

ORIGINALDecision No. 70569

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. 48
 (Filed December 22, 1958)
 Petition No. 65
 (Filed July 25, 1960)
 Petition No. 80
 (Filed January 8, 1962)
 Petition No. 90
 (Filed December 10, 1962)
 Order Setting Hearing
 Dated March 24, 1959

(Appearances are listed in Appendix D)

O P I N I O N

By Petitions Nos. 48, 65, 80 and 90 in Case No. 5437, the California Dump Truck Owners Association, Inc., seeks revisions in the minimum rate provisions in Minimum Rate Tariff No. 7 which govern the transportation of rock, sand, gravel, asphaltic concrete, decomposed granite, cold road oil mixture and other specified commodities in dump truck equipment by for-hire highway carriers.

By its Order Setting Hearing of March 24, 1959, the Commission directed its staff to investigate the costs, rates, rules and other matters pertaining to the transportation of property by dump truck equipment within California, and to submit recommendations as to necessary tariff changes.

Pursuant to these petitions and the Order Setting Hearing, a system of zones was established as a basis for the subsequent prescription of revised zone rates for the transportation of rock, sand, gravel, decomposed granite, asphaltic concrete and cold road oil mixture within defined portions of Los Angeles, Orange, San Bernardino, Riverside, Santa Barbara and Ventura Counties (Decision No. 61893, dated April 25, 1961, and Decision No. 62962, dated December 19, 1961).

Zone rates for the transportation of rock, sand and gravel within said zoned area were next established (Decision No. 68543, dated February 3, 1965, and Decision No. 69469, dated July 25, 1965).

There remains to be considered the question of what changes should be made in the minimum rate provisions for the transportation of asphaltic concrete, cold road oil mixture and decomposed granite within the zoned area.¹ Public hearings on this matter were held before Examiner Abernathy over a period of 50 days during the years 1963 and 1964.² Evidence and recommendations were submitted by the California Dump Truck Owners Association, Inc., the California Asphalt Plant Association, the Southern California Rock Products Association, the California Trucking Association and the Commission's staff.

¹ Except as otherwise indicated, the term "asphaltic concrete" will be used hereafter as including cold road oil mixture.

² Part of the hearings were devoted to the receipt of evidence and proposals on the rates, rules and regulations to be established for the transportation of rock, sand and gravel.

The record which was thus adduced was completed with the incorporation therein of the record developed at public hearings on allied matters held before Examiner Mallory on September 2 and 3, 1964 (Case No. 5437, Order Setting Hearing dated April 21, 1964).

In response to petition of the California Dump Truck Owners Association, Inc., and direction of the Commission, a proposed report on the proceedings was issued by Examiner Abernathy on March 4, 1965. In general, the Examiner recommended the establishment of zone rates which are based on a combination of time and distance cost factors; that the zone rates for the portion of the zoned area which lies within Los Angeles, Orange, Riverside and San Bernardino Counties be computed on the costs of service by 3-axle dump trucks; that the zone rates for the Santa Barbara and Ventura Counties portion of the area be computed in part on a blend of the costs of service by 3-axle dump trucks and by truck-and-trailer combinations; that maximum time allowances for the loading and unloading operations be established; that additional charges be made applicable for time spent in loading and unloading in excess of said maxima; that additional charges be made applicable for certain accessorial services; that the zone rates apply to the exclusion of other rates which also apply at present for the transportation of asphaltic concrete, and that written shipping or service orders be made a requisite for the carriers' services. The Examiner's recommended findings and conclusions are attached hereto as Appendices A, B and C.

Exceptions to the Examiner's recommendations were filed by the California Dump Truck Owners Association, Inc., the California Asphalt Plant Association, the Independent Truck Owner Operators Union, the Vernon Asphalt Materials Co., the Vernon Asphalt Materials of Inglewood, and by the Commission's staff.³ Replies to the exceptions were filed by the California Dump Truck Owners Association, Inc., and by the California Asphalt Plant Association. The matters involved are ready for decision.

Inasmuch as the record has been summarized heretofore in the Examiner's report, further exposition thereof is not necessary. The Examiner's recommendations, together with the exceptions thereto and replies to the exceptions, are considered and discussed below:

Zone Rates for the Transportation of Asphaltic Concrete within the Orange County, Los Angeles County, Riverside County and San Bernardino County Portions of the Zoned Area Established by Decisions Nos. 61893 and 62962 Should Be Based on the Costs of Service by 3-Axle Dump Trucks.

The Commission's staff took exception to this recommendation of the Examiner. The staff asserts that the rates should be based in part upon lower costs of service which, the record shows, are attained in the use of truck-and-trailer combinations.

Although the costs of service by truck-and-trailer combinations are lower than those by 3-axle dump trucks, the

³ For convenience the designations CDTOA, CAPA, and ITOOU will be used at times hereafter to refer to the California Dump Truck Owners Association, Inc., the California Asphalt Plant Association and the Independent Truck Owner Operators Union, respectively.

record also shows that the volume of the transportation which is performed by the truck-and-trailer combinations within the area in question is not sufficient to be a factor to be considered.⁴ We find that the Examiner properly concluded that for the area involved the rates should be based on the costs of the 3-axle dump truck equipment.

Zone Rates for the Transportation of Asphaltic Concrete within Santa Barbara and Ventura Counties Should Be Based on the Costs of Service by 3-Axle Dump Trucks, on the Costs of Service by Truck-and-Trailer Combinations, and on a Blend of Said Costs, Depending on the Length of Haul.

