

ORIGINALDecision No. 56681

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
 Order Setting Hearing
 dated September 24, 1957,
 as amended.

E. O. Blackman, for the California Dump Truck
 Owners' Association; J. C. Kaspar,
J. X. Quintrall, and Arlo D. Poe, for
 California Trucking Associations, Inc.;
Warren P. Marsden and E. J. Saldine, for
 Department of Public Works, Division of
 Highways, State of California, interested
 parties.
M. J. Gagnon, G. L. Malquist and Norman Haley,
 for the Commission's staff.

O P I N I O N

On the recommendation of the Transportation Division, the Commission on September 24, 1957, ordered that hearing in the above-entitled proceeding be held relative to the provisions regarding the computation of time for hourly dump truck rates in Northern Territory as set forth in Item No. 300 of Minimum Rate Tariff No. 7. On October 27, 1957, the Commission modified the aforesaid order to include within the scope of the hearing the hourly dump truck rates in Southern Territory as set forth in the aforesaid item. Pursuant to said order, public hearings were held before Examiner Jack E. Thompson on March 20, 1958, at San Francisco and on March 26, 1958, at Los Angeles.

A rate expert of the Commission's staff testified that it had come to the attention of the Commission's Transportation Division that there is uncertainty regarding the application of the provisions of Item No. 300 of Minimum Rate Tariff No. 7 in determining the appropriate charges in a situation where a dump trucker is released from service upon termination of an engagement and is later re-engaged by the same shipper at a point other than the point of such release. Specifically, the uncertainty is whether, in those circumstances, hourly rates must be assessed for the time required to travel from the last point of destination under the shipper's prior order to the point where the carrier is re-engaged under the shipper's new order. The expert stated that the uncertainty exists only in connection with the application of the rates in Northern Territory. The witness stated that the Transportation Division has interpreted the present tariff provisions to mean that when the re-engagement is on the same calendar day the hourly rates must be assessed for the time required to travel between the two points involved. He proposed amendments to Minimum Rate Tariff No. 7 so as to clearly set forth this requirement.

The rule for the computation of time in Northern Territory is different from the rule for Southern Territory. The expert stated that while it would be desirable to have both rules uniform in application, he believed that it would not be feasible to establish a uniform rule at this time. According to the expert, each rule was developed individually and was based on evidence adduced in separate formal proceedings. The cost estimates presented therein were developed using different methods to distribute the cost of performing the return movement on the last trip during the day.

No one appeared in opposition to the tariff amendments recommended by the expert. The secretary-manager of the California Dump Truck Owners' Association suggested that the rule for Southern Territory be prescribed for Northern Territory. In support thereof, he stated that the finding of the Commission in Decision No. 52952 relating to the distribution of the cost of performing the return trip at the end of the day was contrary to the evidence in that proceeding.¹ He asserted that the Commission engineers' cost estimates which were used as a basis for the establishment of the present minimum rates both in Northern Territory and in Southern Territory were developed utilizing the same methods of distribution with respect to the return movement of the last trip. In support of this assertion, the secretary-manager requested that portions of the transcript made in the prior proceeding be received in evidence by reference. The presiding officer sustained an objection to this offer.

We affirm the above ruling. Decision No. 52952 has become final; there were no petitions for rehearing filed alleging error in the findings of the Commission. The establishment of the present rule for computation of time in Southern Territory to operations in Northern Territory would result in a substantial increase in the minimum rates. Such an increase was not contemplated in the Commission's order setting hearing in this proceeding nor was it announced in the notices of hearing mailed to interested parties. If the California Dump Truck Owners' Association wishes to propose a change in the rule for computation of time in Southern Territory

¹ Case No. 5437, Order Setting Hearing dated February 15, 1955, 55, Cal. P.U.C. 2, at page 12, "While objection was made to the rate expert's proposed modification of the rule for computation of time on the ground that the carrier would not be compensated thereunder for non-revenue wage costs, the record shows, on the contrary, that provision for such expense was made in the 'equipment factor' costs as developed by the engineer, on which the equipment factor in the proposed rates were predicated."

it may file an appropriate petition in this proceeding to initiate hearings on the subject.

Upon consideration of all of the facts and circumstances of record, the Commission is of the opinion and finds that the proposed modifications of Item No. 300 of Minimum Rate Tariff No. 7 are necessary to the application and enforcement of the minimum rates established for the transportation of commodities in dump trucks in Northern California.

