

**ORIGINAL**Decision No. 55695

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. 35

William D. Campbell and E. C. Blackman, for California  
 Dump Truck Owners Association, Inc., petitioner.

Arlo D. Poe, J. C. Kaspar and James Guintrall, for  
 California Trucking Associations, Inc.,  
 interested party.

Warren S. Marsden, and E. J. Soldine, for the Division  
 of Highways, California State Department of Public  
 Works, interested party.

Carl B. Blaubach and J. M. Jenkins, for the staff of  
 the Public Utilities Commission of the State of  
 California.

**O P I N I O N**

By petition filed July 10, 1957, the California Dump Truck Owners Association, Inc., seeks (a) an increase of 10 percent in the hourly rates which apply as minimum rates for the transportation of specified materials in dump truck equipment between points in southern California territory and (b) the modification of present minimum rate provisions governing charges to be assessed for dump truck transportation service performed in southern California territory after regular working hours and on Saturdays, Sundays and certain holidays.

Public hearing on the petition was held before Examiner C. S. Abernathy at Los Angeles on September 11, 1957. Evidence was presented by witnesses for petitioner, for the California Trucking Associations, Inc., and for the Division of Highways of the California State Department of Public Works. Members of the Commission's staff assisted in the development of the record.

The rates which are involved herein are set forth in Minimum Rate Tariff No. 7 (Appendix "A" of Decision No. 32566 as amended). The most recent adjustment of these rates became effective April 15, 1956, pursuant to Decision No. 52748 dated March 13, 1956, in this numbered proceeding. Petitioner alleges that since the close of the record upon which Decision No. 52748 was based, the carriers have experienced substantial increases in their costs of operation. According to data which were presented by petitioner's manager, the increases range in total from \$.66 per hour for two-axle dump truck equipment to \$1.02 per hour for five-axle equipment. These amounts are approximately 10 percent of the present hourly rates. Petitioner's manager stated that in arriving at these figures he had undertaken to develop only the increases in the principal items of operating costs. He declared that the carriers have also experienced increases in virtually all other items of their operating expenses for which no offsetting adjustments in the rates are herein proposed.

Petitioner's proposal concerning the minimum rates and charges for services after regular working hours and on Saturdays, Sundays and holidays is that present "overtime" charges for this service be eliminated as a specific charge and that, instead, an allowance therefor be included in the hourly rates which apply

generally. Petitioner alleges that since the time that the overtime charges were established in April, 1956, the carriers have suffered a decline of the utilization of their equipment due to reluctance of shippers to employ dump truck equipment on an overtime basis. Moreover, there is a tendency of some carriers to violate the minimum rate provisions in this regard by not assessing the overtime charges when overtime service is provided. Testimony to corroborate these allegations was presented by three carrier witnesses who appeared on petitioner's behalf.

Petitioner's proposals were supported by the California Trucking Associations, Inc., insofar as they would result in an increase in the hourly rates. The associations' assistant director of research submitted figures to show increases which have occurred in the carriers' wage and tax costs since the present hourly rates were established. His figures in this regard correspond closely to those which petitioner's manager presented. This witness also testified in general terms concerning other cost increases which assertedly have been applicable. He urged that the hourly rates be increased as proposed, subject to a minimum increase of 60 cents per hour.

The California Trucking Associations, Inc., however, opposed the revision which petitioner seeks in the minimum rates and charges for service after regular working hours and on Saturdays, Sundays, and holidays. The associations' representative declared that the overtime provisions should be continued in effect in order to yield proper compensation when overtime services are furnished. Two carrier operators of fleets of trucks testified in

support of retention of the present provisions. They said that they are obligated by their labor agreements to pay premium wage rates for overtime work, and that the additional charges which apply under present provisions are necessary to meet the additional costs of overtime service.

