

Decision No. 56206**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 )  
 within San Diego County (trans- )  
 portation for which rates are )  
 provided in City Carriers' Tariff )  
 No. 7 - Highway Carriers' Tariff )  
 No. 9). )

Case No. 5439  
 Petition for  
 Modification No. 1

James Quintrall, for California Trucking  
 Associations, Inc., petitioner.  
Milton Hallen and Eugene E. Smith, for  
 Alsynite Company of America, interested  
 party.  
Leonard Diamond, for the Commission's staff.

OPINION ON REHEARING

By Decision No. 55256 dated July 9, 1957, the Commission established Minimum Rate Tariff No. 9-A which contains minimum rates, rules and regulations for the transportation of property over public highways in the San Diego Drayage Area. The minimum rates so established became effective September 1, 1957.

Upon petition filed by the Alsynite Company of America, hereinafter called Alsynite, the Commission, on October 8, 1957, ordered rehearing in this proceeding limited to the petitioned modification of the boundary line between drayage zones 7 and 8.

Rehearing was held on December 30, 1957, before Examiner Jack E. Thompson at San Diego.

The presently prescribed boundary line between zones 7 and 8 runs easterly from the Pacific Ocean via Forward Street and various streets to where Balboa Street crosses the tracks of The Atchison, Topeka and Santa Fe Railway Company, hereinafter called ATSF, and thence northerly along the tracks to the boundary line of the corporate limits of the City of San Diego in Rose Canyon.

The area in issue here is a narrow strip of land, approximately 1,000 feet at its widest part, which is between Old Pacific Highway and its continuation U. S. Highway 101 and the ATSF tracks extending northerly for approximately one mile from Balboa Avenue. Alsynite and ten other industries are located on this strip of land which is presently in zone 8. There are industries in zone 7 which are immediately south and east of this strip. The minimum rates for transportation to downtown San Diego (zone 1) are lower from zone 7 than from zone 8. Other than the strip hereinbefore referred to, zone 8 is principally a residential and commercial area. There are numerous industries in zone 7, some of which are in the immediate area of the aforementioned strip. It appears from the record that Alsynite and the other ten industries have competitors in the San Diego Drayage Area. It is their desire to obtain transportation rates closer to those of their competitors.

No objection was made to the extension of the boundaries of zone 7 to include these industries. The California Trucking Associations, Inc., asserted that while they did not oppose the modification proposed by Alsynite, they were opposed in principal to the enlargement or extension of drayage zones which would provide a

larger area or territory covered by a rate which was predicated upon performance data and cost data of operations conducted in the smaller area.

It is clear that the strip of land hereinbefore referred to is a part of what is known as the Pacific Beach industrial area and should be included in zone 7. We are mindful of the fact that enlargement of zones can result in circumstances where the minimum rates prescribed for transportation to an enlarged zone may become unreasonably low but such is not the case here. The strip of land is very small and is along U. S. Highway 101 which must be used by motor carriers in performing transportation from a number of industries north of the strip and in zone 7 to downtown San Diego. The warehouse of a large aircraft industry is located almost a mile north of the northernmost industry in the strip. It is immediately east of the ATSF tracks and therefore is in zone 7. If it were immediately west of the tracks, as are Alsynite and the other ten industries, it would be in zone 8. It appears that old Pacific Highway and U. S. Highway 101 provide a proper boundary line between zones 7 and 8 in that, according to the evidence of record, the industrial area lies to the east thereof and the residential and commercial area is to the west.

In its petition for rehearing, Alsynite proposed that the boundary line of zones 7 and 8 be over the same streets from the Pacific Ocean to Balboa Avenue as at present and then northerly along old Pacific Highway and U. S. Highway 101 to a point opposite Elvira Siding on the ATSF, and thence, as at present, along the ATSF tracks to the city limits of San Diego in Rose Canyon. This modification

would extend the strip from one mile in length to 3 miles; however, the two additional miles would merely be a strip ranging in width from approximately 20 feet to 200 feet, much of which is on the side of the canyon and is unsuitable for development.

At the rehearing, Alsynite stated that it had been informed by the Commission's staff that it would be desirable to have the boundaries relate to definite physical or geographical objects and demarcations rather than to imaginary lines drawn between two points. Acting upon such information, it amended its proposal and suggested that the boundary line be extended northward from Elvira along U. S. Highway 101 to Miramar Road and thence easterly along Miramar Road to the city limit. Miramar Road is the first east-west thoroughfare crossing U. S. Highway 101 to the north of the strip of land here involved. This proposal would transfer an additional area of approximately four square miles from zone 8 to zone 7. From the testimony it appears that this additional area is presently undeveloped. Some maps show that a portion of this additional area is a rifle range of the U. S. Marine Corps. The establishment of the boundary at Miramar Road would result in a substantial enlargement of zone 7 which is not warranted by the record herein.