O R D E R

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

IT IS ORDERED that Minimum Rate Tariff No. 7 (Appendix A of Decision No. 32566, as amended) is further amended by incorporating therein, to become effective June 8, 1958, Sixth Revised Page 40, which page is attached hereto and by this reference made a part hereof.

In all other respects said Decision No. 32566, 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 13th day of May, 1958.

[Signature]
President

[Signature]
Secretary

[Signature]
Commissioner

Commissioners

Commissioner C. Lyn Fox, being necessarily absent, did not participate in the disposition of this proceeding.

Item No.	SECTION NO. 4 - HOURLY RATES
	<p style="text-align: center;">APPLICATION OF RATES</p> <p>Rates in this section are Hourly Rates and apply from, to and between points in California subject to the description of Southern Territory defined in Item No. 100 and Northern Territory defined in Item No. 110.</p> <p>1. NORTHERN TERRITORY:</p> <p>The hourly rates are shown in Items Nos. 360, 361 and 362. (Rates include Drivers' and Helpers' wages.)</p> <p>*Hourly rates apply to property, as described in Item No. 320, transported for one shipper in one unit of dump truck equipment from the time the unit of equipment and driver report for service pursuant to the shipper's order to the time of completion of service under such order. For the purposes of this paragraph, each "shipper's order" shall be deemed to embrace service during not more than one 24-hour period and "completion of service" shall mean that the unit of carrier's equipment and driver are released by the shipper from further service during that same 24-hour period. In the event a carrier is released by the shipper upon completion of service pursuant to shipper's order and is re-engaged by the same shipper at a point other than the point of such release within the same 24-hour period, hourly rates shall be assessed for the traveling time from the point of release to origin point named in the subsequent shipper's order. (See Notes 1 and 2.)</p> <p>2. SOUTHERN TERRITORY:</p> <p>The hourly rates are shown in Item No. 365. (Rates include Drivers' and Helpers' wages.)</p> <p>*Hourly rates apply to property, as described in Item No. 320, transported for one shipper in one unit of dump truck equipment from the time the truck and driver report for service pursuant to the shipper's order to the time of completion of the last trip under such order. "Trip" for the purpose of this item shall be deemed to embrace movement in both directions, namely, loads from point of origin to destination and empty from point of destination to the same point of origin. (See Note 1.)</p> <p>*NOTE 1.-In computing time for assessing hourly rates, allowances may be made for delays occasioned due to failure of dump truck equipment or due to time taken out for meals.</p> <p>#NOTE 2.-"24-hour period" shall be deemed to be a period of 24 hours computed from 12:01 a.m. on the date on which the carrier reports for service under the initial shipper's order. For service performed for the same shipper after the termination of the 24-hour period, a new shipper's order shall be issued and a new 24-hour period shall run.</p>
<p>*300-C Cancels 300-B</p>	<p style="text-align: center;">INTERTERRITORIAL MOVEMENTS</p> <p>(a) Where the movement originates within the Southern Territory of the State and terminates within the Northern Territory of the State, the hourly rates applicable shall be those set forth in Item No. 365.</p> <p>(b) Where the movement originates within the Northern Territory of the State and terminates within the Southern Territory of the State, the hourly rates applicable shall be those set forth in Items Nos. 360, 361 and 362.</p>
<p>310-B Cancels 310-A</p>	

INTERDISTRICT MOVEMENTS

1. Northern Territory is divided into districts as follows:

(a) Bay Area District consists of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano and Sonoma Counties.

(b) El Dorado District consists of Alpine, Amador, Butte, Calaveras, Colusa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Mariposa, Mendocino, Merced, Modoc, Monterey, Nevada, Placer, Plumas, Sacramento, San Benito, San Joaquin, Santa Cruz, Shasta, Siskiyou, Stanislaus, Sutter, Tehama, Trinity, Tuolumne, Tulare, Yolo and Yuba Counties.

(c) Kern District consists of Kern County.

(d) San Luis Obispo District consists of San Luis Obispo County.

2. When dump truck equipment moves in two or more districts during one day's engagement at hourly rates, the rate applicable shall be that for the district within which the unit of dump truck equipment and driver reported for service pursuant to the shipper's order.

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* Change)
Addition) Decision No. 56682

EFFECTIVE JUNE 8, 1958

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

Correction No. 626