the state. By Petition for Modification No. 2, filed on May 8, 1953, Permanente Cement Company asks, in effect, that any such investigation be made on a statewide rather than a territorial basis.

Evidence relating to the subject matter of the two petitions was received at public hearings held before Examiner Bryant in San Francisco and Los Angeles on various dates as stated in the margin below.¹ The matter was submitted on March 23, 1954.

¹ San Francisco hearings were held on December 3 and 4, 1953 and on February 17, 18, and 19, 1954. Los Angeles hearings were held on September 30 and October 1, 1953, and on January 20 and 21 and March 22 and 23, 1954. The record on September 30 and October 1 was received concurrently in this proceeding and in Case No. 5352, an investigation into Southern California cement rates. Such evidence related only to estimated rail costs which are particularly in issue in Case No. 5352. Cross-examination on that phase has not yet been had. The evidence of September 30 and October 1 is not directly involved nor considered in this opinion.

It is ready for decision.

Testifying on behalf of The Truck Owners Association of California, a transportation analyst submitted condensed income statements of 16 carriers deriving the greater part of their revenues from cement hauling for the year 1952 and various periods in 1953. This witness also offered modified reports of the carrier income statements, adjusted as to certain revenue and expense items, and testified concerning various cost increases incurred by the trucking industry generally during the past year. He pointed out that the cement minimum rates were not revised to reflect 1953 cost increases for wages, fuel and taxes, as were most of the other minimum rate tariffs issued by this Commission.

Other witnesses were the managing partner of a highway permit carrier and various representatives of cement producers. The witnesses on behalf of the cement mills included the traffic managers of Permanente Cement Company, Calaveras Cement Company, Monolith Portland Cement Company, and Santa Cruz Portland Cement Company, vice presidents of Riverside Cement Company and Southwestern Portland Cement Company, and a financial analyst for Permanente Cement Company.²

To assist in the development of an adequate record, the Commission's Transportation Division staff made independent cost and rate studies. Reports on the estimated cost of transporting cement by motor vehicle between points in California were introduced and explained in substantial detail by a staff engineer. Minimum rates based in part upon the engineer's cost estimates were suggested by a staff rate expert. The latter witness suggested also a number of additions to and changes in the rules by which the minimum rates are governed.

² California Portland Cement Company participated in examination of the witnesses and in closing argument. All California cement producers were represented at the hearings with the exception of the Ideal Cement Company.

The cost estimates submitted by the Commission engineer were developed separately for shipments originating in each of the two rate territories into which the state is divided under the present tariff. The Northern Territory estimated costs are slightly higher than those for the Southern Territory, principally because of a difference in labor wage rates. The engineer's cost figures were developed separately also for the transportation of bulk cement and sack cement. The bulk costs are the lower of the two, principally because of more rapid loading and unloading. The preponderance of the truck movement is in bulk vehicles, but the record shows that there is also a substantial movement in sacks.

The staff cost estimates were set forth in comprehensive exhibits which the engineer was called upon to explain in detail during the course of the hearings. Some of the Southern California mills questioned whether the cost estimates were not unduly weighted by data taken from one principal northern carrier. They contended that if this carrier is not efficient in the movement of cement the cost estimates may be distorted by reason of the extensive scope of the carrier's operations. From analysis of the exhibits, however, it is clear that there is no weighting of the data according to the size of the operation. The estimates represent the cost of transporting cement in truckload quantities for various lengths of haul upon the basis of certain load factors and use factors determined from analysis of performance data and trip reports of all of the studied carriers.

