

ORIGINAL

Decision No. 69567

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)	Case No. 5437
all common carriers, highway carriers)	(Order Setting Hearing dated
and city carriers relating to the)	April 21, 1964)
transportation of sand, rock, gravel)	and
and related items (commodities for)	Case No. 5437
which rates are provided in Minimum)	Petition for Modification
Rate Tariff No. 7).)	No. 108
)	(Filed October 16, 1964)

(Appearances are shown in Appendix A)

O P I N I O N

On April 21, 1964, the Commission issued an Order Setting Hearing for the receipt of evidence concerning rules in Minimum Rate Tariff No. 7 including, but not limited to, rules governing alternation of rates, computation of time, overtime and related tariff provisions. Twelve days of hearing were held before Examiner Mallory in July, September, October, and December, 1964 and February, 1965 at Los Angeles and San Francisco.

Petition No. 108, filed by the California Dump Truck Owners Association, seeks the cancellation of the mileage-tonnage rates on commodities other than lightweight aggregates between points in Southern Territory. Public hearing in this matter was held before Examiner Mallory in December, 1964 and February, 1965, on a common record with Order Setting Hearing dated April 21, 1964. The matters were submitted on February 11, 1965, subject to the filing of closing statements by March 5, 1965.

ORDER SETTING HEARING

Evidence was presented on behalf of the Commission's Transportation Division staff, the California Dump Truck Owners Association, the Independent Truck Owner-Operator Union, the California Trucking Association, the Rock, Sand and Gravel Producers of Northern California, and several truckers. Many other interested parties participated through examination of the witnesses for the aforementioned parties. The California Fertilizer Association opposed any change in the application of the tariff which would have the effect of establishing minimum rates on fertilizers and manures in Southern Territory. Southern California Rock Products Association and California Asphalt Plant Association protested establishment of rules relating to nonalternation of hourly and zone rates in Southern Territory.

Application of the Tariff

Minimum Rate Tariff No. 7 names minimum rates for the transportation of earth, rock, sand and gravel; asphalt concrete (hot stuff); cold road oil mixture (plant mix); and other related commodities in bulk in dump truck equipment. The tariff provides separate scales of rates applicable to two major geographical areas of the State, namely, Southern Territory and Northern Territory.^{1/}

^{1/} Southern Territory includes the Counties of Santa Barbara, Ventura, Los Angeles, Orange, San Diego, Imperial, San Bernardino, Inyo and Mono. Northern Territory includes all other counties in the State.

Within each territory the tariff provides three types of rates: hourly rates, mileage rates in cents per ton, and rates from defined production areas to defined delivery zones in cents per ton.^{2/} In Southern Territory zone rates (Section 3), where established, or mileage rates (Section 2) are applicable, unless notice is given to the carrier of the shipper's intention to ship under the hourly rates (Section 4). In Northern Territory, zone rates (Section 3), where established, must be applied to the exclusion of other types of rates; otherwise hourly rates (Section 4) are applicable, unless notice is given to the carrier in writing of the shipper's intention to ship under distance rates in Section 2. The tariff provides that mileage rates are to be based upon the actual mileage via route of movement from origin to destination. Hourly rates are to be constructed by determining the total actual number of hours from the time the equipment and driver report for service pursuant to the shipper's order to the completion of the last trip under such order (Southern Territory) or to the completion of service under such order (Northern Territory). "Trip", for the purpose of computation of time in Southern Territory, is deemed to embrace movement in both directions, loaded and empty. In Northern Territory, "shipper's order" is deemed to embrace service during not more than one 24-hour period, and "completion of service" means that the driver and unit of equipment are released by the shipper from further service during

^{2/} Revised minimum rates from production areas to delivery zones and from production areas to specified delivery points for movements within defined portions of Los Angeles, Orange, Riverside, San Bernardino, Santa Barbara, and Ventura Counties have been established in a new tariff which will supersede Minimum Rate Tariff No. 7. (Decision No. 68543, dated February 3, 1965, in Case No. 5437, Petition No. 48, and Order Setting Hearing dated March 24, 1959.)

the same 24-hour period. There are numerous other rules governing the application of rates, many of which differ in Southern and Northern Territories.

Staff Evidence - Enforcement Problems

Evidence concerning enforcement difficulties encountered by the Commission staff under the present provisions of Minimum Rate Tariff No. 7 was presented by an associate transportation representative of the Commission's Transportation Division Field Section staff. This witness testified concerning a study he had made of approximately 100 files developed by other transportation representatives involving the operations of dump truck carriers throughout the State. From these files he extracted 25 examples of situations which appeared to result in violations of the tariff but, assertedly, because of the lack of requirements in the tariff, sufficient information was not maintained by the carriers in their records to determine whether tariff violations existed. The most frequent example was the use of spurious so-called "hourly conversion" rates. The witness testified that many carriers and shippers engage in the practice of converting agreed tonnage rates to hourly rates, both in Northern and Southern Territories, without the proper computation of hourly time being made; that in such cases carriers usually enter into an agreement with the shipper to the effect that transportation charges will be based upon agreed tonnage rates or the minimum hourly rate, whichever produces the greater revenue, and that agreed tonnage rates are always less than minimum hourly rates. The witness stated that experience has shown that carriers do not base the hourly-rate conversion on actual time factors but instead use one of two basic methods for computing time.

One method, he represented, is to determine the total transportation charges on the basis of depressed tonnage rates; the resulting figure is divided by the applicable hourly rate to arrive at the corresponding number of hours worked, which provides the basis for arriving at the desired transportation charges. The second method, he asserted, is for shippers to predetermine running times for certain jobs or hauls. The witness stated that carriers are instructed to use these times in computing transportation charges under hourly rates, and that time factors obtained by either method are usually shown in carriers' shipping documents as the record of actual hours worked. The witness stated that sufficient information could not be gathered by the transportation representative to establish affirmative proof that a violation existed, nor to establish the proper charges under the tariff.^{3/}

The witness also testified concerning the computation of time factors for hourly rates. The witness stated that if specific time factors are to be applied properly and in conformity with the rules of the tariff, carriers must record the precise starting time at the beginning of the day, as well as the concluding time computations at the end of the day. His study disclosed that carriers frequently ignore the shipper's order requirement and are computing hourly rates from the time the truck weighs out loaded to the time the truck returns for the next trip, disregarding any other elapsed

^{3/} The witness testified that in certain cases staff transportation representatives had determined actual time factors by following vehicles; but that such enforcement practices are unfruitful because of the time and expense involved, and because spurious time factors were continued to be used when surveillance ceased.

time for the first or subsequent trips. He stated that in some instances carriers have alleged that each trip constitutes a separate shipper's order even though equipment is requested for a full day's work. The witness stated that carriers frequently are required to wait in line to load or unload. The witness asserted that the practice of the shipper releasing the carrier at the conclusion of a single trip with the understanding that he will be rehired at the time the second or subsequent load is physically tendered to him avoids the payment for standby time occurring between hauls during a single engagement. The witness asserted that revision of the rules governing computation of time is necessary in order that all of the time be shown in the carrier's records.

The Field Section witness also gave examples of hauling under hourly rates wherein the hours used to compute freight charges were less than the actual number of hours worked. These violations were detected by surveillance of the truck operations over a period of several days by transportation representatives of the Commission staff. The witness asserted that under current tariff provisions it would require constant visual observation of dump truck transportation performed under hourly rates to develop actual time factors to offset the synthetic data frequently shown on a carrier's billing, and the extensive visual observations of this magnitude are impractical because of staff limitations. The witness stated that the examples to which he testified were the most pressing problems in the enforcement of Minimum Rate Tariff No. 7; that other enforcement problems existed; and that the other problems were of lesser importance in the opinion of the Transportation Division Field Section staff.

Carrier Evidence - Rate Violations

Several witnesses now engaged in or previously engaged in the transportation of earth, rock, sand, gravel, and asphaltic concrete testified concerning operations conducted by them under the provisions of Minimum Rate Tariff No. 7. Each witness owned and operated one unit of dump truck equipment. These witnesses stated that in certain instances shippers or overlying carriers informed them of the rates which the carriers would be paid, and that they were advised by the shippers or overlying carriers to bill upon the basis of hourly rates and record on their time sheets the number of hours which would produce total charges not in excess of the predetermined rates. The record indicates that the carriers complied with these instructions for the purpose of obtaining or retaining employment.

Staff Proposals

An associate transportation rate expert of the Commission's Transportation Division Rate Branch staff presented an exhibit containing proposed rules designed to make the application of the tariff more certain and to alleviate what the witness understood to be the major problems of enforcement. This witness proposed revised or added rules to:

1. Require that the notice to use hourly rates in Southern Territory or to use the mileage rates in Northern Territory be in writing, be signed by both carrier and shipper, and contain all data necessary for determination of the applicable minimum rates and charges.
2. Provide for the nonalternation of hourly and zone rates in Southern Territory by restricting the hourly rates so that such rates will not apply where specific zone rates have been established.

3. Provide that mileage tonnage rates in Section No. 2 will apply both in Northern and Southern Territories unless hourly rates have been based upon time factors computed in the manner set forth in Section No. 4.