The Examiner recommended that rates for the transportation of asphaltic concrete between points within Ventura and Santa Barbara Counties be computed in the following manner:

- a. For distances of 15 miles or less -- compute rates on the basis of costs of operating 3-axle dump trucks.
- b. For distances of more than 35 miles -- compute rates on the basis of the costs of operating 3-axle dump trucks and 2-axle trailers.
- c. For distances of 15 miles, but not more than 35 miles -- compute rates on the basis of a proportionate blend of the costs of operating 3-axle dump trucks and 3-axle dump trucks in combination with 2-axle trailers.

The Examiner stated that the development of rates in this manner would be in substantial conformity with the division

⁴"There were very few" truck-and-trailer operations in the transportation of asphaltic concrete in the four-county Core Area.*

Commission engineer Hughes, page 1540, reporter's transcript.

* The term "Core Area" is used at times herein to designate the Orange County, Los Angeles County, Riverside County and San Bernardino County portions of the system of zones established by Decisions Nos. 61893 and 62962, supra.

of hauling as between the 3-axle trucks and the truck-and-trailer combinations.

The CDTOA excepted to the Examiner's recommendation that rates for the transportation of asphaltic concrete within Ventura County be based partly on the costs of operating truck-and-trailer equipment. The CDTOA asserts that a statement of the Examiner that: "The evidence shows truck-and-trailer combinations are being used for the delivery of asphaltic concrete within Ventura County" is general and meaningless unless some substantial portion of this service is performed in this type of equipment. The CDTOA further asserts: "That any meaningful amount is in fact delivered to Ventura County destinations is not substantiated by the record". The CDTOA renewed recommendations which it had made previously that the rates for the transportation of asphaltic concrete within Ventura County be based on the costs of operating 3-axle dump trucks and that rates for the transportation of asphaltic concrete from Ventura County origins to Santa Barbara County destinations be computed on the costs of operating 3-axle dump trucks to the Ventura/Santa Barbara County line plus the costs of operating trucks and trailers from the Ventura/Santa Barbara County line to the points of destination. Allegedly, the method of computing rates which the Examiner recommended would result in an overstatement or understatement of costs in many instances.

The CDTOA's exceptions and recommendations were supported by CAPA.

In general, it appears from the record that the foregoing exceptions and recommendations of the CDTOA and of CAPA are without merit, and that no weight should be attached thereto. A basic premise of the CDTOA's recommendation is that 3-axle dump trucks are the vehicles that are predominantly used for all transportation throughout Ventura County. This premise does not comport with the evidence. A witness for the CDTOA testified that the 3-axle dump trucks and the truck-and-trailer combinations are both used. The principal determining factor as to whether the transportation is performed by 3-axle dump trucks or by trucks and trailers is the length of the haul. The trucks and trailers are used for the more distant hauls.⁵ On this evidence the Examiner concluded that "since the evidence shows that the truck-and-trailer combinations are being used for the delivery of asphaltic concrete within Ventura County as well as to Santa Barbara County, the rates for transportation within Ventura County should likewise be computed in part upon the costs of service by the trucks and trailers." We find that the Examiner's conclusions in this respect are correct.

Aside from the fact that usage of the truck-and-trailer equipment within Ventura County justifies the computation of rates partly upon the operation of said equipment, the method of rate development which was advocated by the CDTOA with the support of CAPA should not be adopted because it would result in excessive rates. The rates for transportation from Ventura County

⁵ As illustrative of hauls for which 3-axle dump trucks are used, the witness cited those from El Rio to Ventura and Oxnard -- hauls of about 5 or 6 miles. As illustrative of hauls for which trucks and trailers are used, the witness cited those from El Rio to Solimar and Thousand Oaks -- hauls of about 13 and 20 miles.

production areas to Santa Barbara delivery zones in particular would be unduly high. The evidence shows that substantially all of the transportation of asphaltic concrete to Santa Barbara destinations is performed by truck-and-trailer equipment. However, under the CDTOA's proposal, the rates for the portions of the hauls within Ventura County would be computed on the costs of service by 3-axle dump trucks. The evidence further shows that the average distance of the Ventura County production areas from the Ventura/Santa Barbara County line is almost 30 miles; that the average distance of the Santa Barbara County delivery zones from the Ventura/Santa Barbara County line is about 15 miles; and that the costs per ton minute and per ton mile of transportation by 3-axle dump trucks are more than 50 per cent greater than the corresponding costs of transportation by truck-and-trailer equipment. It is evident from these data that the computation of rates for the portions of the hauls within Ventura County on the costs which apply to the operation of 3-axle dump trucks would result in materially higher rates than would be the case were the rates computed on the costs of operations of the truck-and-trailer equipment -- the vehicles actually used.

Similarly, the development of rates for transportation within Ventura County solely on the basis of costs of transportation by 3-axle dump trucks would result in excessive rates for those hauls which move predominantly by truck-and-trailer equipment.

Under the recommendations of the Examiner, the rates for distances of 15 miles or less would be constructed on the

costs of operating the 3-axle dump trucks. This area, it appears, constitutes the main area of economic operations of said vehicles.⁶ For distances of 15 to 35 miles from points of origin, the rates which the Examiner recommended would be calculated both on the costs of operating the 3-axle dump truck equipment and the truck-and-trailer combinations. The weight which would be given to the respective costs in the calculations would be graduated according to distances, with the decreasing weight given to the costs of service by the 3-axle equipment and increasing weight given to the costs of service by the truck-and-trailer equipment.