The rates recommended by the Commission rate witness were developed in large part directly from the cost estimates. However, he modified the cost basis with the intent of providing a rate of return of approximately six percent on the estimated rate base for each separate length of haul. He departed from the cost basis

further by proposing that the Northern Territory scale of rates apply on all shipments delivered in that territory regardless of the point of origin, and likewise that the Southern Territory rates apply on all shipments delivered in the south. He submitted different rate scales for bulk cement and sack cement, and also a composite scale which might be established in lieu of the separate bases. The staff rate witness proposed various changes in and additions to the rules and regulations by which the present minimum rates are governed. He stated that it was his purpose to clarify the present rules and to make provision for services not now covered by the rules.³

The managing partner of a highway permit carrier engaged principally in the transportation of cement for Calaveras Cement Company, testifying on the basis of his own experience, declared that increases in the present minimum rates are necessary if such rates are to return the cost of performing the service. He supported generally the rate proposal of the Commission staff witness for distances of less than 200 miles, but was of the opinion that for longer distances the present rates should be increased by no more than 3 cents per 100 pounds.⁴ In similar vein, the traffic manager of Calaveras Cement Company testified that in his opinion the Northern Territory composite scale of rates proposed by the staff witness, subject to a maximum increase of 3 cents per 100 pounds for distances beyond 200 constructive miles, would provide

³ None of the other witnesses endorsed any of these rule recommendations. Some of the shipper witnesses opposed them in their entirety. The staff rate witness also proposed a change in the boundary separating the two rate territories, as will be referred to hereinafter.

⁴ For the longer distances the rates proposed by the staff witness would in many cases exceed the present rates by substantially more than 3 cents per 100 pounds.

a reasonable basis of minimum rates for application throughout the state.

In general, representatives of the other cement mills were of the opinion that little or no increase in the minimum rates should be made at this time. Permanente Cement Company introduced a study of its estimated cost of trucking cement in its own proprietary vehicles. These costs are considerably lower than those developed by the Commission engineer, largely because the Permanente Company would use only new-type vehicles having a greater capacity than those in general use by the for-hire carriers. The Monolith Portland Cement Company opposed any increase in the existing minimum rates, declaring that operating efficiencies attained by contract carriers hauling from the Monolith mill make an increase unnecessary.

Regardless of the rate level, a principal concern of all of the cement mills was the relationship between the rates from the various origins and for various lengths of haul, and the effects which changes in such relationships would have upon the relative costs of shipping cement from the several mills into competitive markets. Several of the northern mills urged that the territorial rate differences be removed by establishing a single scale of distance rates for application throughout the state. The Permanente Cement Company recommended, as an alternative which it considered to be less desirable, that the territorial boundary be moved southward or that the Monolith mill be placed in an overlap zone so that it would pay the northern scale when shipping to the north and the southern scale when shipping to the south. The Monolith Company indicated opposition to any of these

5

These carriers were included in the engineer's cost study.

recommended changes in the territorial boundaries or in the territorial application of the rates, insisting that the cost differences should be given full recognition.

The evidence shows that cement is a highly competitive commodity of relatively low price. Apparently a slight difference in the sales price at the point of distribution or use is sufficient to influence the choice of one brand over another. The record shows also that many of the cement mills deliver a substantial part of their output in their own motor vehicles, and that in addition the distributors frequently take delivery of cement at the mills in proprietary vehicles. It appears that there has been a trend toward the increasing use of proprietary motor vehicles for the transportation of cement. While the decision to use proprietary or for-hire vehicles for the movement of cement is not necessarily determined by the rates alone, it is clear that the rate level is an important consideration. These are all factors which tend to preclude the assessment of transportation charges materially above the actual cost of performing the transportation service. From all of the evidence it is concluded that the minimum rates for the transportation of cement should be established at the lowest lawful levels compatible with the maintenance of adequate transportation services.

The extensive examination of the Commission engineer did not develop any material error in his figures or methods. From a careful study of the record it is concluded that his estimates reasonably reflect the minimum costs which necessarily must be incurred by for-hire carriers in transporting cement in truckload quantities between points in California. The evidence shows, however, that bulk vehicles more efficient than those considered in

the cost estimates are now coming into use. This is a factor to be given recognition in the development of the minimum rates herein. The income statements submitted by the analyst for The Truck Owners Association of California, while not of themselves sufficiently current or comprehensive to provide a valid basis for minimum rate adjustment, do tend to confirm the showing of the Commission engineer that the current costs generally exceed the existing minimum rates.