4. Strengthen the provisions of Item No. 300 relating to computation of time under the hourly rates:

- (a) By requiring that the shipper's order shall be in writing, specifying the time the truck and driver are ordered to report for service;
- (b) By providing that a single shipper's order (Northern Territory), or written agreement (Southern Territory) will apply for all service of a driver with truck during a period of at least 24 hours; and
- (c) By revising the provisions governing computation of time for the last trip to include the return of the empty vehicle.

5. Clarify the Southern Territory hourly rate provisions concerning the assessment of overtime wages for defining the term "periods in excess of 8 hours in any one shift".

The rate witness testified that the revision or addition of the rules as proposed by him is necessary to make the provisions of the tariff more definite, certain and enforceable. The witness stated that he had made no independent study of the practices of shippers and carriers in connection with the transportation of bulk materials in dump truck equipment, nor the effect upon shippers and carriers of the rules proposed by him. The witness stated that his study was confined to the areas wherein the Commission staff had found difficulties in the enforcement of the provisions of Minimum Rate Tariff No. 7, and no study or analysis was made of other tariff rules.

Written Agreement

Opposition to the staff proposals was directed to the difficulties which may be encountered by shippers and carriers in complying with the proposed tariff rules and with the possibility of unjust and unreasonable results insofar as shippers are concerned. Particular emphasis was made concerning the difficulty of complying with the requirements of the proposed written agreement for the use of hourly rates in Southern Territory or mileage-tonnage rates in Northern Territory.

With respect to hourly rates in Southern Territory, a separate written agreement would be required whenever the consignee, the commodity, the point of destination, or type of loading were different from that stated in the original written agreement covering a single 24-hour period. The record indicates that for various reasons the shipper cannot always determine at the beginning of any 24-hour period the quantities and locations of the materials which will be sold by rock producers or asphaltic concrete producers during such period. The staff rate witness testified that separate written agreements would be required in this situation for the use of hourly rates for hauls for one producer during a single calendar ^{4/} day.

Other situations were developed wherein the proposed written agreement would not fit practices in the dump truck industry and would appear to be burdensome on shippers and carriers. One such situation is the requirement that the written agreement be

^{4/} The entry into more than one written agreement with the same shipper during a single 24-hour period, as required in this situation, appears to be contrary to the witness' proposal that "The minimum period of duration of any single written agreement shall be 24 hours, irrespective to the number of trips performed or the number of engagements made during such 24-hour period."

executed at the time of or prior to the commencement of the transportation. In many cases, the record shows, trucks are dispatched by telephone to locations for loading without the shipper and carrier knowing at that time the precise location at which the property is to be unloaded; and the carrier's driver receives instructions at the loading point as to where the property is to be delivered. In the event the written agreement is not completed properly or is otherwise deficient, the staff proposal would require that tonnage rates be assessed.

The position of the San Diego County Rock Producers Association is that the entire penalty for failure to keep all the detailed information required in the staff proposal would fall upon the shipper through the payment of mileage-tonnage rates in lieu of hourly rates, although the failure to keep adequate records was that of the carrier.

The California Trucking Association (CTA) represented that the burden of the requirements should be placed on the carrier rather than on the shipper, except for such notices as may be necessary to determine the application of an alternative rate. The Commission's enforcement powers are confined to the carriers. Failure or neglect of the carrier to record facts, to prepare documents, or to preserve records may be dealt with by punitive order of the Commission. Failure or neglect by the shipper cannot be dealt with by direct action and merely confuses the problem of enforcement against the carrier. Also, burdensome requirements placed on the shippers tend to develop shipper resistance with consequent detriment to carriers.

The California Dump Truck Owners Association (CDTOA) asserted that both carriers and shippers would find it difficult,

if not impossible, to predetermine all of the required information under the staff proposals. CDTOA urged the adoption of rules (such as it proposed) which seek to achieve compliance through strict enforcement of freight bill documentation requirements, rather than compliance through undercharge penalty actions as advocated by the staff.

Based upon the foregoing, we find that the staff proposals concerning the written agreement for use in Northern Territory of mileage-tonnage rates in Section No. 2, or for the use in Southern Territory of hourly rates in Section No. 4 would not provide reasonable and nondiscriminatory rules to govern the application of the rates in Minimum Rate Tariff No. 7. We conclude that such proposed rules should not be adopted.

Nonalternation of Zone and Hourly Rates

Concurrently with this proceeding, the Commission received evidence in Case No. 5437, Petition No. 48 and Order Setting Hearing dated March 24, 1959, concerning the complete revision of production area-delivery zone rates in the so-called core area of Southern California^{5/} in two phases; one phase covering the transportation of rock, sand and gravel, and the other covering asphaltic concrete and cold road oil mixture. Involved in those proceedings was the question whether the zone rates under consideration therein should alternate with the hourly rates in Minimum Rate Tariff No. 7. In the rock, sand and gravel phase (Decision No. 68543, supra), it was found that a new tariff should be issued, and that the rates in the

^{5/} The "core area" covers the metropolitan portions of Los Angeles, Orange and San Bernardino Counties. Also under consideration in these proceedings are zone rates for Santa Barbara and Ventura Counties.

new tariff should apply to the exclusion of rates in Minimum Rate Tariff No. 7. Portions of the record in the instant phase (Order Setting Hearing, dated April 21, 1964) were incorporated in the record in the phase dealing with core-area zone rates for asphaltic concrete and cold road oil mixture.^{6/}

Remaining for consideration in the instant proceeding is the staff proposal that hourly rates should not alternate with zone rates in that portion of Southern Territory outside of the area covered by the proceedings described in the preceding paragraph. Zone rates have been prescribed outside that territory only in the Antelope Valley region of Los Angeles County and in the northern portion of San Diego County.^{7/} CTA and CDTOA supported this proposal. It was opposed by the California Asphalt Plant Association.

The record is clear that zone rates, where applicable, reflect more closely the costs and other economic factors surrounding the specific commodities to which they apply than do hourly rates applicable to all commodities governed by Minimum Rate Tariff No. 7. Moreover, zone rates can be more accurately and simply determined than hourly rates, inasmuch as the factors necessary to determine zone rates do not vary with each haul as they do with hourly rates.

^{6/} Examiner C. S. Abernathy's Proposed Report, dated March 4, 1965, in the asphaltic concrete and cold road oil mixture phase of Order Setting Hearing, dated March 24, 1959, and Petition No. 48 recommends that zone rates on those commodities apply to the exclusion of hourly or mileage rates.

^{7/} Subsequent to initial hearing in the instant proceeding, Petition No. 106 in Case No. 5437 was granted, canceling, effective November 7, 1964, the zone rates in southern San Diego County (Decision No. 67934, dated September 30, 1964).

We find that the proposed nonalternation of zone rates with hourly rates will result in reasonable minimum rates and charges. In the circumstances, we find that the zone rates heretofore described as within the scope of this proceeding should not alternate with hourly rates prescribed within Southern Territory.

Utilization of Mileage Rates

The rate witness proposed that unless actual time factors are computed, recorded and utilized as a basis for determining hourly charges, as specified in Section 4 of Minimum Rate Tariff No. 7, mileage-tonnage rates in Section 2 of that tariff shall apply. The rate witness explained that this proposal would provide a basis for charges under the tariff when the staff has determined that spurious time factors have been applied to movements under hourly rates. The rate witness stated that this proposal was specifically aimed at the asserted use of depressed mileage-tonnage rates converted into hourly rates through use of spurious time factors, or use of predetermined time factors to defeat the minimum rates.

The evidence shows that the main difficulty encountered by the staff in enforcing the collection of the applicable hourly rates is the establishment, after transportation has been performed, of the correct time factors when synthetic time factors have been applied. The Field Section witnesses conceded that even if the rules governing the hourly rates proposed by the staff were adopted, correct time factors could not be established without surveillance of all equipment movements by the staff. For this reason, the staff proposed that the mileage-tonnage rates apply when actual time factors cannot be established. A formal determination by the Commission appears to be required in each instance where it becomes

necessary to invoke the mileage-tonnage rates as an alternative to the charges collected by the carrier. According to the staff witnesses, even minor infractions of their proposed rules could force the application of mileage-tonnage rates.^{8/}

The real purpose that would be served by this proposal of the rate witness would be to provide a basis of charges under the tariff when it has been proved that spurious time factors have been applied. The staff proposal would not enforce the collection of hourly rates as such, but would substitute another form of rates for hourly rates when the latter rates were misapplied.

The staff witnesses testified that the same types of transactions could have been treated as falsification of freight bill records or failure to properly record factors necessary to determine applicable rates (freight bill violations). Freight bill violations have not ordinarily been handled in proceedings before this Commission but have been referred to the courts. The staff witnesses indicated that district attorneys and municipal courts are not familiar with the minimum rates and rules required to be observed by highway permit carriers and therefore court actions initiated by the staff have not been effective.