As pointed out by the CDTOA, the resultant rates, in various instances, would be either more or less than the costs actually incurred in specific hauls. Obviously, however, a single rate scale which would specifically reflect the costs of service by the 3-axle dump trucks, on the one hand, and by the truck-and-trailer combinations, on the other hand, is not possible. The rates that would apply under the procedure just outlined would, in effect, represent a composite of the costs of service by both types of equipment. In view of the circumstances in which the transportation is performed within the range of distances which is involved, we find that rates which would reflect

⁶ On the basis of the testimony of the witness for the CDTOA, who described vehicle usage in Ventura and Santa Barbara Counties, it might be concluded that the main area of economic operation of the 3-axle dump truck is somewhat less than 15 miles. However, other evidence, particularly that presented by the Commission engineer, supports the distance of 15 miles.

the composite costs are appropriate and reasonable for the transportation. The Examiner's recommendations in this respect should be adopted.⁷

Zone Rates for the Transportation of Decomposed Granite Should Be Limited to Those From Decomposed Granite Production Areas in the Hollywood Hills and in the Vicinity of Montebello.

Exception to this recommendation of the Examiner was taken by representatives of the Commission's staff. The exception states that

"The staff excepts to the conclusions of the Examiner in that notice is not taken of any production areas of decomposed granite established by the Commission subsequent to the preparation of the staff Exhibits Nos. 23 and 36. Decomposed granite as well as rock, sand and base material are produced in Los Angeles County Production Areas HH and II. These two areas should be included in the Examiner's proposal. The costs which should be used are those for dump truck-and-trailer equipment."

This exception, it should be noted, purports to deal with production areas which have been established subsequent to the preparation of the staff Exhibits Nos. A-23 and A-36. Los Angeles County Production Areas HH and II are not, however, in this category. Both production areas were established by Decision No. 63674, dated June 23, 1962. The staff Exhibits Nos. A-23 and A-36 are dated October, 1962, and December, 1962, respectively.

⁷ In the adoption of the Examiner's recommendations, a minor adjustment should be made in the method of calculating the applicable rates. The Examiner recommended that blended or composite rates be developed for distances of more than 15 miles, but less than 35 miles. The ranges of the distances should be those of more than 15 miles, but not more than 34 miles.

On this record there is not sufficient basis for the continuation of zone rates for the transportation of decomposed granite from Production Areas HH and II.

First, there is a question as to whether decomposed granite, as that term has been defined herein, is shipped from said production areas. The term "decomposed granite", as here used, means disintegrated granite which crumbles readily on removal from its normal geographic location. The material which is referred to as decomposed granite on this record is excavated at pits in the Hollywood Hills and in the vicinity of Montebello. According to Decision No. 63674, the material which is designated as decomposed granite in said decision is a material which is produced (or processed) at plants of Processed Materials Company at San Fernando and Chatsworth. This record does not provide a basis for determining whether the material which is shipped by Processed Materials Company is decomposed granite within the meaning of that term herein.

Second, the staff asserts that the rates from Production Areas HH and II should be established on the basis of the costs of service by truck-and-trailer equipment. With the exception of the rates for decomposed granite which originate in the vicinity of Montebello and which are based on the costs of truck-and-trailer operations, the rates for decomposed granite which would otherwise be established in this matter are based on the costs of operating 3-axle dump trucks. The evidence does not

show which of these two costs bases would be appropriate for zone rates for such transportation of decomposed granite from Production Areas HH and II as may actually occur.

Vehicle Running Times per Round Trip (Terminal End Times Excluded) Should be Four Per Cent Less than the Running Times Per Corresponding Round Trip for the Transportation of Rock, Sand and Gravel.

This recommendation of the Examiner was based on evidence presented by a Commission engineer that asphaltic concrete is transported in lesser time than rock, sand and gravel because of an "urgency" which drivers transporting asphaltic concrete apparently feel because of the perishable nature of that commodity.

The CDTOA excepts to the Examiner's recommendation on the grounds that lesser vehicle running times than those which were developed in connection with the transportation of rock, sand and gravel cannot be attained by other than illegal speeds. The CDTOA points out that the running times which were developed for the transportation of rock, sand and gravel assertedly represent operations conducted at maximum legal speeds consistent with traffic and safety.

Were carriers able to achieve and maintain maximum legal speeds over all portions of their hauls, the CDTOA's arguments against lesser running times for asphalt concrete might be plausible. However, it is a matter of general knowledge that except in particularly favorable circumstances traffic does not move at constant legal speeds because of delays occasioned by congestion, traffic signals, accidents and the like. To some

extent the progress of a vehicle under such conditions is dependent upon the alertness or motivation of the driver to respond to changes in the flow and velocity of the traffic. We are of the opinion that the lesser vehicle running times for asphaltic concrete are consistent with actual experience. The Examiner's recommendation in this respect will be adopted.

Time Costs - Terminal End Operations

The Examiner recommended that the costs of the terminal end operations (those involved in the loading and unloading of the carriers' vehicles) be computed on average loading and unloading times as follows:

3-axle dump truck	-	34 minutes
3-axle dump truck and 2-axle trailer	-	50 minutes

According to the Examiner, the maximum total times which are reflected in these averages are as follows:

	<u>Loading</u>	<u>Unloading</u>
3-axle dump truck	40 minutes	60 minutes
3-axle dump truck and 2-axle trailer	50 minutes	60 minutes

Exceptions to the Examiner's recommendations were taken by the Commission's staff and by CAPA. The CDTOA also commented on the recommendations. The staff and CAPA both assailed the recommended terminal end time of 34 minutes for 3-axle dump trucks as being excessive. The staff asserted that the maximum terminal end time which the Commission has recognized as reasonable since 1947 in connection with the transportation of asphaltic concrete

in the area involved is 30 minutes, and that since 1947 there have been improvements in handling procedures which have tended to reduce terminal end times. The staff urges that 28 minutes be adopted as the reasonable terminal end time for 3-axle dump trucks and that 54 minutes be adopted as the reasonable terminal end time for truck-and-trailer equipment. CAPA urged that either the staff's proposed time of 28 minutes or the time of 27 minutes, which was originally advocated by CAPA, be adopted in lieu of the 34 minutes proposed by the Examiner. CAPA also asserts that the total loading and unloading times which the Examiner designates as maximum times are arbitrary and unreasonable.

