

ORIGINAL

Decision No. 63697

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. 79
Filed December 5, 1961

Joseph T. Enright, for Rodeffer Industries, Inc.,
petitioner.

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

E. O. Blackman, for the California Dump Truck
Owners Association, Inc., interested party.

Waldo A. Gillette, for Monolith Portland
Cement Co., interested party.

R. A. Lubich and Carl B. Blaubach, for the
Commission's staff.

O P I N I O N

At issue in this phase of Case No. 5437 is a question of the rates that should apply as minimum rates for the transportation of the ingredients of concrete in rubberized bags when said transportation is performed by for-hire carriers by means of dump truck equipment. The hourly rates in Minimum Rate Tariff No. 7 for dump truck transportation performed under power loading conditions have been heretofore designated as the applicable minimum rates (Decision No. 63402, dated March 13, 1962). However, petitioner herein,

Rodeffer Industries, Inc., contends that lower hourly rates which the tariff provides for transportation performed under bunker loading conditions should apply instead. Petitioner alleges that the costs of the services involved justify the application of the lower rates.

Public hearings on petitioner's contentions were held before Examiner C. S. Abernathy at Los Angeles on January 29 and 30, 1962. Evidence was presented by petitioner's president, by an engineer of the Commission's staff who was called as a witness for petitioner, and by two for-hire dump truck carriers. Representatives of the California Dump Truck Owners Association, Inc., of the California Trucking Associations, Inc., and of the Commission's staff participated in the examination of the witnesses. The matter was taken under submission on February 9, 1962, after the receipt of a late-filed amendment to the petition.

The Commission engineer testified in substance that in connection with an earlier phase of this general proceeding which resulted in the establishment of the present bases of hourly rates he had undertaken to study and report on the costs of dump truck transportation under power loading and bunker loading conditions respectively; that his studies had disclosed that under the wage agreements then in effect the basic wage rates for drivers operating dump trucks under power loading conditions were $34\frac{1}{2}$ to $54\frac{1}{2}$ cents per hour higher than the wage rates of drivers operating corresponding vehicles under bunker loading conditions; and that the costs which he had developed and reported reflected these wage differentials.

One of the carrier witnesses who testified, a witness who was called on petitioner's behalf, stated that he has been, and is,

transporting the bags of the ingredients of concrete for petitioner, and he testified concerning his experience in performing such transportation. He said that the filled bags are loaded onto his vehicles by crane and they are unloaded by dumping. He said that in order to facilitate the dumping procedure he had modified the equipment used (a truck and trailer combination) at a cost of about \$150 so as to provide necessary unloading clearance for the filled bags. Regarding his wage payments to his drivers in connection with this transportation, he indicated that under the wage agreement that applies to his operations his payments are at the level the same as, or substantially the same as, the level of wages which applies for dump truck drivers engaged in the transportation of rock, sand and gravel from rock products plants in the Los Angeles area.¹

The witness said that in addition to transporting the ingredients of concrete in the rubberized bags he also transports rock, sand and gravel in bulk. He stated that the transportation of the latter materials is performed, for the most part, during normal working hours during the day whereas the transportation of the concrete ingredients in bags can be, and is, performed during other hours also. Thus, the transportation of the material in the rubberized bags enables him to operate his equipment when it would be idle otherwise.

The other carrier witness who testified was called by the California Dump Truck Owners Association, Inc. This witness

¹ The wage scale to which the witness referred is that which has been identified heretofore as the scale for the drivers of dump truck vehicles being operated under bunker loading conditions.

likewise testified concerning experience which he has had in the transportation of the bags of the ingredients of concrete. He said that the shipments which he has transported have included deliveries over rough and hilly terrain to relatively inaccessible locations; that the physical difficulties in making these deliveries have resulted in abnormal wear to his equipment; that his equipment has been damaged in the loading operations; that whenever he performs the transportation, he first must remove the tail gates from his vehicles in order to obtain dumping clearance for the filled bags, and that the removal and subsequent replacement of the tail gates is an operation which requires about two hours' time. The witness said that these difficulties do not apply in corresponding degree to the delivery of rock products in bulk. As a consequence he was of the opinion that the transportation of the bags of the ingredients of concrete is a more costly service to perform than is the transportation of rock products generally.