The Commission rate witness suggested that different rates might well be established for bulk shipments and sack shipments to reflect differences in costs. The existing minimum rates make no distinction. The mill representatives preferred that the rates be the same regardless of bulk or sack movement. Some of them expressed the opinion that separate rates would tend to cause marketing complications and difficulties. They suggested that the differences in the costs be averaged upon the basis of the relative bulk and sack tonnages. The evidence shows that the higher cost of loading and unloading the sack shipments contributes to the greater cost of transporting such shipments, particularly for the shorter distances. As the length of haul increases the loading and unloading costs tend to become relatively less significant. It is concluded that separate rates for bulk shipments and sack shipments are necessary for the shorter hauls in order that the truckers of sack cement may be reasonably compensated, and that a single scale of minimum rates is desirable and proper for the longer distances.

Much of the contention in this proceeding revolved around the application of the separate scales of rates for the northern and southern divisions of the state. For distances up

to 200 miles on shipments originating in the Southern Territory the present minimum rates are somewhat lower than those applicable upon shipments originating in the north. The two scales blend at 200 miles and thereafter are uniform. The proposal of the Commission rate witness that the destination of the shipment rather than its origin govern the rate scale to be applied is contrary to the cost estimates. This rate proposal was designed apparently to assist in equalizing mill competition in common markets. In furtherance of the same objective this witness recommended that the boundary between the northern and southern territories be moved northward to a line approximately midway between the nearest mills in the two areas.⁶ However, since the evidence shows that the costs of transporting from the northern mills are somewhat higher than from those in the south, without reference to the destination, no valid basis appears for permitting the destination point to control the rate to be applied on interterritorial shipments. Neither does any sufficient reason appear for changing the territorial boundary at this time.

The present tariff provides that the minimum charge for truckload shipments shall be the charge for 38,000 pounds at the applicable rate. (Class rates are provided in Highway Carriers' Tariff No. 2 and in the local drayage tariffs for the transportation of lesser shipments.) The cost engineer, after consideration of performance data of the for-hire trucking industry, developed his estimated costs for sack shipments upon the basis of 47,500 pounds, and for bulk shipments upon the basis of 47,800 pounds in the north and 48,500 pounds in the south. From the testimony of several witnesses it appears that regardless of the tariff minimum it is

⁶ The record shows that the southerly part of the San Joaquin Valley is an area within which some of the northern and southern mills compete actively.

the practice of the mills to load the vehicles to their legal carrying capacities. Several witnesses suggested that the tariff minimum weight be increased to accord with the shipping practices and cost studies. There was fairly general agreement that an increase in the minimum weight to approximately 42,750 pounds would be satisfactory, provided that the vehicle capacity, if less than that weight, might be the governing minimum. The latter provision, however, would introduce obvious complications from the standpoint of application and enforcement. The testimony shows that virtually all of the motor vehicle units used by the for-hire carriers for the transportation of cement from the mills have a carrying capacity of 40,000 pounds or more. It is concluded from the evidence of record that a minimum weight of 40,000 pounds will be reasonable and suitable.

The present rules by which the minimum rates are governed have been in effect since September 15, 1950. So far as the record shows, they have been satisfactory to the carriers and the shippers. Shipper witnesses testified that they had experienced no difficulty with the rules and knew of no difficulties experienced by others. In recommending revised rules the staff witness pointed out possibilities of ambiguity and abuse in the present rules, but did not suggest any respect in which they had proved to be ambiguous or inadequate in actual experience. On the other hand, the cross-examination developed uncertainties in some of the rules which he recommended. It is concluded that the recommended rule changes and rule additions, except as hereinbefore indicated, should not be adopted.