It appears from a review of the record pertaining to these exceptions of the Commission's staff and of CAPA that in neither case do the exceptions rest on valid grounds. The staff is in error in its assertions that the time of 30 minutes is the maximum terminal end time that the Commission has recognized as reasonable since 1947. Since June 1, 1958, minimum rates for the transportation of asphaltic concrete within the portion of Southern California involved herein have been based on higher terminal end times. By Decision No. 56625, dated April 29, 1958, the Commission prescribed increases of six cents a ton in the minimum zone rates for asphaltic concrete on a showing of increases in labor costs and on evidence that the terminal end times applicable to the transportation of asphaltic concrete had increased substantially since the minimum rates then in effect had been

established.⁸ As to the asserted improvement in loading procedures which would tend to shorten the loading times, this fact is not a sole consideration. Another consideration is that since the zone rates which now apply were first established, the capacities of the vehicles used in the transportation of asphaltic concrete have increased by 15 per cent or more. Hence, the reductions in time achieved through improved loading facilities have been offset in part by increases in loading times resulting from the increases in the sizes of the loads transported.

CAPA's exceptions to the time recommendations of the Examiner stem largely from the fact that the Examiner did not accept as controlling evidence certain testimony of CAPA's consultant concerning the terminal end loading and unloading times. Also, the Examiner partly discounted evidence which the consultant had developed through time studies of assertedly representative terminal end times.

Terminal end times which the consultant recommended be adopted are as follows:

	Loading time per load <u>(minutes)</u>	Unloading time per load <u>(minutes)</u>	Total time per load <u>(minutes)</u>
3-axle dump truck	15	12	27
3-axle dump truck and 2-axle trailer	20.5	31	51.5

⁸ According to the evidence which was considered in Decision No. 56625, the increases in terminal end times amounted to about 20 minutes per load and the increases in labor costs amounted to about 50 cents an hour. The decision does not state specifically how much of the prescribed rate increases was based respectively on the increased labor costs and on the increases in terminal end costs. It does state that the increases in costs due to the increase in the loading time would increase the costs of the average haul by more than ten cents a ton.

According to the consultant, the foregoing times represent his judgment of what constitutes the maximum average loading and unloading time that applies in conjunction with reasonably efficient operations.

The consultant also submitted as supporting data the results of time studies which he together with CAPA had made of terminal end operations which are involved in the transportation of asphaltic concrete under zone rates. In general, the study was made under the direction of the consultant. However, CAPA or representatives of the asphaltic concrete plants that comprise that association selected the shipments to be studied, the carriers who transported said shipments, and the observers who recorded the loading and unloading times while the loading and unloading services were being performed. The results of the time studies are set forth in the following table:

Loading and Unloading Times
(in minutes)

	<u>3-Axle Dump Trucks</u>	<u>Truck and Trailer</u>
<u>Loading</u>		
Total loads	877	148
Average loading time, per load	21.6	20.3
Mode time	15	10
Median time	18*	17*
<u>Unloading</u>		
Total loads	694	142
Average unloading time, per load	11.0	30.9
Mode time	3	30
Median time	8*	29*

*Corrected figure.

As may be noted from comparison of the consultant's terminal end time recommendations with the data in the foregoing table, the time of 15 minutes which the consultant reported as the average loading time for 3-axle dump trucks in reasonably efficient operations is less than the average loading times spent in the loading of the 877 loads covered by the study. If the consultant's judgment is right and his recommended figure of 15 minutes is a correct measure of the maximum average unloading time of 3-axle dump trucks engaged in reasonably efficient operations, it follows that those loads which were not encompassed within the 15-minute average were not unloaded in "reasonably efficient circumstances". Of the 877 loads studied, 21 per cent of said loads, or 188 in number, were not loaded within the time included in the 15-minute average. A conclusion that 21 per cent of the loadings of 3-axle dump trucks that were studied were not made in reasonably efficient circumstances is hardly compatible with the nature of the shipments that were covered by the study. Said shipments had been selected as representative of types of the hauls of asphaltic concrete that are made. It does not seem reasonable that in its selection of such shipments CAPA would intentionally select shipments that are loaded in inefficient operating circumstances. The more reasonable view, it appears, is that the studies simply reflect the loading and unloading times that apply in the circumstances in which the shipments which are involved were loaded and unloaded. We find that in proposing an average loading time of 15 minutes for 3-axle

dump trucks, the consultant was too restrictive in his recommendations and excluded from his consideration shipments that should be taken into account in the development of minimum zone rates for the transportation of asphaltic concrete in dump truck equipment.

