

**ORIGINAL**Decision No. 50984

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 Minimum )  
 Rate Tariff No. 7).

Case No. 5437  
 (Petition No. 5)

E. O. Blackman, for California Dump Truck Owners  
 Association, Inc., petitioner.  
Francis W. Walker and Franklin B. Hansen, for  
 Associated Dump Truckers of California, Inc.;  
Austin H. Peck, Jr., and H. G. Feraud, for  
 Southern California Rock Products Association;  
 interested parties.  
C. S. Abernathy, Norman B. Haley, and R. A. Lubich,  
 of the Commission's staff.

O P I N I O N

Minimum rates, rules and regulations for the transportation of sand, rock, gravel and related commodities are named in Minimum Rate Tariff No. 7. Included in the tariff are numerous rates, stated in cents per ton,<sup>1</sup> which apply from defined production areas to defined delivery zones.<sup>2</sup> By Petition for Modification No. 5, as amended, filed in this proceeding, the California Dump Truck Owners Association, Inc., seeks the establishment of a rule in the minimum rate tariff to provide that all delivery zone boundaries as defined

<sup>1</sup> Minimum Rate Tariff No. 7 also contains so-called distance rates per ton and hourly rates, not involved in this petition.

<sup>2</sup> The production areas and delivery zones are located in Ventura, Los Angeles, San Bernardino, Riverside, Orange and San Diego Counties.

therein shall be the geographic location of the delivery zone lines as of a given date, to be established by the Commission.

Public hearing of the petition was held before Examiner Carter R. Bishop at Los Angeles on May 19 and December 7, 1954.

Petitioner's manager testified in support of the request. He pointed out that many of the delivery zone descriptions in question include as a part of the zone boundaries portions of city limits, ranch lines or boundaries of military or other governmental reservations. The witness stated that in many instances the locations of such private, municipal or other governmental boundaries have changed since the establishment of the delivery zone descriptions in which they are utilized. This has been particularly noticeable, he said, with respect to city limits, which frequently have been extended to meet the needs of expanding population.

The effect of such boundary relocations, the witness explained, has been to change the area of the delivery zones thus affected without any corresponding adjustment in the applicable rates. In this connection he pointed out that the rates named in Minimum Rate Tariff No. 7 are predicated on time studies which were made of the dump truck movements from the various production areas to each of the delivery zones.

In order to prevent further distortions in the delivery zones, the witness testified, it is proposed that the zone boundaries be "frozen" as of a date to be selected by the Commission. At the adjourned hearing petitioner's manager made the Association's proposal more specific by suggesting that Item No. 200 Series of Minimum Rate Tariff No. 7 be amended by the addition of the following sentence:

"Where city, ranch or government reservation boundaries are used in zone descriptions the location of said boundaries, as recorded in the pertinent county surveyor's office on January 1, 1955 will constitute the permanent boundary line unless otherwise noted."<sup>3</sup>

The witness testified that official maps showing the limits of incorporated cities of each county are on file in the county surveyor's offices. To the best of his knowledge copies of such maps may be purchased by the public.

According to the record it is the general practice of the dump truck carriers to determine the delivery zone locations of points of destination by the use of maps on which the zones have been delineated. Assertedly, the carriers, in ascertaining such locations, do not ordinarily consult the zone descriptions contained in the minimum rate tariff.<sup>4</sup> The maps employed are, in the case of deliveries in Los Angeles and Orange Counties, commercial maps. In other counties in which the zone rates apply reproductions of the maps introduced in the proceedings in connection with the initial establishment of such rates are generally utilized.

The manager explained that the commercial maps, with the delivery zone boundaries superimposed thereon, are revised at intervals of several years. The maps do not, therefore, promptly reflect all changes in zone boundaries as they occur. The witness expressed the opinion that if the proposal herein should be adopted, the carriers would continue to use the commercial maps rather than the

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<sup>3</sup> The manager also suggested that new zone descriptions, as they are established in the future, include similar provisions, with the exception that the governing dates should be the effective dates of said zone descriptions.