The level of minimum rates for the transportation of cement in truckloads has not been adjusted in any respect since

September 15, 1950, although it is now clear that there have been important increases in the cost of performing the service. The revised minimum rates hereinafter established are in all instances higher than the existing minimum rates. The amount of increase varies according to the length of haul, the point of origin, and other factors. In no respect are the rates higher than the estimated costs, although in a number of instances they are below the full cost of performing the transportation services as estimated by the Commission engineer. They are designed to reflect the known costs so far as it is practicable to do so, even to the extent of stating rates in fractional amounts as small as one-quarter cent per 100 pounds. Rates any lower than those hereinafter established would be inadequate and insufficient as minimum rates. Any higher rates, if established as minimum at this time, would tend to cause uneconomic diversion of tonnage from the for-hire carriers adversely to the interests of the carriers and of the public.

Upon careful consideration of all of the evidence of record it is concluded that the existing minimum rates, rules and regulations for the transportation of cement and related products should be revised to the extent provided in the order which follows.

O R D E R

Based upon the evidence of record and upon the conclusions and findings contained in the preceding opinion,

IT IS HEREBY ORDERED:

1. That City Carriers' Tariff No. 8 - Highway Carriers' Tariff No. 10 (Appendix "A" of Decision No. 44633 as amended) be and it

is hereby further amended by incorporating therein to become effective June 15, 1954, the revised pages attached hereto and by this reference made a part hereof, which pages are numbered as follows:

First Revised Page 6 cancels Original Page 6
First Revised Page 12 cancels Original Page 12

2. That tariff publications required to be made by common carriers as a result of the amendments herein of the aforesaid tariff shall be made effective not later than June 15, 1954, on not less than five days' notice to the Commission and to the public.

3. That in all other respects the aforesaid Decision No. 44635, as amended, shall remain in full force and effect.

This order shall become effective twenty days after the date hereof.

Dated at San Francisco, California, this 4th day of May, 1954.

Richard E. Mitchell
President
Justus F. Calver
Kenneth F. Potter
Verne Higgins
Commissioners

SECTION NO. 1 - RULES AND REGULATIONS (Continued)	Item No.												
<p style="text-align: center;">APPLICATION OF TARIFF - TERRITORIAL</p> <p>Rates in this tariff apply for the transportation of commodities named in Item No. 40 series between all points within the State of California.</p>	70												
<p style="text-align: center;">TERRITORIAL DESCRIPTIONS</p> <p>NORTHERN TERRITORY includes all points north of the following boundary line: Beginning at a point on the shore line of the Pacific Ocean due south of Gaviota, thence northeasterly along an imaginary straight line to the junction point of Santa Barbara, Ventura and Kern County boundaries, northerly and westerly along the westerly boundary of Kern County to the junction point of Kern, San Luis Obispo and Kings Counties, thence easterly along the northerly boundary lines of Kern and San Bernardino Counties to the California-Nevada boundary line.</p> <p>SOUTHERN TERRITORY includes all points south of the southern boundary line of northern territory.</p>	80												
<p style="text-align: center;">MINIMUM CHARGE</p> <p>The minimum charge per shipment shall be the charge for 40,000 pounds at the applicable rate.</p>	◇ 90-A Cancel 90												
<p style="text-align: center;">ACCESSORIAL SERVICES</p> <p>When carrier performs any accessorial or incidental service which is not authorized to be performed under rates named in this tariff, and for which a charge is not otherwise provided, additional charges shall be assessed as follows:</p> <table border="0" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th></th> <th colspan="2" style="text-align: center;"><u>Charges in Cents</u></th> </tr> <tr> <th></th> <th style="text-align: center;"><u>For First 30 Minutes or Fraction Thereof</u></th> <th style="text-align: center;"><u>For Each Additional 15 Minutes or Fraction Thereof</u></th> </tr> </thead> <tbody> <tr> <td>(a) For Driver, Helper, or Other Employee per Man</td> <td style="text-align: center;">140</td> <td style="text-align: center;">70</td> </tr> <tr> <td>(b) For Unit of Equipment</td> <td style="text-align: center;">60</td> <td style="text-align: center;">30</td> </tr> </tbody> </table> <p>The charge for unit of equipment shall apply whenever the accessorial or incidental service requires its use, or whenever the unit of equipment is inactivated by reason of its driver or helper being engaged in such service.</p>		<u>Charges in Cents</u>			<u>For First 30 Minutes or Fraction Thereof</u>	<u>For Each Additional 15 Minutes or Fraction Thereof</u>	(a) For Driver, Helper, or Other Employee per Man	140	70	(b) For Unit of Equipment	60	30	◇ 100-A Cancel 100
	<u>Charges in Cents</u>												
	<u>For First 30 Minutes or Fraction Thereof</u>	<u>For Each Additional 15 Minutes or Fraction Thereof</u>											
(a) For Driver, Helper, or Other Employee per Man	140	70											
(b) For Unit of Equipment	60	30											
<p style="text-align: center;">DIVERTED SHIPMENTS</p> <p>Charges upon shipments diverted at request of consignor or consignee shall be assessed upon the basis of the charge established for the constructive mileage applicable via the point or points where diversion occurs, subject to Item No. 100 series.</p>	110												
<p>◇ Increase, Decision No. 50008</p>													
<p>EFFECTIVE JUNE 15, 1954</p>													
<p>Issued by the Public Utilities Commission of the State of California, San Francisco, California.</p> <p>Correction No. 6</p>													