The Examiner's recommendations concerning terminal end time, the record shows, reflect consideration of all of the terminal end data which were presented. The study of loading times by CAPA was used by the Examiner as the principal basis for his recommended terminal end loading time. The terminal end unloading time which was recommended by a Commission engineer was adopted by the Examiner after noting that said time was in substantial agreement with terminal end unloading time developed from time studies of unloading operations by the CDTOA. The Examiner did not take into account a study of unloading times by CAPA for he concluded that the study was not sufficiently representative to be utilized. The Examiner's recommended loading and unloading times correspond to weighted averages of all but about 5 to 7 per cent of the times in the uppermost ranges of the studies used.

Two main questions are raised by the exceptions of CAPA to the Examiner's recommended terminal end times: (a) whether the Examiner improperly excluded from his consideration the study of unloading times which CAPA submitted, and (b) whether the Examiner's selection of the data used in arriving at his recommendation was otherwise reasonable.

The Examiner rejected CAPA's study of unloading times because "It appears that the circumstances in which the unloading was performed were such as to permit more expeditious loading than would ordinarily be the case." In other words, the Examiner concluded that data which were developed in CAPA's study were not reasonably representative of the unloading experience of the carriers in normal operations.

As reported previously herein, CAPA participated to a substantial extent in the study through the selection of the shipments of the carriers and of the observers. Moreover, as stated by the Examiner, "close control over the truck movements was achieved in some, if not all, instances through radio communication between the unloading points and the asphaltic concrete plants".

The results of CAPA's study show unloadings in materially lesser times than those developed in the corresponding study by the CDTOA. Analysis of the two studies shows that out of 694 shipments which were studied by CAPA, 60 per cent were unloaded within 10 minutes; 89 per cent were unloaded within 20 minutes, and 96 per cent were unloaded within 30 minutes. Out of 1,081 shipments which were studied by the CDTOA, 44.5 per cent were unloaded within 10 minutes, 68.4 per cent were unloaded within 20 minutes, and 81.6 per cent were unloaded within 30 minutes. The maximum unloading time reported by CAPA was 80 minutes, whereas the CDTOA shows 16 unloadings in excess of 30 minutes, including one unloading which required 155 minutes. The

lesser unloading times reported by CAPA, when considered in conjunction with the fact that the carriers who were involved in the study were under the observation of their employers throughout the study, leads to the conclusion that the results of the study are not acceptable as representative of unloading times for the purpose of developing reasonable minimum rates. We find that the Examiner correctly excluded the study from his considerations. ✓

The question of whether the Examiner's selection of the data used for his recommended terminal end times was otherwise unreasonable deals mainly with whether the percentages of about 90 to 95 per cent are reasonable upper limits to be applied to the terminal end times used. If, in the development of rates, a purpose were to include provision for all time spent in loading and unloading operations, such purpose could be achieved through allowances for all of the loading and unloading times involved. Under this procedure the rates would include provision for loadings and unloadings under abnormal or special conditions as well as conditions normally applicable to the transportation performed.

On the other hand, if the rates are to be designed to exclude provision for abnormal loading and unloading delays, it follows that such delays should be excluded from the data upon which the basic rates are developed. In the latter event, the rates themselves would encompass the services usually or normally performed.⁹

⁹ CAPA asserts that "to arbitrarily select any cutoff time in the loading or unloading operations, in excess of which the carrier is entitled to extra compensation, is to destroy those averages upon which the rates are constructed." CAPA's assertions demonstrate an erroneous concept of the mechanics of the construction of rates.

From our review and consideration of the matters involved, it is evident there is no formula for measuring with mechanical precision the exact point of demarcation between normal and abnormal loading and unloading times. We are satisfied that the times which the Examiner recommended be adopted as maximum loading and unloading times represent a reasonable division between normal and abnormal loading and/or unloading times. We find said times are reasonable. We also find that the terminal end times which the Examiner recommended are reasonable. Said terminal end times and the maximum times will be adopted.¹⁰

A Charge of \$2.50 per One-Half Hour Should
Be Assessed for Loading and Unloading Delays
in Excess of Designated Maximum Times.

CAPA, the CDTOA and the ITOOU each excepted to this recommendation of the Examiner. CAPA asserts that no charge should apply. The CDTOA asserts that the charge should be \$4.10 per one-half hour. The ITOOU urges that the charge be assessed at the applicable hourly rate for the vehicle involved, and that such charge should be assessed for delays in excess of 20 minutes, in the case of 3-axle dump truck equipment, and for delays in excess of 40 minutes, in the case of truck-and-trailer equipment.

¹⁰ No weight is given to the assertions of the Commission's staff that the terminal end times for the truck-and-trailer equipment should be 54 minutes instead of 50 minutes, as recommended by the Examiner. The time of 54 minutes was developed from observations made of six loadings and 30 unloadings, a total of 36 in all. Corresponding observations which were made in the study conducted by CAPA totalled 290. The Examiner's recommendations are supported by the more extensive study of CAPA.

The opposition of CAPA to the application of any charge for excess delay time is unreasonable. It is evident that excessive delays involve additional costs to a carrier which either must be borne by the carrier or be assessed against shippers generally in the form of increased rates, or be charged against the party responsible for the delays. The carrier should not be expected to forego reasonable compensation for its services, including delay time. Neither should shippers in general be expected to shoulder the costs involved. It is only equitable that said costs should be charged against the parties responsible for the excessive delays.

However, it appears that the charges that should be established on this record should be limited to those delays which carriers experience at points of unloading. The evidence is clear that delays are also experienced at points of loading for which the carriers should receive compensation. Nevertheless, the prescription of charges for loading delays should be deferred pending the development of criteria for assessing such charges equitably. It appears that in present circumstances there would be practical difficulties in determining when the charges should apply. These difficulties result from practices of the carriers in utilizing the asphaltic concrete plants as focal congregating points, whether or not their services are required at the time. Some of these practices stem from solicitation efforts by the carriers. Others stem in part from the fact that in various instances the carriers may garage their vehicles on the premises of the asphaltic concrete plants.