While it is desirable to establish boundaries by metes and bounds over streets and roads, the establishment of a boundary line which, in part, would be an imaginary line from U. S. Highway 101 due east to the main line of the ATSF at Elvira should not present any actual difficulties in the administration and enforcement of the minimum rates. The tracks of the ATSF at Elvira are parallel to and

almost contiguous to U. S. Highway 101. At that point the tracks are approximately 30 feet from the highway. It does not appear that there is sufficient land between the tracks and the highway for any building so that it is improbable that any real problem could develop as a result of the establishment of the boundary line at Elvira.

Upon consideration of all of the facts and circumstances of record, the Commission is of the opinion and finds that the boundary line between zones 7 and 8 should be modified as set forth in the order which follows, and that the minimum rates resulting from said modification are just, reasonable and nondiscriminatory minimum rates for the transportation of property.

ORDER ON REHEARING

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

IT IS ORDERED:

1. That Minimum Rate Tariff No. 9-A (Appendix B of Decision No. 55256, as amended) is further amended by incorporating therein, to become effective March 16, 1958, First Revised Page 10 and First Revised Page 11, which pages are attached hereto and made a part hereof.

2. That tariff publications authorized to be made by common carriers as a result of the order herein may be made effective on not less than five days' notice to the Commission and to the public, if filed not later than sixty days after the effective date of the tariff changes herein provided.

3. That in all other respects said Decision No. 55256 shall remain in full force and effect.

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

Dated at San Francisco, California, this 4<sup>th</sup> day of February, 1958.

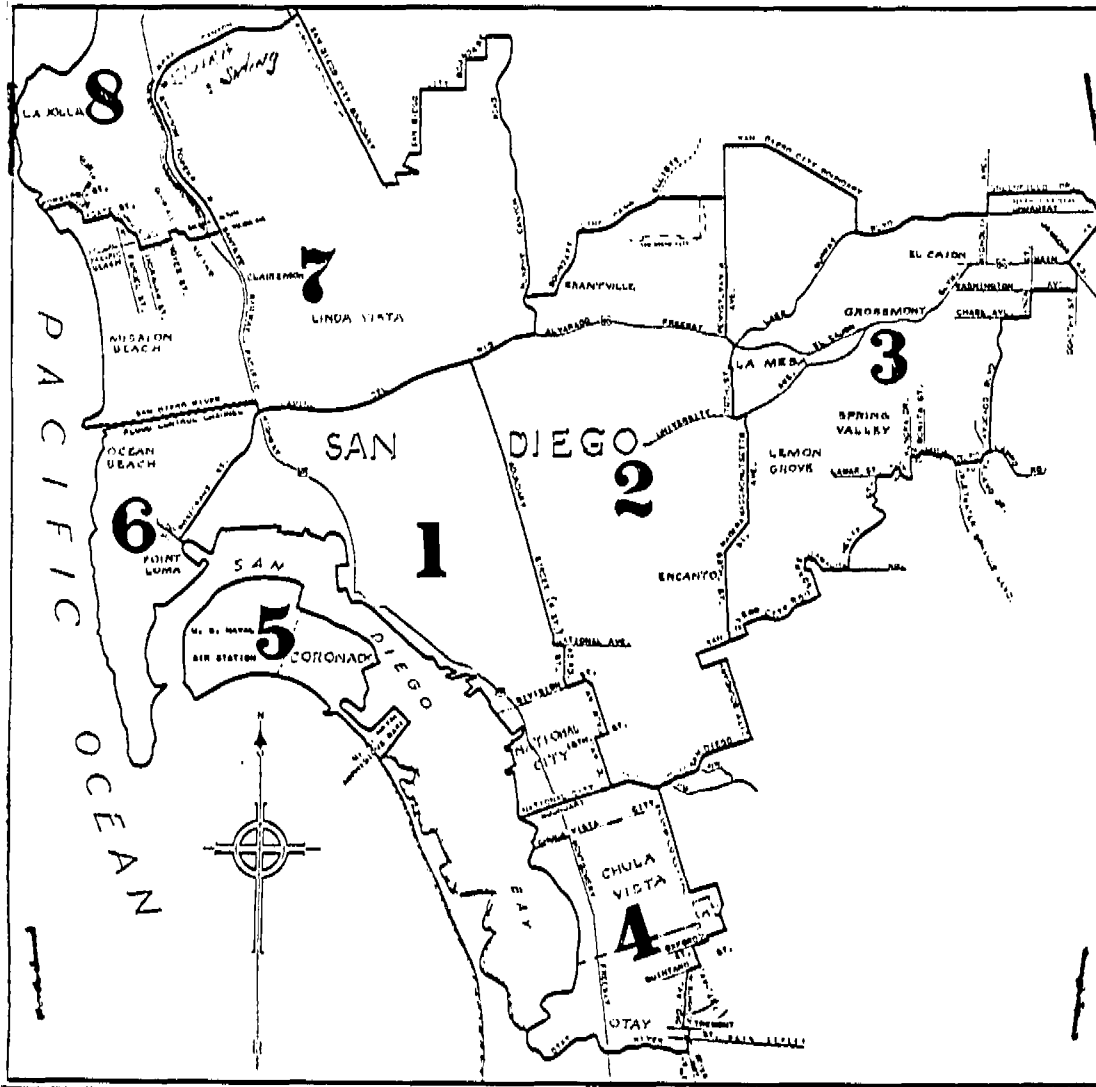
Robert E. Wheeler  
President  
Paul S. Wintergreen  
William J. Doyle  
L. J. Fox