The two principal carrier associations in this field did not agree with the staff recommendation that mileage-tonnage rates be used as a floor when hourly rate factors cannot be determined. The associations offered substitute recommendations. Neither of the associations' recommendations would be wholly satisfactory to

^{8/} The record shows that mileage rates could be lower or higher than hourly rates correctly applied. Being on different bases, it would be only coincidence that mileage rate scales and hourly rate scales would result in the same charges on any particular transaction.

the staff. The staff witness contended that enforcement problems would still exist if either carrier association proposal were adopted. The shipper groups participating in the proceeding did not offer specific proposals, but generally opposed the staff recommendation.

We find that the staff recommendation for a rule invoking mileage rates when spurious hourly rate factors have been applied should not be adopted in Minimum Rate Tariff No. 7.

Carrier Association Proposals

CDTOA and CTA presented alternate proposals to those submitted by the Commission staff. The asserted purposes of these proposals are to make the tariff clearer and more understandable and to aid in better enforcement of the tariff provisions. Neither association concurred in the staff proposals.

Each association proposed changes in the shipping document requirements which each asserted would provide adequate record keeping for purposes of enforcement of the hourly rates. CTA proposed that distance rates apply only when the shipper issues a "distance rate notice" in writing to the carrier prior to transportation. CDTOA proposed that a written agreement be required for the use of mileage-tonnage rates.

Both associations proposed that hourly rates apply without the requirement of a written notice or agreement. These proposals were opposed by the staff. A Field Section witness testified that without a written agreement entered into at the time of or prior to

transportation under hourly rates, the staff could not determine subsequent to the performance of the transportation the time the carrier was to report pursuant to the shipper's order for service under the hourly rates.

The associations also proposed that certain definitions contained in Items Nos. 10 and 11 of the tariff be modified and that additional definitions be added. CTA and CDTOA proposed new definitions for "consignor", "consignee", and "shipper". These terms are used in the tariff and definitions therefor assertedly are necessary for clear and unambiguous tariff provisions. In addition, CDTOA proposed the modification of several of the present definitions to make them more definite and certain.

With respect to the definition for "Overlying Carrier", CDTOA proposed that term also include an underlying carrier which employs another underlying carrier. This definition now applies in Northern Territory and it would be extended to Southern Territory. "Point of Origin" and "Point of Destination" would be amended to include all locations within 300 feet of the point at which physical delivery is initiated.

CDTOA proposed that the minimum charge provisions be amended by the addition of a charge of \$15 per unit of equipment. The witness testified that collective bargaining agreements between employers and dump truck drivers in the construction industry require the payment of "show-up" time amounting to \$15 when the driver and equipment are ordered to report for service and then are released. Assertedly these agreements call for the payment of show-up time except in situations beyond the control of the shipper, such as failure of loading equipment or inclement weather. The

proposed tariff rule does not reflect all of the exclusions in the collective bargaining agreement. That agreement is indefinite and requires interpretation. Certain shippers urged that the proposed rule would favor shippers operating their own trucks as such shippers would be excluded from paying show-up time in more instances than those employing for-hire carriers.

CDTOA proposed that the computation of distance rates be changed from the "shortest distance via the actual route of movement" to the "shortest legal route between the point at which loading of a shipment is initiated and the point at which delivery of a shipment is initiated". This, assertedly, would permit carriers to transport shipments over routes which are more convenient or require less transit time than the shortest route, without penalty to the shipper. This proposal was opposed because of the asserted difficulty in determining the "legal" routes.

CDTOA also proposed that the collection-of-charges rules be amended to include a new provision requiring a penalty to be assessed when payment of the freight charges by the shipper to the carrier or by the overlying carrier to the underlying carrier is not made within the credit period specified in the tariff. The present credit rule permits the extension of credit to the twentieth working day following the end of the calendar month in which the transportation was performed. CDTOA's secretary-manager gave examples of several instances in which charges were not paid to members of his association within this period. He asserted that the credit period is longer than that provided in other minimum rate tariffs; that debtors purposely do not pay within the specified credit period in order to use as working capital the moneys due to carriers; that

efforts to collect delinquent charges cause further delays; that most carriers do not have sufficient capital to operate without receipt of their freight charges within the specified credit period; and that a penalty provision would insure prompt payment of the charges within the specified credit period and is essential to the financial well-being of the dump truck carriers he represents.

The CDTOA witness proposed that a penalty of ten percent of the unpaid charges be imposed. In justification of this amount, he asserted that collection costs through employment of collection agencies or through civil court suit amounts to 25 percent or more of the unpaid charges, and that a ten percent penalty would be less than the alleged costs of collection. No evidence was presented as to the specific amounts of collection costs. Certain of the parties and the Commission staff oppose the penalty provisions. The parties, other than the staff, urged that shippers could be subjected to the penalty charge through inadvertence. The staff opposed the penalty charge because it would add an additional factor in the determination of the applicable minimum rates in enforcement proceedings. The date on which the freight charges were paid must be determined in order to establish whether the penalty provisions should be invoked. The staff witness stated that often such determination would be difficult because of insufficient records or lack of records.

CDTOA also proposed that the credit period be changed to the 15th day after the end of the calendar month in which the transportation was performed. This, assertedly, would shorten the credit period and would make certain the date upon which freight charges are due. This proposal was not opposed.

CDTOA proposed the cancellation of the scales of Northern Territory hourly rates applicable for overtime and holiday service and the substitution therefor of a single additional amount per hour for all sizes of vehicles. The result of this proposal would be an increase in overtime and holiday rates for smaller units of equipment and a decrease in such rates for equipment of larger capacity. The proposed additional rates for overtime and holiday work assertedly represent the average of overtime and holiday wage scales applicable in Northern Territory. The witness stated that this proposal was for the purpose of achieving uniformity of the provisions in question with those in Southern Territory and to simplify the application of the tariff. The witness asserted that many members of his association work in both Southern Territory and in Northern Territory and find the Southern Territory method of assessing such charges simpler to determine and apply. The secretary-manager of the Rock, Sand and Gravel Producers Association of Northern California opposed this proposal because of the increase in rates involved.

Other proposals made by the parties are supplementary to the proposals described in detail herein. Largely they were unopposed. All rule proposals have been carefully considered.

The definitions, rules and accessorial charges provided in Minimum Rate Tariff No. 7 should be made uniform, to the extent possible, with those adopted by the Commission to govern the new minimum rate tariff of zone rates in the so-called core area of Southern California.

In addition to the preliminary findings made herein, we find as follows:

1. The proposal that the application of hourly rates be made uniform in Southern Territory and Northern Territory by making the hourly rates applicable in Southern Territory without the issuance of a written agreement for use of hourly rates is reasonable and should be adopted.

2. Hourly rates in Section No. 4 of the tariff should apply from the time the driver and equipment report for service until completion of the last trip during a single 24-hour period. Time for the last trip should be computed on the basis of double the time which elapsed during the period following completion of loading to completion of unloading.

3. Rates no lower than the applicable hourly, mileage-tonnage, or zone rates should be quoted and assessed; and rates should not be quoted or assessed by carriers based on a unit of measurement different from that in which the minimum rates and charges in the tariff are stated for the type of shipment being rated.

4. A "distance rate notice" as set forth in tariff pages accompanying the ensuing order should be required for use in both Southern Territory and Northern Territory of distance rates in Section No. 2 in lieu of hourly rates in Section No. 4 of the tariff.

5. The proposal that a \$15 charge be added to the current minimum charge for service under hourly rates would be discriminatory in that such additional charge would not apply in the same circumstances that a driver would be recompensed for show-up time

under current collective bargaining provisions and, therefore, this proposal has not been shown to be justified.

6. The proposal that a ten percent penalty be added to the charges required to be collected under the tariff when freight charges are not paid within the credit period specified in the tariff has not been shown to be justified. It has not been shown that carriers usually or ordinarily must resort to civil court action to collect such charges; nor was it shown by competent evidence the costs of prosecuting such a civil court action. There are no facts in the record substantiating the reasonableness of the amount of the proposed penalty for delayed payment of charges.

7. The proposal that present rate scales be canceled for service in Northern Territory under overtime and premium time hourly rates, and that an hourly charge for overtime or premium time be established as an additive in lieu thereof is beyond the scope of this proceeding, as it involves a substantive revision of rates (rather than rules) and, therefore, should not be adopted.

8. The proposal that distances be computed via the shortest legal route between origin and destination has not been shown to be justified.

9. Revised rules, definitions and related provisions set forth in the tariff pages accompanying the order herein will be reasonable and are justified.

10. Other proposed amendments to Minimum Rate Tariff No. 7 have not been shown to be justified and should not be adopted.

Hourly rates in Southern Territory will be revised in the order which follows to eliminate the requirement that a written notice be issued by the shipper to the carrier of the shipper's

intention to ship under said hourly rates. Representatives of the California Fertilizer Association and several manufacturers and distributors of fertilizer represented that fertilizers and manures are now subject to hourly rates, but not mileage rates in Southern Territory; that shippers of fertilizers and manures uniformly have not executed written notices for use of said hourly rates; that in the absence of such agreements no effective minimum rates have been in effect for the transportation of fertilizers and manures in Southern Territory; that shipments of fertilizers and manures have been transported for the past several years at negotiated rates; and that said association and the manufacturers and distributors of fertilizers and manures desire that they continue to be able to negotiate rates for transportation of fertilizers in Southern Territory should the aforementioned rule changes be adopted by the Commission.