Obviously, the establishment of charges for loading delays should take these circumstances into consideration, since the mere presence of a carrier at an asphaltic concrete plant for prolonged periods may not necessarily constitute a delay for which a charge should apply. Further information should be developed on the matters involved before charges for loading delays are established.

With respect to the charges that should be prescribed for unloading delays, said charges should be consistent with the additional costs which result from the delays. The Examiner stated that the measure of the compensation due the carrier should be mainly the labor costs. On the other hand, both the CDTOA and the ITOCU declare in effect that consideration should be given to vehicle time costs also. It appears that the CDTOA and the ITOCU overlook the fact that full compensation for the vehicle annual time costs is included in the rates generally, and that a charge for abnormal delays would constitute a duplication of charges already in the rates. To the extent that the vehicles are operated during the delay period, operating costs such as those for vehicles would be incurred. Nevertheless, the record does not provide sufficient basis for measuring costs of this type. The additional charges for abnormal delay which should be prescribed on this record should be limited to those for labor and the costs related thereto. On this basis we find that the charge of \$2.50 per one-half hour (or fraction thereof) which the Examiner recommended is reasonable. Said charge will be adopted and prescribed.

A further item to be considered is the times which should be considered as the maximum unloading times (as reflected

in the rates) for the purpose of computing charges for abnormal delays in the operation of 2-axle and 4-axle dump trucks. The evidence shows that the unloading of 2-axle dump truck equipment is performed in about the same amount of time as is required for the unloading of the 3-axle equipment. With respect to the 4-axle equipment, it appears that the unloadings thereof would more closely approximate those of the truck-and-trailer equipment than they would of the 3-axle equipment. Upon consideration of this circumstance, we find that the maximum unloading time for 3-axle dump truck equipment should apply also to 2-axle dump trucks, and that the maximum unloading time for the truck-and-trailer combination should also apply to 4-axle dump trucks.

A. Charge of \$2.50 per One-Half Hour Should
Be Assessed for Stand-By Service

The record shows that asphaltic concrete plants require carriers to provide stand-by service (waiting for receipt of orders for asphaltic concrete) so that deliveries of asphaltic concrete can be made promptly as orders are received. The Examiner states that stand-by service is a service for which the carriers should receive compensation, and he recommends the establishment of a charge of \$2.50 per one-half hour therefor.

This recommendation was opposed by CAPA, the ITOOU and the Commission's staff. CAPA asserts that the charge would disrupt trade practices, would be contrary to the public interest, and would be unenforceable. The ITOOU similarly opposed the charge. The Commission's staff alleges that the charge would be unenforceable. The Examiner's recommendation was supported by the CDTOA.

In providing stand-by service in the circumstances described, the carriers are rendering a service for which provision is not included in the cost components upon which the zone rates are developed. We concur with the Examiner that the carriers should receive compensation for stand-by service which they provide upon order from the asphaltic concrete plants. Nevertheless, a charge for stand-by service should not be prescribed on this record. As in the case of charges for loading delays, further information should be developed upon the criteria to be applied in order that the charge, when prescribed, may be assessed equitably.

A Charge of \$1.00 per Machine Should Be
Assessed for the Pulling or Towing of
Paving and/or Ditching Machines and Devices

This recommendation was opposed by CAPA and by the Commission's staff. CAPA asserts that no charge should be made for the reason that the services involved do not require extra time on the part of the carrier. The ITOOU supported the proposed charge, but urged that it be limited to services provided only during the unloading of the carrier's equipment, and that other minimum rate provisions apply at other times.

The towing services in question are services which the dump truck carriers are called upon at times to provide at the job sites where the unloading of the carriers' vehicles is performed. They are services which are not included among the services for which zone rates apply. Since they are thus in the

nature of accessorial services, a charge should be made for them in addition to the charges which accrue under the zone rates. We are of the opinion and find that the recommended charge is reasonable as a minimum charge for the towing services provided. We do not concur with the ITOOU that the towing for which the charge would apply should be limited to that performed during the unloading operations only. The charge is intended to cover all incidental towing at job site. Subject to elimination of the reference to "Ditching Machines", the Examiner's recommendation will be adopted.¹¹

The Minimum Charge for Debris Cleanup
at Job Site Should be that for One-Half
Hour at the Applicable Hourly Rate
Under Minimum Rate Tariff No. 7.

The Examiner's recommendation in this respect would result in a reduction in the minimum charge that applies at present in connection with the transportation of debris and other transportation which is provided at the hourly rates set forth in Minimum Rate Tariff No. 7. The present minimum charge is that for one hour. The Examiner proposes that a minimum of one-half hour apply for debris cleanup service when said service is limited to that performed at job site and is incidental to transportation of asphaltic concrete which the carrier has performed to said job site under zone rates.

¹¹ It appears that the reference to "ditching machines" was an inadvertence.

This recommendation was made in response to an unopposed proposal of the CDTOA. The ITOOU excepts to the recommendation on the grounds that the charge would be a reduction in an historically acceptable charge, that it would result in many disagreements between carriers and shippers, and that the reduction is not justified because debris hauling is a relatively costly service to perform.

No weight may be given to the objections of the ITOOU. The objections are based in part upon a misunderstanding of the proposal. Also, they rest in part upon asserted facts which were not established as part of the record. The Examiner's recommendation will be adopted.