\_\_\_\_\_  
Commissioners

SECTION NO. 1 - RULES AND REGULATIONS (Continued)	Item No.
<p style="text-align: center;">APPLICATION OF TARIFF - TERRITORIAL (Continued)</p> <p style="text-align: center;">(Items Nos. 30 through 38, inclusive)</p> <p style="text-align: center;">*ZONE 7 (Concluded)</p> <p>Boulevard, southeasterly along Foothill Boulevard to Ingraham Street; southerly along Ingraham Street to Diamond Street; easterly along Diamond Street to Noyes Street; southerly along Noyes Street to Chalcedony Street; easterly along Chalcedony Street to Camino Vuelto; southerly along Camino Vuelto to Avenida Altura; easterly along Avenida Altura to Calle Tinto; southerly along Calle Tinto to Balboa Avenue; easterly along Balboa Avenue to Pacific Highway; northerly along Pacific Highway (U.S. Highway No. 101) to a point directly west of Elvira Siding, a point on the lines of the Atchison, Topeka and Santa Fe Railway Company; east to the tracks of the main line of the Atchison, Topeka and Santa Fe Railway Company at Elvira Siding; northeasterly along said track to the city limit line of the City of San Diego in Rose Canyon; southeasterly and northeasterly along said city limit line to Murphy Canyon Road; southerly along Murphy Canyon Road to Camino Del Rio; westerly along Camino Del Rio to point of beginning.</p> <p style="text-align: center;">*Zone 8</p> <p>Beginning at the intersection of Pacific Highway (U.S. Highway No. 101) with Balboa Avenue; thence westerly along Balboa Avenue to Calle Tinto; northerly along Calle Tinto to Avenida Altura; westerly along Avenida Altura to Camino Vuelto; northerly along Camino Vuelto to Chalcedony Street; westerly along Chalcedony Street to Noyes Street; southerly along Noyes Street to Diamond Street; westerly along Diamond Street to Ingraham Street; northerly along Ingraham Street to Foothill Boulevard; northwesterly along Foothill Boulevard to Fanuel Street; northerly along Fanuel Street to Agate Street; westerly along Agate Street to La Jolla Mesa Drive; northerly along La Jolla Mesa Drive to Linda Rosa Avenue; northwesterly along Linda Rosa Avenue to Forward Street; westerly along Forward Street to the Pacific Ocean; northerly along the shoreline of the Pacific Ocean to the city limit line of the City of San Diego; southeasterly along said city limit line to an intersection with the main line track of The Atchison, Topeka and Santa Fe Railway in Rose Canyon; southwestly along said railway track to the Elvira Siding; west to a point on Pacific Highway (U.S. Highway No. 101); southerly along Pacific Highway (U.S. Highway No. 101) to point of beginning.</p>	<p style="text-align: right;">*38-A Cancels 38</p>
<p>* Change, Decision No. <span style="float: right;">56206</span></p>	
<p style="text-align: center;">EFFECTIVE March 16, 1958</p>	
<p>Issued by the Public Utilities Commission of the State of California,  <span style="float: right;">San Francisco, California</span></p> <p>Correction No. 5</p>	

SECTION NO. 1 - RULES AND REGULATIONS (Continued) Item No.

MAP OF ZONES DESCRIBED IN ITEMS NOS. 30 THROUGH 38, INCLUSIVE



9-A  
 Cancels  
 40

\* Change, Decision No. **56206**

EFFECTIVE MARCH 16, 1958

Issued by the Public Utilities Commission of the State of California,  
 San Francisco, California.  
 Correction No. 6