The Division of Highways of the State Department of Public Works also opposed the sought revisions of the overtime provisions. According to the witness for this agency, the Division of Highways is obligated by law to pay prevailing wage rates for services performed in connection with highway projects. He said that it would be difficult to determine what payments must be made for overtime service unless the overtime provisions are retained as a separate factor in the minimum rates. He asserted, furthermore, that should overtime allowances be incorporated in the rates generally as petitioner proposes, the probable result would be that where dump truck carriers are employed on an overtime basis, the Division of Highways would pay for the overtime service twice.

It is clear from the evidence in this matter that those carriers which are engaged in the transportation of materials by dump truck equipment in southern California have experienced increases in their costs of operation during the past two years which are not reflected in the present hourly rates. It is also clear that as a result of these increases the hourly rates are unduly low and that they should be adjusted to restore them to a reasonable level. However, the showing on this record does not warrant the establishment of the rate increase of 10 percent which is sought.

On the basis on which it was developed petitioner's showing in various respects does not disclose the extent that the level of the carriers' costs as a whole have been affected by the reported increases in operating expense. For example, petitioner's figures show an increase of 11.7 cents per hour in the hourly depreciation expense applicable to the operation of three-axle dump truck vehicles. This figure reflects increases in the price of dump truck vehicles during the past two years. It appears, however, that the larger part of the carriers' fleet collectively was purchased more than 2 years ago. Although the depreciation expense applicable to the carriers as a whole would be affected by the increases in vehicle costs during the past 2 years, the amount of the increase in total obviously would not be directly proportionate to the increase in vehicle costs. In certain other matters also, it appears the petitioner's showing is not sufficiently related to the carriers' actual operating experience under present expense levels to provide an acceptable measure of the carriers' need for increased revenues.<sup>1/</sup>

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<sup>1/</sup> These matters include the effect of the price changes on the carriers' cost levels for tires, parts and repairs. Petitioner's manager undertook to substantiate the amounts of the reported increases primarily on a judgment basis. However, he did not have available specific data to support his judgment figures, nor did it appear that he had made sufficient investigation of the carriers' records in this regard to justify full acceptance of the claimed amounts. It appears, also, that in his calculations he did not take into consideration offsetting reductions such as that in the transportation tax of the Board of Equalization which will become effective January 1, 1958.

For these reasons petitioner's showing should not be adopted as justification for the full amount of the sought rate increase. Nevertheless, it substantiates the establishment of the increase in part. Upon consideration of petitioner's showing and of the record as a whole, it appears that an increase of 8 percent in the hourly rates has been shown to be justified. To this extent an increase in hourly rates should be prescribed.<sup>2/</sup>

The changes which petitioner proposes be made in the minimum rate provisions for service after regular working hours and on Saturdays, Sundays and holidays should not be adopted. These provisions were established to furnish a reasonable and non-discriminatory basis of charges for overtime service at a time when allowance for overtime was included in the rates generally. They were established on a showing that many shippers did not require overtime service, that as to these shippers the assessing of the allowance was not equitable and that, as to the carriers that perform overtime service, the allowance did not compensate them for the costs incurred. It may be that reversion to this former basis of charges would result in benefits of increased vehicle use-factor for some carriers. However, in view of the antecedents of the present overtime charges, it is concluded that the gains of such carriers would be at the expense of other carriers and of shippers generally, and that the maintenance of equitable and nondiscriminatory rates justifies the retention of the overtime

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<sup>2/</sup> The recommendation of the California Trucking Associations, Inc., that the minimum increase be 60 cents per hour goes beyond the scope of the petition in this matter and will not be adopted.

provisions. It appears, moreover, that even were petitioner's proposals to be adopted, the allowance which petitioner would have incorporated in the rates for overtime would not compensate for the added costs of overtime operations. On an annual basis, the allowance amounts to approximately \$30. However, it appears from the record that the additional labor costs, calculated at the wage rates under the applicable wage agreements, range from \$250 to \$500 a year. Clearly, the proposed allowance to be included in the rates would not be reasonable in the circumstances.