Nonalternation of Zone
Rates with Hourly Rates

The Examiner's proposal in this respect would preclude the use of hourly rates as alternatives to the zone rates which would be established in this matter. A principal reason which the Examiner advanced for this recommendation is that the alternation of the hourly rates with the zone rates permits the assessing of charges which are below a reasonable level. The Examiner states that:

"The zone rates, by their construction, are intended to give as precise effect to time and distance cost factors applicable to any particular haul as is practically possible. The hourly rates on the other hand place greater emphasis on the time cost factors. The zone rates and the hourly rates, both, are designed to produce reasonable transportation charges in total. However, because of the internal construction of the rates, the charges under the zone and hourly rates may differ for identical hauls. Obviously, in these circumstances, a constant selection between the zone or hourly rates, according to which would produce the lower charge for the hauls specifically involved, would result in lower total charges than would be reasonable for either basis of rates."

On the other hand, CAPA alleges that the alternate use of the hourly rates is essential to the maintenance of reasonable minimum rate provisions, particularly in instances when the circumstances in which a job is performed are substantially different from those upon which the sought rates are constructed. CAPA's concern in this respect is directed primarily to changes in free-ways and highways which result in material reductions in the distances traversed or the times required in the delivery of asphaltic concrete over the affected routes. Moreover, it seeks freedom to observe zone rates or hourly rates, whichever produce the lower charges in connection with "extremely large jobs". It asserts that in other respects there is little incentive for asphaltic concrete producers and contractors to be concerned with whether the hourly rates should be assessed instead of the zone rates.

In connection with its contentions that hourly rates are needed for the maintenance of reasonable rates when there have been material changes in highways or freeways, CAPA alleges that "the Commission is simply not equipped to make prompt adjustments in the rates when the necessity of corrective measures is brought to its attention". This allegation is no more than a self-serving declaration which has no merit in showing the existence of need for the alternate use of the hourly rates. It apparently stems from an incident which resulted in a denial of an informally presented request of CAPA for a directive from the Commission to its staff to make certain studies and to report thereon. The response to such request obviously has no bearing on an action

toward adjustment of the minimum rates which CAPA, itself, might prosecute in accordance with the Commission's rules of procedure. Where parties elect to petition for rate adjustments and to support their petitions with probative evidence, the Commission will and does act thereon as soon as it can practicably.

In other respects, CAPA's request that provision be made for the alternation of hourly rates with the zone rates must be viewed as simply an attempt to avoid the full charges which would accrue under the zone rates. Although allegedly the departures from the zone rates would be limited to the selected "extremely big jobs", we are not persuaded that such would be the case.

CAPA states that, in general, the use of the hourly rates is inhibited by extra supervisory costs of about \$60 a day and certain other costs which allegedly are incurred when transportation is performed under hourly rates. Regarding the alleged costs of extra supervision, we note that the record shows that for the most part the asphaltic concrete plants or contractors are regularly served by the same carriers. It is hardly credible that an asphaltic concrete plant or contractor would repeatedly deal with a carrier if the carrier has not demonstrated a capacity for responsible action. Even though it should be conceded that extra supervision would be justified were all of the transportation to be performed under hourly rates, it does not follow that the same degree of supervision would be necessary when the use of the hourly rates as alternative to the zone rates is occasional.

The other of the so-called additional costs must also be regarded as largely unproved. We are of the opinion that the use of hourly rates as alternative to the zone rates would be much greater than that which CAPA alleges.

As pointed out by the Examiner, the zone rates are intended to give as precise effect to time and distance cost factors as is practicably possible. Since by construction the zone rates are more precise than the hourly rates, the fact that charges under the zone rates may be higher in some instances than charges for the same transportation under the more general hourly rates does not prove that the higher charges are above the reasonable minimum level established for transportation under the zone rates. CAPA's argument that the alternation of the hourly rates with the zone rates is essential to the maintenance of reasonable transportation charges ignores this fact. It is without merit.

A further argument which was made by CAPA for alternation of the hourly rates with the zone rates is that undue discrimination will result if the hourly rates cannot be alternatively assessed. CAPA's allegation of undue discrimination relates mainly to the transportation of transit mixed concrete and to the transportation of the ingredients of concrete in rubber bags. The transportation of the mixed concrete is not subject to minimum rates. It does not appear how the alternative application of hourly rates for the transportation of asphaltic concrete would overcome the undue discrimination which allegedly exists in favor of the transit mixed concrete. With reference to the transportation

of the ingredients of concrete in rubber bags, the Examiner pointed out that undue discrimination is not established by the mere fact that the transportation of asphaltic concrete would be subject to a different basis of minimum rates. We agree.

CAPA's remaining claim concerning undue discrimination deals with those asphaltic concrete plants who may not be located within established production areas and hence are not subject to zone rates.¹² The transportation of asphaltic concrete from said plants would be subject to hourly rates. CAPA's claims of undue discrimination are based on the fact that in the absence of alternative provisions the asphaltic concrete plants that would be obligated to observe zone rates would not be able to ship on the same basis of rates as the plants subject to hourly rates. As in the case of the transportation of the ingredients of concrete in rubber bags, the difference in rate bases does not itself establish that nonalternation of the hourly and zone rates would be unduly discriminatory against the asphaltic concrete plants represented by CAPA. Even though some action towards equality of rates were required, it does not follow that adoption of the alternative provisions should be the course to be taken.¹³

¹² The asphaltic concrete plants which are involved are principally those plants which have been constructed at locations outside of the established production areas.