<sup>4</sup> The manager stated that it is impractical for the carriers to determine delivery zone locations from the metes and bounds descriptions employed in the minimum rate tariff.

tariff descriptions, but that the maps would be more consistently accurate than they now are.

An associate transportation rate expert of the Commission's staff also testified concerning the Association's proposal. According to this witness, the granting of the petition would result in the substitution of one set of difficulties for another. His investigation had disclosed that the municipal governments do not keep in their files maps of their respective city limits as such limits may have been defined in the past. Assertedly, only maps of currently effective city limits are so maintained.

The rate expert had found, however, that maps of the historical city limits of all the incorporated cities within a particular county are maintained at the county surveyor's office. In order to ascertain the locations of the corporate limits of a city as they existed at some particular date, he said, it would be necessary to consult the aforesaid maps in the surveyor's office. Assertedly, this would be impractical for the carriers, and for those carriers who are not located at the particular county seat involved would result in varying degrees of inconvenience.

With respect to changes in military reservation boundaries, the record indicates that the pertinent facts must be obtained from maps in possession of the personnel in charge of the respective reservations. It appears that no reliance could be placed on the maps in the county surveyor's offices with respect to the historical boundaries of government reservations, whether military or otherwise.

It appears from the record that the problem here under consideration stems primarily from the relative frequency, during recent years, of changes in the locations of the corporate limits of

cities situated in the area in question.<sup>5</sup> Changes in the boundaries of government reservations, including those of military reservations, and of ranches appear to have been infrequent. The record does not disclose to what extent changes in city limits or in other boundaries have affected the delivery zones contained in the minimum rate tariff.

While it may appear desirable, in order to preserve the integrity of the delivery zones, to "freeze" those portions of their boundaries which consist of city limits, government reservation boundaries or ranch lines, it has not been established on this record that the proposed rule would be practicable or that it would accomplish the desired result. In the first place the evidence fails to show that the maps on file with the county surveyors set forth accurately any of the types of boundaries here under consideration aside from the limits of incorporated cities. Furthermore, no maps, such as are assertedly filed with county assessors, were introduced at the hearings. Consequently, the Commission is in no position to determine whether they are of sufficient size to enable the user to ascertain the precise locations of such boundaries shown thereon as are embraced in the zone descriptions of the minimum rate tariff.

Moreover, as pointed out by the staff witness, the necessity of travelling lesser or greater distances to the county seat in order to ascertain from public records the precise locations of city limits and other boundaries will place an undue burden upon the carriers and others who are concerned with the determination of applicable charges under the zone rates in question.

The proper solution to the problem which has prompted the filing of the petition herein, we believe, is to be found through other means than those proposed by petitioner. When it is found that

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<sup>5</sup> The staff's investigation disclosed that during the period from January 1, 1954 until just prior to the December 7 hearing changes were made in the corporate limits of 15 cities in Los Angeles County, of six cities in San Diego County and of one city in San Bernardino County.

the bounds of a particular delivery zone in Minimum Rate Tariff No.7 have been disturbed and the extent of such zone has been changed by the relocation of a political or other boundary of the types embraced by petitioner's proposed rule the matter should be brought to the attention of the Commission, through the filing of a petition in Case No, 5437. The Commission will then determine, on the basis of the showing made by petitioner, what, if any, revision in the tariff description of the zone in question is necessary to maintain proper rate relationships.

In view of the foregoing considerations, among others, we conclude and hereby find that the rule proposed herein by petitioner has not been justified. The petition will be denied.

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 that Petition for Modification No. 5 in Case No. 5437 be and it is hereby denied.

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

Dated at San Francisco, California; this 18th day of January, 1955.

John L. Mitchell  
President  
Arthur J. Callmer  
Paulo J. Ferreira  
William J. Foley  
Commissioners