Since submission of the instant proceeding, California Fertilizer Association filed Petition for Modification No. 113, in Case No. 5437, on March 8, 1965. This petition seeks the deletion of the commodities "fertilizer" and "manure" from Item No. 320 of Minimum Rate Tariff No. 7. Deletion of these commodities from Item No. 320 would cancel hourly rates on fertilizers and manures in both Southern and Northern Territories. It appearing that detailed evidence will be adduced in Petition No. 113 dealing with the necessity, propriety and reasonableness of the minimum rates for transportation of fertilizers and manures in bulk in dump truck equipment on a statewide basis, there appears to be no need to rule herein on the request of the California Fertilizer Association with respect to rates in Southern Territory. The tariff pages

accompanying this order will be made effective on October 16, 1965. In the interim consideration may be given to the proposals in Petition No. 113.

This leaves for consideration the type of enforcement action, if any, which can be taken to alleviate the problem of rate conversion described by the staff witnesses. As hereinbefore stated, several carriers testified concerning instances in which they were required to observe rates other than tariff rates, and to falsify their shipping documents to show that hourly rates were assessed. Without exception these carriers had little or no knowledge of the provisions of Minimum Rate Tariff No. 7, nor of their obligations as highway permit carriers to bill and collect the correct minimum rates.

Shipping document violations involving falsification are not susceptible to correction through establishment of additional tariff rules. Such violations can be corrected only through enforcement action directed to imposition of fines or suspensions for such infractions, rather than through undercharge procedures heretofore used by the staff.

The Commission staff concedes that it could treat spurious hourly rate conversions as freight bill violations, rather than prosecute such violations as undercharge actions. From the record it appears that the staff can readily determine and establish the proof that carriers have falsified their shipping documents but, in most instances, cannot prove the correct amount of the undercharges.^{9/} The Commission can impose fines or

^{9/} See In re Standard Freight Lines, Decision No. 68846, dated April 6, 1965, in Case No. 7896.

suspensions for known falsification of shipping documents to obtain transportation at less than the minimum rates, without a determination of the exact amount of undercharges existing on the transaction. The Commission recognizes the seriousness of these types of violations and will institute a policy of punishing violators by the imposition of heavy fines or suspensions.

PETITION NO. 108

Petitioner's secretary-manager, an accountant, and several truckers testified in support of the petition. Their testimony is summarized in the following statements. There is little use of tonnage rates in Southern Territory for the principal commodities subject to said rates (processed aggregates, earth, sand, decomposed granite, asphaltic concrete and cold road oil mixtures). The movement of such commodities is under zone rates (in cents per ton) or hourly rates.^{10/} Some 3,000 dump truck carriers were polled on their use of mileage-tonnage rates and the need for retention of such rates. The replies of those engaged in construction work showed little need of such rates and were predominantly in favor of cancellation.

Zone and hourly rates have been subjected to periodic adjustments, but mileage-tonnage rates have not been adjusted since 1953. Assertedly, there have been many changes in carrier costs of operation, trucking equipment and operating practices since that date. Therefore, it was represented that mileage-tonnage rates do not reflect current transportation conditions.

^{10/} Assertedly, materials moved to construction sites, such as earth, fill material and dry-batched cement and aggregates, are transported under hourly rates; and processed aggregates, sand, asphaltic concrete and cold road oil mixture are transported under zone rates. The witness stated there may be a small movement of ores and clay under the mileage-tonnage rates proposed to be canceled.

Another reason advanced for cancelling the mileage rates is that such rates apply for various types and sizes of equipment in use and should reflect the average costs for all such types of equipment. There are wide variations in equipment costs, labor costs, load factors, and loading and unloading times for the different types and sizes of equipment. Rates based on average unit costs, assertedly, are not reflective of and, therefore, not reasonable for transportation in any particular type of equipment in use. Moreover, as such rates are based on actual mileages, they are not reasonable under the varying conditions of terrain and road gradients encountered in hauling in the vicinity of construction sites. It was also stated that because of the wide variation in conditions, meaningful costs are practically impossible to develop.

Petitioner's secretary-manager stated that hourly and zone rates are more reflective of operative conditions encountered by dump truck carriers than are mileage rates and, for that reason, hourly rates are preferable to mileage rates. Because the shipper may choose between hourly and mileage rates, and apply whichever is lower, the carrier is subjected to an adverse selection of rates, always receiving the lowest.

The secretary-manager explained that the mileage rates for lightweight aggregates were not requested to be canceled because points of origin and destination are generally fixed; hauls are longer than those encountered with rock, fill materials and earth, and larger truck and transfer-trailer units capable of transporting 24 tons or more are used.

The petition was opposed by the Commission staff for the reason that the staff desires the retention of the mileage-tonnage rates as a method of determining minimum rates in undercharge

actions when it has been found that improper hourly time factors have been used.^{11/} The staff stated that, although it has not undertaken to do so for the specific service in question, it has developed reasonable costs to serve as the basis for mileage-tonnage rates in other cases and can do so here.

American Cement Corporation argued that mileage rates should not be canceled because such rates are used by that company in Southern Territory for the movement of clay, cement clinker and limestone (commodities used in the manufacture of cement); the characteristics of the transportation of those commodities are similar to the characteristics involved in the transportation of lightweight aggregates, in that loads of 24 tons or more are transported and the distances involved are greater than for the general list of commodities subject to mileage rates; and that mileage rates are essential to the conduct of the cement manufacturing business.

It is clear that mileage rates are used to some extent in Southern Territory for movement of commodities other than to or from construction sites. For construction work, it appears that neither the minimum hourly nor the minimum tonnage rates are being assessed in the majority of instances; the actual rates being assessed are agreed tonnage rates on an "hourly conversion" basis, or hourly rates based on predetermined maximum times per load. Statements of petitioner's secretary-manager would indicate that carriers are subjected to an adverse selection between the minimum hourly and tonnage rates, whereas the record indicates rates below the levels of the minimum rates are assessed on a wide-spread basis. No study was made by petitioner concerning the effect of cancellation of mileage rates upon the transportation of commodities used

^{11/} As proposed by the Commission staff in Order Setting Hearing dated April 21, 1964 phase of Case No. 5437.

in the manufacture of cement.^{12/} Such transportation appears to be similar to that of lightweight aggregates for which mileage rates will be retained. Therefore, we find that the mileage rates should not be canceled on the basis of nonuse.

The Commission staff, on the basis of its experience in Northern Territory, apparently can develop representative mileage-tonnage costs with sufficient refinements as to equipment sizes and types to make them usable as a basis for the development of reasonable minimum rates. We find that reasonable costs for mileage rate transportation can be developed and that any difficulties which may arise in the development of such cost factors do not justify cancellation of the rates in question.

One of the main reasons advanced by petitioner for cancellation of the mileage rates is that such rates have not been brought up-to-date for several years. Such condition may be advanced as the basis for an immediate adjustment in said rates, but does not serve as a reason for cancellation of the rate scales. The record shows that present tonnage rates reflect costs applicable to a 3-axle truck (so-called 10-wheelers), the predominant type of equipment in use when such rates were last adjusted. Since that time equipment in use has changed; for most types of work, 5-axle equipment (tractors and two semitrailers, or truck and transfer-trailer) is used because of its larger carrying capacity. Costs per ton for hauling in the 5-axle equipment are less than for 3-axle equipment. Labor cost increases occurring since the mileage rates were last revised appear to have been partially offset by the

^{12/} The responses to the questionnaire sent out by CDTOA appear to have come almost entirely from carriers engaged in construction work.

greater efficiency of the larger equipment now in use. We find that mileage rates are out-of-date and require an adjustment, but that the record herein does not contain the information necessary to make specific adjustments in such rates.

Based upon the foregoing, we conclude that Petition No. 108 should be denied and that Minimum Rate Tariff No. 7 should be modified as set forth in the order which follows.

O R D E R

IT IS ORDERED that:

1. Minimum Rate Tariff No. 7 (Appendix A of Decision No. 32566, as amended) is hereby further amended by incorporating therein, to become effective October 16, 1965, the revised pages attached hereto and listed in Appendix B, also attached hereto, which pages and appendix are made a part hereof.

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

3. Petition No. 108, in Case No. 5437, is hereby denied.

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

Dated at San Francisco, California, this 17th day of August, 1965.