² According to evidence which was submitted by petitioner's president in rebuttal to the testimony of this witness, the transportation of bags of the ingredients of concrete to destinations which are located in rough or hilly terrain constitutes only a small portion of the total transportation involved. He said that most of the deliveries are to locations in the Los Angeles general area which are the same as those now being served in the delivery of concrete by transit-mix vehicles. Regarding the equipment damage to which the witness referred, petitioner's president said that modifications have been made in the bags so as to eliminate a source of the damage. He said that in other respects, insofar as petitioner's loading facilities are concerned, improvements are being made to obtain more positive control over the cranes used in order to eliminate damage resulting from lowering the loaded bags into the vehicles too abruptly.

The representative of the California Dump Truck Owners Association, Inc., argued against the application of the bunker loading rates to the transportation in question. He stated that the position of the Association is that in light of experience to date, the rates which apply under power loading conditions are properly applicable to said transportation; that they are justified by the costs of the services provided, and that they should be continued in effect until sufficient grounds have been developed for a further evaluation of the rates in relation to the circumstances in which the transportation is performed.

Although this phase of Case No. 5437 was initiated for the purpose of determining whether the bunker loading rates, instead of the power loading rates, should apply to the transportation of the ingredients of concrete in rubberized bags, a further question which arose during the course of the hearings is whether the commodities to which the rates would apply are sufficiently defined by the tariff provisions that were established by Decision No. 63402. It was developed that the ingredients of concrete include lightweight aggregates such as cinders or vermiculite. However, references to these items are not included in the listing of the materials which said decision designates as ingredients of concrete. It was developed, moreover, that the ingredients of plaster and mortar are also being shipped in the rubberized bags and that the present provisions do not extend thereto, notwithstanding the fact that plaster, mortar and concrete are related commodities.

In order that the descriptive provisions of the tariff conform to the needs of the services which are being provided,

petitioner asked that the provisions involved be revised to read as follows:

"Concrete, mortar or plaster: Ingredients of, in batches, in nylon-corded rubberized bags."

Petitioner's proposals in this respect were not opposed.

Discussion, Findings and Conclusions

The transportation of the ingredients of concrete in rubberized bags to job sites where the ingredients are mixed into concrete is a recently developed method of delivering concrete to points of use. Various advantages which are afforded thereby to producers and users of concrete have been reviewed in decisions in earlier phases of this general proceeding wherein the transportation has been considered and discussed (Decisions Nos. 62293 and 63402). A further advantage which appears on this record is that which accrues to the carriers whereunder the carriers are able to realize increased usage of their equipment as a consequence of the fact that in making the deliveries involved they are not limited to those which they may make within normal working hours.

The designation of the power loading hourly rates in Minimum Rate Tariff No. 7 as minimum rates for the aforesaid transportation was a step which was taken as an interim measure pending further investigation as to whether the bunker loading rates should apply. It is evident from the showing which petitioner has made in the present phase of this proceeding that the labor costs that apply to the transportation of the ingredients of cement in the rubberized bags are lower than those which are generally applicable to the

transportation that is subject to the power loading rates. It is evident, also, that the direct wage costs which apply for drivers employed in the transportation of the ingredients of cement in the rubberized bags are the same or virtually the same as the wage costs for drivers employed in transportation under the bunker loading rates. It appears, furthermore, that if the costs of the so-called fringe benefits which apply in addition to the direct wage costs are taken into account, the differences between the wage costs for drivers in the transportation performed under power and bunker loading conditions respectively are substantially the same as the differences between the power loading and bunker loading rates.

The contentions and evidence of the California Dump Truck Owners Association, Inc., that the costs of transporting the bags of the aforesaid materials are higher than the costs of other transportation are not sufficient to controvert the evidence concerning the lower wage rates that apply. It appears, moreover, that the increase in vehicle use factor which the carriers may attain in the transportation of the bags of the ingredients of concrete, mortar and plaster would result in expense reductions which would tend to offset the cost increases alleged by the California Dump Truck Owners Association, Inc.