SECTION NO. 2 - RATES IN CENTS PER 100 POUNDS											Item No.	
FROM (1)		TO				Apply Rate Below in Scale For:						
Southern Territory		Southern Territory				Southern Territory						
		Northern Territory										
Northern Territory		Southern Territory				Northern Territory						
		Northern Territory										
MILES		RATES				MILES		RATES				◇ 200-A Cancels 200
		Scale						Scale				
But Not Over	Over	Southern Territory		Northern Territory		But Not Over	Over	Southern Territory		Northern Territory		
		(2)	(3)	(2)	(3)			(2)	(3)	(2)	(3)	
0	3	3	4	3½	4½	150	160	20½	20½	21½	21½	
3	5	3½	4½	3½	4½	160	170	21½	21½	22½	22½	
5	10	3½	4½	3¾	4¾	170	180	22¾	22¾	23½	23½	
10	15	4	5	4½	5½	180	190	23¾	23¾	24	24	
15	20	4½	5½	4¾	5¾	190	200	25	25	25	25	
20	25	5	6	5½	6½	200	220	26½	26½	26½	26½	
25	30	5½	6½	5¾	6¾	220	240	28½	28½	28½	28½	
30	35	6	7	6½	7½	240	260	30½	30½	30½	30½	
35	40	6¾	7¾	7	8	260	280	32½	32½	32½	32½	
40	45	7½	8½	7½	8½	280	300	34½	34½	34½	34½	
45	50	7¾	8¾	8½	9½	300	325	36½	36½	36½	36½	
50	60	8¾	9¾	9½	10½	325	350	39	39	39	39	
60	70	10	11	10½	11½	350	375	41½	41½	41½	41½	
70	80	11	12	11½	12½	375	400	44	44	44	44	
80	90	12½	13	12¾	13½	400	425	46½	46½	46½	46½	
90	100	13½	14	14	14½	425	450	48¾	48¾	48¾	48¾	
100	110	14½	14¾	15½	15½	450	475	51½	51½	51½	51½	
110	120	15½	15¾	16½	16½	475	500	53¾	53¾	53¾	53¾	
120	130	16¾	16¾	17½	17½	500	Add to rate for 500 miles 2½ cents per 100 pounds for each 25 miles or fraction thereof.					
130	140	18	18	18¾	18¾							
140	150	19	19	20	20							

- (1) For Territorial Descriptions, see Item No. 80 series.
- (2) Rates apply for shipments in bulk.
- (3) Rates apply for shipments in packages.

◇ Increase, Decision No. 50008

EFFECTIVE JUNE 15, 1954

Issued by the Public Utilities Commission of the State of California,
 San Francisco, California.

Correction No. 7