Frederick B. Haloloff
President

George E. Traver

George E. Traver

George E. Traver

George E. Traver
Commissioners

APPENDIX A

LIST OF APPEARANCES

- E. O. Blackman, for California Dump Truck Owners Association, petitioner in Petition No. 108, and interested party in Order Setting Hearing dated April 21, 1964.
- Dana Exum, for Miles & Sons Trucking Service; Russell & Schureman, by R. Y. Schureman, for Max Binswanger Trucking, Matich Transportation Co., Daniel Lohnes Trucking Co., Phillips Trucking, Joshua Desert Service, Inc., and More Truck Lines; J. T. Underwood, for Ignazio Intravaia; Les Calkins, for Les Calkins Trucking, Inc., respondents.
- Glenn and Wright, by John R. Schell, for San Diego County Rock Producers Association; and H. Randall Stoke, Don Reining and C. F. Imhoff, for Southern California Rock Products Association and San Bernardino-Riverside Rock Products Association, protestants.
- Arlo D. Poe, H. F. Kollmyer and J. C. Kaspar, for California Trucking Association; Richard B. Colby, for Blue Diamond Company, a Division of The Flintkote Company; Harold B. Culy, by Harold D. Crider, for Sacramento Cement Co.; Richard F. Molyneux, for Sully Miller Contracting Company; Ron Pease, for Southern Pacific Milling Company; Harry C. Phelan and Karl Roos, for California Asphalt Plant Association; Eugene Booker and Jack Cedarblade, for Rock, Sand and Gravel Producers Association of Northern California, Inc.; E. J. Bertana, for Pacific Cement and Aggregates, Inc.; David K. Graham and Harvey H. Lowthian, Jr., for Kaiser Cement and Gypsum Corporation; G. Ralph Grago, for Independent Truck Owner-Operator Union; O'Melveny and Myers, by Lauren M. Wright, for American Cement Corporation; Vaughn, Paul and Lyons, by John C. Lyons, for California Fertilizer Association, California Chemical Company, Collier Carbon and Chemical Corp., Shell Chemical Company, and Stauffer Chemical Company; Robert J. Sullivan, for Shell Chemical Company; R. Canham, by A. A. Wright and E. A. Coxhead, for California Chemical Company; Jack Baker, for Bandini Fertilizer Co.; Nelson McIninch, for Kellogg Supply Co., Inc.; and Frank Davis, for Standard Oil Co., interested parties.
- Edward E. Tanner, Norman B. Haley, Ralph Staunton, Fred P. Hughes, Leonard Diamond, and George Cates, for the Commission staff.

APPENDIX B TO DECISION NO. 69567

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Authorized by said Decision

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<p>EFFECTIVE OCTOBER 16, 1965</p>	
<p>Issued by the Public Utilities Commission of the State of California, San Francisco, California.</p>	
<p>Correction No. 1126</p>	

Item No.	SECTION NO. 1 - RULES AND REGULATIONS
	<p style="text-align: center;">DEFINITION OF TECHNICAL TERMS (Items Nos. 10 and 11)</p> <p>(a) CARRIER means a radial highway common carrier or a highway contract carrier, as defined in the Highway Carriers' Act, or a carrier, as defined in the City Carriers' Act.</p> <p>(b) DUMP TRUCK EQUIPMENT means any motor vehicle (including component trailing equipment) as defined in the Highway Carriers' Act and City Carriers' Act, which discharges its load by gravity either (a) in conjunction with mechanical means that are an integral part of the vehicle, or (b) by opening all or a portion of the bottom, sides or end, or (c) by combination of (a) and (b). It does not include a motor vehicle engaged in the transportation of concrete mechanically mixed in transit.</p> <p>(c) COMMON CARRIER RATE means any intrastate rate or rates of any common carrier or common carriers, as defined in the Public Utilities Act, lawfully on file with the Commission and in effect at time of shipment; any interstate or foreign rate or rates of any common carrier railroad or railroads applying between points in California by an interstate or foreign route, lawfully in effect at time of shipment; also any interstate or foreign rate or rates of any common carrier or common carriers, as defined in the Public Utilities Act, applying between points in California and in effect at time of shipment and covering transportation exempt from rate regulation of the Interstate Commerce Commission under Section 203(b)(8) of Part II of the Interstate Commerce Act.</p> <p>10 (d) RAILHEAD means a point at which facilities are maintained for the loading of property into or upon, or the unloading of property from rail cars or vessels. It also includes truck loading facilities of plants or industries located at such rail or vessel loading or unloading point.</p> <p>(e) POINT OF ORIGIN means the precise location at which property is physically delivered by the consignor or his agent into the custody of the carrier for transportation.</p> <p>(f) POINT OF DESTINATION means the precise location at which property is tendered for physical delivery into the custody of the consignee or his agent.</p> <p>(g) RATE includes charge, and also the ratings, minimum weight, rules and regulations governing, and the accessorial charges applying in connection therewith.</p> <p>(h) SAME TRANSPORTATION means transportation of the same kind and quantity of property and subject to the same limitations, conditions and privileges, although not necessarily transported in an identical type of equipment.</p> <p>(i) SHIPMENT means a quantity of freight tendered by one consignor on one shipping document at one point of origin for one consignee at one point of destination to be transported at one time in one unit of equipment.</p> <p>(j) COMMERCIAL PRODUCING PLANT means the point at which sand or gravel is washed and sorted as to size and grade and placed into stockpiles or bunkers, and/or where stone is crushed and graded, and placed into stockpiles or bunkers.</p> <p>(k) TEAM TRACK means a point at which property may be loaded into or upon, or unloaded from rail cars by the public generally; it also includes wharves, docks and landings at which the public generally may receive or tender shipments of property from and to common carriers by vessel.</p>

(1) TON means 2,000 pounds.

ø(m) DRY MIXTURES OF SAND, AND/OR GRAVEL AND/OR CRUSHED STONE (WITH OR WITHOUT CEMENT) IN BATCHES means a shipment of said mixture transported in dump truck equipment provided with one or more batch gates permitting the loading and unloading of a portion or portions of the shipment separately from the other portion or portions of the shipment.

ø(n) OVERLYING CARRIER (PRINCIPAL CARRIER) means a carrier which contracts with a shipper to provide transportation service for the latter, but which carrier in turn employs another carrier, known as the Underlying Carrier (independent-contractor subhauler), to perform that service. (See Note.)

NOTE.-The term Overlying Carrier also includes an underlying carrier which employs another carrier to perform transportation service.

ø(o) UNDERLYING CARRIER (independent-contractor subhauler) means any carrier who renders service for an overlying carrier (principal carrier), for a specified recompense, for a specified result, under the control of the overlying carrier as to the result of the work only and not as to the means by which such result is accomplished.

(Continued in Item No. 11.)

ø Change, Decision No. 69567

EFFECTIVE OCTOBER 16, 1965

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Correction No. 1127

Item No.	SECTION NO. 1 - RULES AND REGULATIONS
Ø11	<p data-bbox="409 453 1163 517">DEFINITION OF TECHNICAL TERMS (Concluded) (Items Nos. 10 and 11)</p> <p data-bbox="414 582 541 620">(p) **</p> <p data-bbox="320 646 1389 780">Ø(q) BATCHING PLANT means an installation (structure and appurtenant storage area) at which the ingredients for the production of concrete are received, stored, weighed, batched and subsequently transported therefrom.</p> <p data-bbox="320 806 1377 968">Ø(r) CONCRETE ARTICLE FACTORY means an installation (structure and appurtenant storage area) at which the ingredients of concrete are received, stored, weighed and batched, and concrete articles are manufactured therefrom on the premises.</p> <p data-bbox="320 999 1389 1161">(s) HOT PLANT means a fixed installation for the heating of road oil or asphalt and the mixing of such heated oil or asphalt with rock, sand and any other ingredients to produce cold road oil mixture ("plant mix") or asphaltic concrete ("hot stuff").</p> <p data-bbox="320 1192 1394 1257">(t) SEWAGE DISPOSAL PLANT means a fixed installation in which filtering rock is used for getting rid of sewage.</p> <p data-bbox="320 1288 1361 1380">(u) DISTRIBUTING YARD means an area for storage of rock, sand, gravel, or cold road oil mixture (commonly called "plant mix") in piles, bins, silos or bunkers.</p> <p data-bbox="320 1411 1381 1548">(v) DEBTOR means the person assuming responsibility for payment of transportation charges. It also includes an overlying carrier when he utilizes the services of an underlying carrier.</p> <p data-bbox="320 1579 1344 1697">Ø(w) UNIT OF EQUIPMENT means a truck, a tractor, a trailer, a semitrailer, or any combination of the foregoing operated in a train.</p> <p data-bbox="320 1728 1381 1821">*(x) CONSIGNOR means the person, firm or corporation from whom the property was physically received by the carrier for transportation.</p> <p data-bbox="320 1852 1381 1944">*(y) CONSIGNEE means the person, firm or corporation to whom the property is to be physically delivered by the carrier.</p> <p data-bbox="320 1975 1361 2068">*(z) SHIPPER means the person, firm or corporation (other than a carrier) who arranges with the carrier for the transportation of the property.</p>

∅ Change)
* Addition } Decision No. 69567
** Eliminated)

EFFECTIVE OCTOBER 16, 1965

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San Francisco, California.

