

Decision No. 50431

**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 sand, rock, gravel and related items )  
(commodities for which rates are provided )  
in City Carriers' Tariff No. 6 - Highway )  
Carriers' Tariff No. 7).

Case No. 5437

Warren P. Marsden, for the State Department of  
Public Works, Division of Highways; E. O.  
Blackman, for California Dump Truck Owners  
Association; George M. Cox, for Associated  
General Contractors, Southern California  
Chapter, interested parties.  
Mary Moran Pajalich, for the Commission staff.

INTERIM OPINION

Pursuant to Order Setting Hearing dated June 18, 1954,  
for the purpose of determining what, if any, revision or revisions  
should be made in Item No. 60 series of City Carriers' Tariff No. 6  
and Highway Carriers' Tariff No. 7 or in other provisions of the  
tariff which may be related to the alternative provision in said  
Item No. 60 series for the estimation of weight of shipments, a  
public hearing was held in Los Angeles on July 26, 1954, before  
Examiner Wilson Cline.

The provisions of Item No. 60 series currently in effect  
are as follows:

"Method of Determining weight of  
Shipment  
(Applicable in Southern Territory  
Only)

"Actual weight of the shipment shall  
be used when furnished by the shipper or  
when obtained by the carrier at the  
shipper's direction and expense.

"Otherwise, charges shall be computed  
upon the basis of an estimated weight of  
2800 pounds per cubic yard."

At the hearing evidence was introduced to show that this Commission has interpreted this tariff rule to apply to cubic yards of material when in the dump truck equipment and not when in its natural state in place. The record further shows that the Superior Court of Los Angeles County in its decision in the case entitled F. J. Heidlebaugh, doing business as Heidlebaugh Transportation Co. vs. Guy F. Atkinson Company, Case No. 613, 761, stated: "Said tariff is ambiguous in that it does not define whether a cubic yard of earth and soil referred to in Item No. 60-A thereof is to be measured in its natural state in place in the ground and before its removal therefrom or after it is removed from said natural state in place in the ground and when dumped into trucks."

Some evidence has been introduced in support of revising the said rule to permit estimation of weight from measurement of material in its natural state in place, and an adjourned hearing has been set in Los Angeles for the receipt of further evidence.

Pending final determination of this matter, however, the Commission staff has recommended an interim order revising the rule to eliminate any ambiguity so that an enforceable rule will be in effect. The recommendation of the staff will be accepted.

The Commission hereby finds that the currently applicable provisions in Item No. 60 series refer to cubic yards when loaded in dump truck equipment. The tariff will be revised accordingly for clarification.

INTERIM ORDER

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

IT IS HEREBY ORDERED that City Carriers' Tariff No. 6 - Highway Carriers' Tariff No. 7 (Appendix "A" to Decision No. 32566, as amended) be and it is hereby further amended by incorporating therein Seventh Revised Page 5 cancels Sixth Revised Page 5, which page is attached hereto and by this reference made a part hereof.

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

This order shall become effective September 6, 1954.

Dated at San Francisco, California, this 14th day of August, 1954.

John E. Mitchell  
President

Justus J. Cisneros

Kenneth Potts

Gene Deegins

Commissioners

Item No.	SECTION NO. 1 - RULES AND REGULATIONS (Continued)
50-D Cancels 50-C	<p style="text-align: center;">MINIMUM CHARGE</p> <p>Except as otherwise provided, the minimum charge per shipment shall be the charge for 8 tons at the applicable rate. (See Note.)</p> <p>NOTE: Between points in San Diego County the minimum charge per shipment shall be the charge for 6 tons at the applicable rate.</p>
*60-B Cancels 60-A	<p style="text-align: center;">METHOD OF DETERMINING WEIGHT OF SHIPMENT (APPLICABLE IN SOUTHERN TERRITORY ONLY)</p> <p>Actual weight of the shipment shall be used when furnished by the shipper or when obtained by the carrier at the shipper's direction and expense.</p> <p>* Otherwise charges shall be computed upon the basis of an estimated weight of 2800 pounds per cubic yard when loaded in the dump truck equipment.</p>
70-A	<p style="text-align: center;">ALTERNATIVE APPLICATION OF COMMON CARRIER RATES</p> <p>Common carrier rates may be applied in lieu of the rates provided in this tariff, when such common carrier rates produce a lower aggregate charge for the same transportation, from the same point of origin to the same point of destination, than results from the application of the rates herein provided. For charges for loading and unloading see Note 1, Item 90 series. (See Note.)</p> <p>NOTE: When a rail carload rate is subject to varying minimum weights, dependent upon the size of the car ordered or used, the lowest minimum weight obtainable under such minimum weight provisions may be used in applying the basis provided in this item.</p>
80	<p style="text-align: center;">BRIDGE AND FERRY TOLLS</p> <p>On all shipments the actual bridge or ferry tolls shall be added to the transportation charge when such facilities are used by the carrier.</p>
90-A	<p style="text-align: center;">ALTERNATIVE APPLICATION OF COMBINATIONS WITH COMMON CARRIER RATES APPLICABLE TO SOUTHERN TERRITORY OF THE STATE</p> <p>When lower aggregate charges result, rates provided in this tariff may be used in combination with common carrier rates for the same transportation as follows:</p> <p>(a) When point of origin is located beyond railhead and point of destination is located at railhead, add to the common carrier rate applying from any team track to point of destination the rate provided in this tariff for the distance from point of origin to the team track from which the common carrier rate used applies. (See Notes 1, 2 and 3.)</p>

(b) When point of origin is located at railhead and point of destination is located beyond railhead, add to the common carrier rate applying from point of origin to any team track, the rate provided in this tariff for the distance from the team track to which the common carrier rate used applies to point of destination (See Notes 1 and 3.)

(c) When both point of origin and point of destination are located beyond railhead, add to the common carrier rate applying between any railheads the rate provided in this tariff for the distance from point of origin to the team track from which the common carrier rate used applies, plus the rate provided in this tariff for the distance from the team track to which the common carrier rate used applies to point of destination. (See Notes 1, 2 and 3.)

NOTE 1. In the event, under the provisions of Items Nos. 70 and 90 series, a rate of a common carrier is used in constructing a rate for highway transportation and such common carrier rate does not include accessorial services performed by the highway carrier, the following charge for such accessorial services shall be added:

NOTE 2. For loading and unloading 12 cents per ton.  
When the point of origin located beyond railhead is a commercial producing plant located within any of the production areas described in Section No. 3, in which a team track is located and the point of destination is outside such production area, the combination rate may be constructed by adding to the common carrier rate specified in this item series, the rate of 6 cents per ton in lieu of the rate provided in this tariff for the distance from the point of origin to the team track from which said common carrier rate applies.

NOTE 3. When the rail carload rate is subject to varying minimum weights, dependent upon the size of the car ordered or used, the lowest minimum weight obtainable under such minimum weight provisions may be used in applying the basis provided in this item.

\* Change, Decision No.

50431

EFFECTIVE SEPTEMBER 6, 1954

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

Correction No. 425