In the circumstances we find and conclude that the lower labor costs justify the designation of the bunker loading rates as the just, reasonable and nondiscriminatory minimum rates for the transportation of the ingredients of concrete in the rubberized bags. We find and conclude, moreover, that the inclusion of the ingredients of mortar and plaster in the listing of materials that may be transported in the bags at the bunker loading rates is

likewise reasonable, and will result in just, reasonable and nondiscriminatory minimum rates for the services involved.³

The rate changes which will be made in Minimum Rate Tariff No. 7 as a consequence of petitioner's proposals in this matter will be limited in territorial scope to that portion of the State to which the tariff refers as "Southern Territory" and which, for the most part, is comprised of the area that lies to the south of the Tehachapi Mountains. The changes which petitioner seeks would apply statewide. However, petitioner's showing of wage costs was confined to the costs that apply in Southern Territory and does not provide a basis for prescribing the sought changes in Northern Territory.

O R D E R

Based on the evidence of record and on the findings and conclusions contained 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 June 30, 1962, Eighth Revised Page 41, which page is attached hereto and by this reference is made a part hereof.

³ The transportation of the ingredients of concrete, mortar and plaster in the rubberized bags also entails the return of the emptied bags. Present tariff rules provide for the return of the bags at the hourly rates that apply to the outbound movements. The findings and conclusions herein concerning the rates to be applied to the movement of the filled bags of material also apply to the return movements of the emptied bags.

2. In all other respects said Decision No. 32566 as amended shall remain in full force and effect. ✓

3. Except as is otherwise provided herein, Petition No. 79 in Case No. 5437 be, and it hereby is, denied. ✓

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

Dated at San Francisco, California, this 14th day of MAY, 1962.

Cecil W. Beane
President
D. L. ...
S. Leo Fox
George J. ...
Fredrick B. Halbach
Commissioners

Item No.	SECTION NO. 4	HOURLY RATES (Continued)
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COMMODITIES

Rates in this Section apply to the transportation of the following commodities:

Ash, volcanic;
 Barium, clay or silicate mud compounds, dry, oilwell drilling;

Cinders;
 Clay;
 Clinker, cement;
 Concrete, asphaltic (commonly called "Hot Stuff");

/*Concrete, mortar or plaster: ingredients of, in batches, in nylon-corded rubberized bags; (2)

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Concrete, premixed, wet;
 /*Containers, empty, used, viz.: empty, used, nylon-corded rubberized bags being returned from an outbound trip in which they moved containing batches of the ingredients of concrete, mortar or plaster; (2)

Cullet (glass, broken or crushed);

Debris:
 From street or highway maintenance;
 From demolition of buildings and structures;

Earth;

Fertilizer;

Fodder: Chopped green corn and sorghum grain plants, including heads, stalks, and leaves;

Granite, decomposed;
 Gravel;
 Loam;
 Manure;
 Mixture, cold road oil (commonly called "Plant Mix");

Mud, dry, oilwell drilling;
 Ore;

Pumice;
 Salt cake (crude sulphate of soda);

Sand;
 Sand, crushed stone and gravel, mixed dry;

Scoria, volcanic;

Shale;

Slag;

Slurry (mixed sand, dust, crushed stone and/or gravel, wet); (1)

Soapstone, crude, blocks, pieces or slabs, rough quarried or not further finished than sawed or chipped on four sides;

Stone:

Crushed, chips, waste;
 Natural, blocks, pieces or slabs, rough quarried, or sawed, not further finished;

Talc, crude, blocks, pieces or slabs, rough quarried or not further finished than sawed or chipped on four sides.

(1) Applies only in Northern Territory.

/* (2) Subject to Column "A" rates when transportation is performed within or from Northern Territory and to Column "C" rates when transportation is performed within or from Southern Territory.

* Change)
 /* Addition) Decision No. 63697

EFFECTIVE JUNE 30, 1962

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

Correction No. 950