Correction No. 1128

Item No.	SECTION NO. 1 - RULES AND REGULATIONS (Continued)
20	<p style="text-align: center;">APPLICATION OF TARIFF - CARRIERS</p> <p>Rates provided in this tariff are minimum rates, established pursuant to the Highway Carriers' Act, and the City Carriers' Act. They apply for transportation of property by radial highway common carriers and highway contract carriers, as defined in said Highway Carriers' Act, and by carriers as defined in said City Carriers' Act, in bulk in dump truck equipment.</p> <p>§The rates and rules contained in this tariff shall apply to transportation by underlying carriers (independent-contractor subhaulers) when such transportation is performed for other carriers, as provided in Item No. 94.</p>
25	<p style="text-align: center;">APPLICATION OF TARIFF - GENERAL</p> <p>Rates in this tariff do not apply to the transportation of:</p> <p>(a) Property of the United States or property transported under an agreement whereby the United States contracted for the carrier's services.</p> <p>(b) Disaster Supplies, i.e., those commodities which are allocated to provide relief during a state of extreme emergency or state of disaster; and those commodities which are transported for a civil defense or disaster organization established and functioning in accordance with the California Disaster Act to ultimate point of storage or use prior to or during a state of disaster or state of extreme emergency.</p> <p>For rates for the transportation of commodities in dump truck equipment, other than as provided in this tariff, see City Carriers' Tariff No. 1-A, Minimum Rate Tariff No. 1-B, 2, 5, 9-B or 17, as the case may be.</p>
30	<p style="text-align: center;">APPLICATION OF TARIFF - TERRITORIAL</p> <p>Rates in this tariff apply for transportation between all points within the State of California except shipments of commodities in dump truck equipment having both point of origin and point of destination within Southern California, as described in Minimum Rate Tariff 17.</p>
35	<p style="text-align: center;">REFERENCES TO ITEMS AND OTHER TARIFFS</p> <p>Unless otherwise provided, references herein to item numbers in this or other tariffs include references to such numbers with letter suffix, and references to other tariffs include references to amendments and successive issues of such other tariffs.</p>

COMPUTATION OF DISTANCES

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Distances to be used in connection with distance rates named herein shall be the actual mileages traversed, including any detour to and from scales to obtain weight of shipment.

Change, Decision No. 69567

EFFECTIVE OCTOBER 16, 1965

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Correction No. 1129

Item No.	SECTION NO. 1 - RULES AND REGULATIONS (Continued)
45	<p style="text-align: center;">(1) COLLECTION OF CHARGES</p> <p style="text-align: center;">(For other provisions concerning payments of overlying carriers to underlying carriers, see also Item No. 94.)</p> <p>(a) Except as otherwise provided in this item, transportation and accessorial charges shall be collected by the carriers prior to relinquishing possession of property entrusted to them for transportation; said charges shall be collected in cash or in the form of valid checks, drafts or money orders.</p> <p>(b) Upon taking precautions deemed by them to be sufficient to assure payment of charges within the credit period herein specified, carriers may relinquish possession of the freight in advance of payment of the charges thereon and may extend credit in the amount of such charges to debtors for a period not to exceed the 15th day following the last day of the calendar month in which the transportation was performed.</p> <p>(c) Where the carrier has relinquished possession of freight and collected the amount of charges represented in a freight bill presented by it as the total amount of such charges, and another freight bill for additional charges is thereafter presented to the debtor, the carrier may extend credit in the amount of such additional charges for a period of 30 calendar days to be computed from the first 12 o'clock midnight following the presentation of the subsequently presented freight bill.</p> <p>(d) Freight bills for all transportation and accessorial charges shall be presented to the debtors within 5 days after the last calendar day of the month in which transportation was performed.</p> <p>(e) Debtors may elect to have their freight bills presented by means of the United States mail, and when the mail service is so used the time of mailing by the carrier, as evidenced by the postmark, shall be deemed to be the time of presentation of the freight bills.</p> <p>(f) The mailing by the debtor of valid checks, drafts, or money orders, which are satisfactory to the carrier, in payment of freight charges within the credit period allowed such debtor may be deemed to be the collection of the charges within the credit period for the purpose of these rules. In case of dispute as to the time of mailing, the postmark shall be accepted as showing such time.</p> <p>(1) Will not apply to the transportation of property for the United States, state, county or municipal governments.</p>

UNITS OF MEASUREMENT TO BE OBSERVED

(a) Rates or accessorial charges shall not be quoted or assessed by carriers based upon a unit of measurement different from that in which the minimum rate and charges in this tariff are stated for the type of shipment being rated.

*(b) Where rates in Section No. 3 are applicable, zone rates in cents per ton shall be quoted and assessed.

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*(c) If there is no zone rate provided in Section No. 3, rates in Section No. 4 shall be quoted and assessed in cents per hour, except as provided in paragraph (d).

*(d) If there is no rate provided in Section No. 3, and a distance rate notice as specified in Item No. 93 is entered into between the carrier or overlying carrier and the shipper to ship at mileage tonnage rates in Section No. 2, in lieu of hourly rates in Section No. 4, mileage tonnage rates no lower than those in Section No. 2 shall be quoted and assessed.

6Change)
*Addition) Decision No. 69567

EFFECTIVE OCTOBER 16, 1965

Issued by the Public Utilities Commission of the State of California,
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Correction No. 1130

Item No.	SECTION NO. 1-RULES AND REGULATIONS (Continued)
90	<p data-bbox="386 329 1377 427" style="text-align: center;">ALTERNATIVE APPLICATION OF COMBINATIONS WITH COMMON CARRIER RATES (APPLICABLE ONLY WITHIN SOUTHERN TERRITORY OR FROM SOUTHERN TERRITORY TO NORTHERN TERRITORY)</p> <p data-bbox="340 458 1422 551">When lower aggregate charges result, rates provided in this tariff may be used in combination with common carrier rates for the same transportation as follows:</p> <p data-bbox="340 571 1410 762">(a) When point of origin is located beyond railhead and point of destination is located at railhead, add to the common carrier rate applying from any team track to point of destination the rate provided in this tariff for the distance from point of origin to the team track from which the common carrier rate used applies. (See Notes 1, 2, 3 and 4.)</p> <p data-bbox="340 775 1410 966">(b) When point of origin is located at railhead and point of destination is located beyond railhead, add to the common carrier rate applying from point of origin to any team track, the rate provided in this tariff for the distance from the team track to which the common carrier rate used applies to point of destination. (See Notes 1, 3 and 4.)</p> <p data-bbox="340 978 1438 1205">(c) When both point of origin and point of destination are located beyond railhead, add to the common carrier rate applying between any railheads the rate provided in this tariff for the distance from point of origin to the team track from which the common carrier rate used applies, plus the rate provided in this tariff for the distance from the team track to which the common carrier rate used applies to point of destination. (See Notes 1, 2, 3 and 4.)</p> <p data-bbox="340 1239 1377 1398">NOTE 1.-In the event, under the provisions of Items Nos. 70 and 90 series, a rate of a common carrier is used in constructing a rate for highway transportation and such common carrier rate does not include accessorial services performed by the highway carrier, the following charge for such accessorial services shall be added:</p> <p data-bbox="409 1419 1083 1450" style="padding-left: 40px;">For loading and unloading, 12 cents per ton.</p> <p data-bbox="340 1483 1405 1741">NOTE 2.-When the point of origin located beyond railhead is a commercial producing plant located within any of the production areas described in Section No. 3, in which a team track is located and the point of destination is outside such production area, the combination rate may be constructed by adding to the common carrier rate specified in this item series, the rate of 6 cents per ton in lieu of the rate provided in this tariff for the distance from the point of origin to the team track from which said common carrier rate applies.</p> <p data-bbox="340 1774 1394 1908">NOTE 3.-When the rail carload rate is subject to varying minimum weights, dependent upon the size of the car ordered or used, the lowest minimum weight obtainable under such minimum weight provisions may be used in applying the basis provided in this item.</p>

Note 4.-In applying the provisions of this item, a rate no lower than the common carrier rate and a weight no lower than the actual weight or published minimum weight (whichever is the higher) applicable in connection with the common carrier rate shall be used.

ISSUANCE OF SHIPPING DOCUMENT

(a) A Distance Rate Notice shall be issued by the shipper to the carrier prior to any transportation under Section No. 2 rates. This notice shall show the following information:

1. Date of notice and identifying number.
2. Name of carrier.
3. Name of shipper.
4. Point of origin.
5. Point of destination.
6. Date and time notice begins.
7. Date and time notice ends.
8. Signature of shipper (or agent).
9. Signature of carrier (or agent).

(b) A Shipping Order and Freight Bill shall be issued by the carrier to the shipper for each shipment received for transportation under Section No. 2 or Section No. 3 rates. Such document may be issued in individual or manifest form. This shipping order shall show the following information:

1. Date and number of applicable Distance Rate Notice (distance rates only).
2. Equipment number and capacity in cubic yards.
3. Name of carrier.
4. Name of underlying carrier (if any).
5. Name of consignor.
6. Address of consignor.
7. Name of debtor if other than consignor.
8. Address of debtor if other than consignor.
9. Name of consignee.
10. Address of consignee.
11. Point of origin.
12. Production area letter (zone rates only).
13. Point of destination.
14. Delivery zone number (zone rates only).
15. Actual distance in miles (distance rates only).
16. Commodity description.
17. Weight or other unit of measurement upon which charges are based.
18. Rate and charges assessed.
19. Accessorial, helpers or other charges.
20. Signature of consignor (or agent).
21. Signature of driver.
22. Signature of consignee (or agent).