Upon careful consideration of all of the facts and circumstances of record, it is concluded and found as a fact that revision of the existing minimum rates and charges in Minimum Rate Tariff No. 7 for the transportation of property by dump truck equipment in southern California territory has been shown to be justified to the extent provided in the order which follows and that in all other respects petitioner's proposals have not been shown to be justified.

O R D E R

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

IT IS HEREBY ORDERED that

- (1) Minimum Rate Tariff No. 7 (Appendix "A" of Decision No. 32566 as amended) be and it is hereby further amended by incorporating therein, to become effective November 15, 1957, First Revised Page 42-C Cancels Original Page 42-C, which page is ~~attached hereto~~ and by this reference is made a part hereof.

(2) Except as otherwise provided herein, Petition No. 35 in the above-numbered proceeding be and it is hereby denied.

(3) In all other respects said Decision No. 32566 shall remain in full force and effect.

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

Dated at San Francisco, California, this 15th day of OCTOBER, 1957.

[Signature]  
President

[Signature]

[Signature]

[Signature]

[Signature]  
Commissioners



Item No.	SECTION NO. 4	HOURLY RATES (Concluded)			
	<p>COMMODITIES, as described in Item No. 320.</p> <p>COLUMN "A" rates apply where the loading is performed by power loading device, excepting processed sand, gravel or crushed stone in stock piles at a commercial producing plant, at point of consumption or at intermediate point of transfer. A hopper chute or bunker shall not be deemed to be a power loading device.</p> <p>COLUMN "B" rates apply where the loading is performed by hand and where the average mileage of the vehicle does not exceed eight miles per hour for the period of time the vehicle is in use each day.</p> <p>COLUMN "C" rates apply where transportation or loading is under conditions other than described under application of Column "A" or Column "B" rates.</p>				
	Level Capacity of Dump Truck Body in Cubic Yards (See Note 1)	SOUTHERN TERRITORY (See Item No. 100) (1) Rates in Cents Per Hour (See Item No. 300) (See Note 2)			
		Column A	Column B	Column C	
	Over				
	But Not Over				
	0	3	524	399	518
	3	4	562	427	556
	4	5	605	447	587
*365-B Cancel 365-A	5	6	648	481	626
	6	7	691	518	664
	7	8	740	572	697
	8	9	783	610	734
	9	10	821	643	772
	10	11	859	674	810
	11	12	907	721	848
	12	13	950	745	891
	13	14	977	772	918
	14	15	1004	794	945
15	16	1042	840	972	
16	17	1069	873	999	
17	18	1096	905	1026	
18	19	1123	937	1053	
19	20	1150	970	1080	
20	Add to rate for 20 cubic yards capacity for each cubic yard or fraction thereof--		27	32	27

(1) Minimum charge shall be the rate for one hour.

NOTE 1.-Level capacity of Dump Truck body means the cubical content of the body in cubic yards calculated by multiplying the inside length by the average inside width and the average inside height of the sides of the body, including temporary side boards, if such boards are used, with no allowance for the crown of the load or for low head board or low tail gate.

In the case of a Dump Truck body not constructed for use of a tail gate (such as the so-called "rock body"), the inside length shall be deemed to mean the average of the measurement along the top of the sides from the inside of the head board to the point of the angle where the sides are diverted downward to meet the floor, and the measurement along the floor from the inside of the head board to the end of the body.

NOTE 2.-(a) For transportation service furnished under this item on Sundays and/or New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, Christmas Day,

(1) The applicable hourly rates, except for transportation originating in Inyo or Mono Counties, shall be ~~0~~ \$2.70 an hour in excess of those set forth above.

(2) The applicable hourly rates for transportation originating in Inyo or Mono Counties shall be ~~0~~ \$1.35 an hour in excess of those set forth above.

(b) Except as otherwise provided by paragraph (a) of this Note, the applicable hourly rates for transportation furnished on Saturdays or during periods in excess of 8 hours in any one shift shall be ~~0~~ \$1.35 an hour in excess of those set forth above.

\* Change }  
◇ Increase } Decision No. 55695

EFFECTIVE NOVEMBER 15, 1957

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

Correction No. 576