ø(1)
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(1) Paragraphs (c), (d) and (e), formerly shown in this item, transferred to Item No. 93.1 on Fourth Revised Page 5-B.

ø Change, Decision No. 69567

EFFECTIVE OCTOBER 16, 1965

Issued by the Public Utilities Commission of the State of California,
San Francisco, California.
Correction No. 1131

Item No.	SECTION NO. 1 - RULES AND REGULATIONS (Continued)
	<p style="text-align: center;">ISSUANCE OF SHIPPING DOCUMENT (Concluded)</p> <p>(c) An Hourly Service Freight Bill shall be prepared by the carrier each day for each unit of equipment supplied under the provisions of Section No. 4. This freight bill shall show the following information:</p> <ol style="list-style-type: none"> 1. Date. 2. Equipment number and capacity in cubic yards. 3. Name of carrier. 4. Name of underlying carrier (if any). 5. Name of consignor. 6. Address of consignor. 7. Name of debtor if other than consignor. 8. Address of debtor if other than consignor. 9. Name of consignee. 10. Address of consignee. 11. Type of loading at origin. 12. Commodity transported. 13. Time and location driver reported for work. 14. Starting, ending and elapsed time of the running time of the last trip. 15. Starting, ending and elapsed time of the unloading time of the last trip. 16. Over-all time: From time reporting for work to start of last trip plus double the running time of last trip (elapsed time under paragraph 14) plus unloading time of last load (elapsed time under paragraph 15). 17. Any deductions for meals or failure of carrier equipment. 18. Net chargeable time (16 minus 17). 19. Applicable hourly rate. 20. Charges due. 21. Signature of consignor (or agent). 22. Signature of driver. 23. Signature of consignee (or agent). <p>(d) Except as provided in (c) below, the documents issued under (a), (b) and (c) shall be prepared in two or more copies. A copy of each shall be furnished to the shipper, and a copy shall be retained by the carrier, subject to the Commission's inspection for a period of three years from date of issue.</p> <p>(e) If the transportation is performed by an underlying carrier, an additional copy of each document shall be prepared. The completed copy of the Shipping Order and Freight Bill or Hourly Service Freight Bill, showing the transportation actually performed, shall be retained by the underlying carrier for a period of three years from date of issue. The third copy of the Distance Rate Notice shall be available for inspection by the underlying carrier at the time and place of his employment by the overlying carrier.</p>

§(2)
93.1

(1) Items Nos. 94 and 96 shown on this page transferred to Original Page 5-C.

(2) Paragraphs(c), (d) and (e) shown in this item formerly appeared in Item No. 93 on Third Revised Page 5-A.

Change, Decision No. 69567

EFFECTIVE OCTOBER 16, 1965

Issued by the Public Utilities Commission of the State of California,
San Francisco, California.
Correction No. 1132

Item No.	SECTION NO. 1 - RULES AND REGULATIONS (Concluded)
ø94	<p style="text-align: center;">PAYMENTS TO UNDERLYING CARRIERS</p> <p>Charges paid by any overlying carrier to an underlying carrier and collected by the latter carrier from the former for the service of said underlying carrier shall be not less than 95 percent of the charges applicable under the minimum rates prescribed in this tariff, less the gross revenue taxes applicable and required to be paid by the overlying carrier. (See Notes 1 and 2.) øThe underlying carrier may extend credit to the overlying carrier for a period not to exceed twenty days following the last day of the calendar month in which the transportation was performed, and payment to the underlying carrier must be made within that time. Freight bills for transportation and accessorial charges shall be presented by underlying carriers to overlying carriers within three days after the last calendar day of the month in which the transportation was performed.</p> <p>NOTE 1.-As used in this item the term gross revenue taxes means the California Transportation Tax payable to the California Board of Equalization and the tax payable to the California Public Utilities Commission under the Transportation Rate Fund Act.</p> <p>NOTE 2.-Nothing herein contained shall prevent an overlying carrier, in paying such charges, from deducting therefrom such liquidated amounts as may be due from the underlying carrier to the overlying carrier, providing such deductions have been authorized in writing by the underlying carrier. Any overlying carrier electing to employ this procedure shall itemize such amounts and maintain for the Commission's inspection all documents involved in the transaction.</p>
96	<p style="text-align: center;">RATES BASED ON VARYING MINIMUM TRUCKLOAD WEIGHTS (Applies only in connection with rates making reference to this item)</p> <p>When charges on a shipment transported in one unit of dump truck equipment at one time based on actual weight exceed the charges which would accrue if charges were computed upon a rate based upon a higher minimum weight, the latter will apply.</p>
<p>(1) Items Nos. 94 and 96 shown on this page formerly appeared on Third Revised Page 5-B.</p> <p>ø Change, Decision No. 69567</p>	
EFFECTIVE OCTOBER 16, 1965	
<p>Issued by the Public Utilities Commission of the State of California, San Francisco, California.</p> <p>Correction No. 1133</p>	

SECTION NO. 2

DISTANCE RATES

- ∅ 1. Rates in this Section will not apply to transportation for which rates are specifically provided in Section No. 3 of this tariff and Sections Nos. 2, 4, 5, 6, 7 and 10 of Minimum Rate Tariff 17.
- ∅ 2. Rates in this Section will apply only when a distance rate notice as specified in Item No. 93 has been executed.
- ∅ 3. In connection with transportation from either Los Angeles County Production Area CC to points which are intermediate to Los Angeles County Delivery Zone 16-B and which lie along the route Soledad Canyon Road to Bouquet Canyon Road to San Fernando Road to State Sign Route 14 to Los Angeles County Delivery Zone 16-B or Los Angeles County Production Area JJ to points which are intermediate to Los Angeles County Delivery Zone 16-B and which lie along the route State Sign Route 126 to U.S. Highway No. 99 to Los Angeles County Delivery Zone 16-B, the rates to be assessed under this Section shall not exceed the rates in Section No. 3 for transportation of a like shipment from Los Angeles County Production Areas CC or JJ to Los Angeles County Delivery Zone 16-B. For transportation from Los Angeles County Production Areas CC or JJ to points along Balboa Boulevard between Los Angeles County Delivery Zone 16-B on the north and Los Angeles County Delivery Zone 9-A on the south the rates to be assessed shall not exceed the rates in Section No. 3 for transportation of a like shipment from Los Angeles County Production Areas CC or JJ to Los Angeles County Delivery Zone 9-A.

∅ Change, Decision No. 69567

EFFECTIVE OCTOBER 16, 1965

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San Francisco, California.
Correction No. 1134

Second Revised Page 10

 Cancels

First Revised Page 10

MINIMUM RATE TARIFF NO. 7

SECTION NO. 3

RATES FROM PRODUCTION AREAS
TO DELIVERY ZONES

- ∅ 1. Rates in Sections Nos. 2 and 4 will not apply to transportation for which rates are provided in this Section.

∅Change, Decision No. 69567

EFFECTIVE OCTOBER 16, 1965

Issued by the Public Utilities Commission of the State of California,
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Correction No. 1135

Cancels

SECTION NO. 4

HOURLY RATES

- ∅ 1. Rates in this Section will not apply to transportation for which rates are specifically provided in Section No. 3 of this tariff and Sections Nos. 2, 4, 5, 6, 7 and 10 of Minimum Rate Tariff 17.
- ∅ 2. Rates in this Section will not apply when a distance rate notice as specified in Item No. 93 has been executed.

∅ Change, Decision No. 69567

EFFECTIVE OCTOBER 16, 1965

Issued by the Public Utilities Commission of the State of California,
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Correction No. 1136

Item No.	SECTION NO. 4 - HOURLY RATES
<p>300</p>	<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. Hourly rates include drivers' and helpers' wages. Hourly rates apply to property, as described in Item No. 320, transported for one shipper in one unit of dump truck equipment.</p> <ol style="list-style-type: none"> 1. NORTHERN TERRITORY: <p style="margin-left: 40px;">The hourly rates are set forth in Items Nos. 360, 361 and 362.</p> 2. SOUTHERN TERRITORY: <p style="margin-left: 40px;">The hourly rates are set forth in Item No. 365, subject to overtime provisions of Note 2 of Item No. 365.</p> 3. The application of hourly rates is subject to the following conditions: <ol style="list-style-type: none"> (a) In determining chargeable time, the over-all time shall be: From time reporting for work to start of last trip plus double the running time of last trip plus unloading time of last load. (b) In determining chargeable time, allowances may be made only for delays caused by failure of carrier equipment or time taken out for meals. Time to be charged shall include time for transportation in both directions, time for loading and unloading and waiting or stand-by time at origin or destination. (c) In the event that a carrier is released by the shipper from further service and is re-engaged by the same shipper at a point other than the point of such release within the same 24-hour period (computed from 12:01 a.m. on the date the unit of equipment initially reports for service), hourly rates shall be assessed for the traveling time from the point of release to the subsequent origin point.

INTERTERRITORIAL MOVEMENTS

(a) Where the movement originates within the Southern Territory of the State and terminates with the Northern Territory of the State, the hourly rates applicable shall be those set forth in Item No. 365.

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(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.

INTERDISTRICT MOVEMENTS

1. Northern Territory is divided into two districts as follows:

(a) Upper Northern District consists of all of the counties which comprise Northern Territory (as defined in Item No. 110) except Kern and San Luis Obispo Counties.

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(b) Lower Northern District consists of Kern and San Luis Obispo Counties.

2. When dump truck equipment moves between the two districts named in this item 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.

ø Change, Decision No. **69567**

EFFECTIVE OCTOBER 16, 1965

Issued by the Public Utilities Commission of the State of California,
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Correction No. 1137

Item No.	SECTION NO. 4	HOURLY RATES (Continued)		
	<p>COMMODITIES, as described in Item No. 320. (Items Nos. 365 and 366)</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)	SOUTHERN TERRITORY (See Item No. 100) (1) rates in Cents Per Hour (See Item No. 300) (See Note 2)		
	Over But Not Over	Column A	Column B	Column C
365	0 3	712	587	706
	3 4	750	615	744
	4 5	793	635	775
	5 6	836	669	814
	6 7	879	706	852
	7 8	928	760	885
	8 9	971	798	922
	9 10	1009	831	960
	10 11	1047	862	998
	11 12	1095	909	1036
	12 13	1138	933	1079
	13 14	1165	960	1106
	14 15	1192	982	1133
	15 16	1230	1028	1160
	16 17	1257	1061	1187
	17 18	1284	1093	1214
	(2)18 -	-	-	1241
	(3)18 19	1311	1125	
	(3)19 20	1338	1158	
	(3)20 21	1365	1190	
	(3)21 22	1392	1222	
	(3)22 23	1419	1254	
	(3)23 24	1446	1286	
	(3)24 25	1473	1318	
	(3)25 26	1523	1373	
	(3)26 (4)	027	032	

- (1) Minimum charge shall be the rate for one hour.
- (2) Applies only in connection with rates in Column C.
- (3) Does not apply in connection with rates in Column C.
- (4) Add to the rate for 26 cubic yards capacity, the amount shown opposite this reference mark for each additional cubic yard or fraction thereof.

(Continued in Item No. 366)

(5) Notes 1 and 2 shown on this page transferred to Original Page 42-D.
ø Change, Decision No. **69567**

EFFECTIVE OCTOBER 16, 1965

Issued by the Public Utilities Commission of the State of California,
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Correction No. 1138

Item No.	SECTION NO. 4 - HOURLY RATES (Concluded)
	<p data-bbox="413 437 1172 540">COMMODITIES, as described in Item No. 320 (Items Nos. 365 and 366)</p> <p data-bbox="322 579 1412 824">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.</p> <p data-bbox="322 837 1428 1120">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.</p> <p data-bbox="322 1133 1453 1365">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, add to the applicable hourly rate shown above: \$4.96 per hour when the level capacity is less than 25 cubic yards; \$5.42 per hour when the level capacity is 25 cubic yards or more.</p> <p data-bbox="322 1391 1470 1841">ø(b) Except as otherwise provided in paragraph (a) of this note and in the Exception set forth below, for transportation service furnished under this item on Saturdays or during periods in excess of 8 hours in any one shift, add to the applicable hourly rate shown above: \$2.66 per hour when the level capacity is less than 25 cubic yards; or \$3.01 per hour when the level capacity is 25 cubic yards or more. Subject to Paragraphs 2 and 3 of Item No. 300, "periods in excess of 8 hours in any one shift" means the time which exceeds 8 hours from the time the driver with dump truck equipment reports for service, during which time said driver is continuously engaged by one shipper or overlying carrier, irrespective of the number of loads transported within the period.</p> <p data-bbox="322 1867 1445 2035">EXCEPTION. - The additional rates set forth in paragraph (b) shall not apply to transportation service performed on days, other than Saturdays, except when service is performed by one driver with dump truck equipment for a period in excess of 8 hours in any one shift.</p>

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(1) Notes 1 and 2 shown on this page formerly appeared in Item No. 365 on Thirteenth Revised Page 42-C.

ø Change, Decision No. 69567

EFFECTIVE OCTOBER 16, 1965

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Correction No. 1139

SECTION NO. 5

ØFORMS OF SHIPPING DOCUMENTS
TO WHICH REFERENCE IS MADE
IN ITEMS NOS. 93 and 93.1

Ø Change, Decision No. 69567

EFFECTIVE OCTOBER 16, 1965

Issued by the Public Utilities Commission of the State of California,
San Francisco, California.
Correction No. 1140

SECTION NO. 5--FORMS OF SHIPPING DOCUMENTS

Item No. 370-A

SHIPPING ORDER AND FREIGHT BILL
(For use in connection with transportation
under Section No. 2 or Section No. 3)

Date _____ Bill No. _____
Truck No. _____ Permit No. _____
Level Capacity of Body _____ cubic yards Distance Rate Notice
No. _____ and
Date _____

NAME OF CARRIER _____
(Name of carrier must be the same as shown on permit)

NAME OF UNDERLYING CARRIER (if any) _____

NAME OF CONSIGNOR _____

ADDRESS OF CONSIGNOR _____

NAME OF DEBTOR (if other than consignor) _____

ADDRESS OF DEBTOR (if other than consignor) _____

NAME OF CONSIGNEE _____

ADDRESS OF CONSIGNEE _____

Precise Point of Origin _____

Production Area Letter _____ (Zone rates only)

Precise Point of Destination _____

Delivery Zone No. _____ (Zone rates only)

Distance in Miles _____ (Distance rates only)

Kind of Material	Weight or other unit of measurement upon which charges are based.	Rate in Cents per ton	Charges

SIGNATURE OF
CONSIGNOR (or agent) _____ Accessorial Charges _____

DRIVER'S SIGNATURE _____ Helpers' Charges _____

_____ Other Charges _____

SIGNATURE OF
CONSIGNEE (or agent) _____ Prepaid _____

_____ Total to Collect _____

Change, Decision No. **69567**

EFFECTIVE OCTOBER 16, 1965

Issued by the Public Utilities Commission of the State of California,
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Correction No. 1141

SECTION NO. 5--FORMS OF SHIPPING DOCUMENTS

Item No. 375

HOURLY SERVICE FREIGHT BILL
(For use in connection
with transportation under Section No. 4)

Date _____ Bill No. _____

Truck No. _____ Permit No. _____

Level Capacity of Body _____ cubic yards

NAME OF CARRIER _____
(Name of carrier must be the same as shown on permit)

NAME OF UNDERLYING CARRIER (if any) _____

NAME OF CONSIGNOR _____

ADDRESS OF CONSIGNOR _____

NAME OF DEBTOR (if other than consignor) _____

ADDRESS OF DEBTOR (if other than consignor) _____

NAME OF CONSIGNEE _____

ADDRESS OF CONSIGNEE _____

Type of Loading at Origin _____

Commodity Transported _____

Time Driver Reported for Work _____

Location at Which Driver Reported to Work _____

a. Starting Time of Last Trip _____
Ending Time of Last Trip _____
Elapsed Time of the Running
Time of the Last Trip _____

b. Starting Time of the Unload-
ing of the Last Trip _____
Ending Time of the Unloading
of the Last Trip _____
Elapsed Time of the Unload-
ing Time of the Last Trip _____

c. Over-all Time _____
(From time reporting for work
to start of last trip plus
double the running time of last
trip (elapsed time under
Paragraph a) plus unloading
time of last load (elapsed
time under Paragraph b).)

d. Deductible Time for Meals or
Failure of Carrier Equip-
ment _____

e. Net Chargeable Time _____
(Paragraph c minus Paragraph d)

Applicable Hourly Rate _____ Charges Due _____

SIGNATURE OF CONSIGNOR (or agent)

DRIVER'S SIGNATURE

SIGNATURE OF CONSIGNEE (or agent)

∅ Change, Decision No. 69567

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Correction No. 1142

First Revised Page 46
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MINIMUM RATE TARIFF NO. 7

SECTION NO. 5--FORMS OF SHIPPING DOCUMENTS

Item No. 380

DISTANCE RATE NOTICE
(To be issued by the shipper for use
in connection with transportation
under Section No. 2)

Date _____ Distance Rate Notice No. _____

Name of Carrier _____

Name of Shipper _____

Point of Origin _____ Point of Destination _____

Date Notice Begins _____ Date Notice Ends _____

Time Notice Begins _____ Time Notice Ends _____

Signature of Shipper or Agent

Signature of Carrier or Agent

Change, Decision No. **69567**

EFFECTIVE OCTOBER 16, 1965

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Correction No. 1143

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MINIMUM RATE TARIFF NO: 7

SECTION NO. 5 - FORMS OF SHIPPING DOCUMENTS

ØItem No. 385

Item Canceled

END OF TARIFF

Ø Change, Decision No. **69567**

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