¹³ It is within the Commission's knowledge that in the past the nonavailability of zone rates to new construction plants has been a source of allegations of undue discrimination as to said plants for reasons that the zone rates provide a more convenient and more certain basis for determining freight charges, particularly in advance of shipment. ✓

Application of Minimum Rates
to Underlying Carriers

The Examiner recommended that the same provisions which were prescribed in an earlier phase of this proceeding by Decision No. 68543, dated February 3, 1965, to govern payments of subhaulers to sub-subhaulers in connection with the transportation of rock, sand and gravel be made applicable also to the transportation of asphaltic concrete. The recommended provisions are as follows:

"Charges paid by an underlying carrier (a sub-hauler) to another underlying carrier (a sub-subhauler), and collected by the latter for services performed for the former, shall be not less than 95 percent of the charges received by the former from the overlying carrier (exclusive of allowances for liquidated debts of the sub-hauler to the overlying carrier) under the minimum rates prescribed in the tariff (Minimum Rate Tariff No. 17)."

Exceptions to this recommendation were taken by the CDTOA, CAPA, and the ITOOU. The CDTOA asserts that sub-subhaulers perform the same services that the subhaulers contract to perform and should receive the same compensation as the subhaulers. CAPA urges that sub-subhauling of asphaltic concrete be prohibited. The ITOOU asserts that the rule heretofore adopted should not be extended to apply to sub-subhauling of asphaltic concrete.

In view of the substantial differences amongst the recommendations of the CDTOA, CAPA, and the ITOOU, it may be that further consideration may well be given as to what action should be taken concerning sub-subhauling of asphaltic concrete. If so, the interested parties should bring their proposals to the attention of the Commission through appropriate petitions. The scope

of the present phases of this proceeding is not sufficiently broad
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to permit consideration of all the actions sought.

On this record we see no basis for differentiating between the provisions which apply to sub-subhauling of rock, sand and gravel, on the one hand, and which would apply to the sub-subhauling of asphaltic concrete, on the other hand. We find that the rule which was established by Decision No. 68543 to govern the payments to sub-subhaulers by subhaulers for the transportation of rock, sand and gravel is reasonable in connection with like transportation of asphaltic concrete. The Examiner's recommendation in this respect should be adopted.

Written Orders for Carriers' Services
Should Be Made a Prerequisite to the
Performance of Said Services.

This proposal of the Examiner was recommended as a measure to define and clarify the duties and responsibilities which carriers, shippers, consignees, and asphaltic concrete plants respectively assume in connection with the transportation of asphaltic concrete. As justification for this recommendation, the Examiner states that:

"In the circumstances in which asphaltic concrete is now being transported, the carriers and the other parties involved do not enter into any real agreement as to what specific services are to be provided; what payments are to be made for the services rendered, and who is responsible for the payment of the transportation charges."

The Examiner recommended that written shipping orders be made a requirement for the transportation involved, said shipping orders to show, among other things, the name and address

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For example, the prohibiting of sub-subhauling of asphaltic concrete is beyond the purview of these present phases of Case No. 5437.

Appendix C
(Continued)

point of origin to the original point of destination shown on the Shipping Document, plus 8 cents per ton for each mile (or fraction thereof) traversed from original point of destination to the point of departure from the system of zones, plus 13 cents per ton for each mile (or fraction thereof) traversed from said point of departure to final point of destination (subject to Note 1).

NOTE 1. - If a lower charge results from assessing, for the total distance traversed from point of origin via point of diversion to final point of destination, the Southern Territory distance rate in Minimum Rate Tariff No. 7 for said distance, said lower charge may be assessed in lieu of that accruing under the provisions of paragraph (c).

6. Computation of Charges for Shipments to Delivery Zones for Which Specific Zone Rates Are Not Provided

Amend the above-titled tariff item as follows:

Make paragraph b subject to Note 1, below:

Add the following as paragraph c, subject to Note 2, below:

c. Add to the rate to said delivery zone from said production area a rate of 8 cents per ton for each mile or fraction thereof traversed from point of departure from said delivery zone to point of destination. (Subject to Note 2).

Note 1. Applies in computation of rate for commodities named in Paragraph a of Item No. _____, Application of Tariff - Commodities.

Note 2. Applies in computation of rate for commodities named in Paragraphs b and c of Item No. _____, Application of Tariff - Commodities.

7. Computation of Distances

Amend the above-titled tariff item to read as follows:

of the party liable for the transportation charges, the name and address of the agent (if any) of said party, the name and address of the asphaltic concrete plant from which the shipment is to be transported, and any services to be provided at point of unloading other than the dumping of a shipment into a self-propelled paving machine or upon the ground. The Examiner further recommended that all orders for the carriers' services be retained in the vehicles of the carriers and made available to the inspection of a representative of the Commission while services under said orders are being performed.

CAPA, the ITOOU and the Commission's staff excepted to these recommendations of the Examiner. The CDTOA supported them.

CAPA asserts that the Examiner erred in his conclusions and that his proposals were

" . . . conceived without evidentiary support. None of the parties . . . had an opportunity to present evidence as to a need for such proposals or a lack thereof. Neither has any party had an opportunity to present . . . evidence relative to the impractical nature of said proposals, the scope of the enforcement proposals . . . or the chaotic situation that will result . . . should such (proposals) be adopted."

Much of the evidence pertaining to the relationships between the carriers and the asphaltic concrete plants and/or consignees was adduced through CAPA's executive director, who testified that most asphaltic concrete is sold f.o.b. plant (RT 3826);¹⁵ that the responsibility of the asphaltic concrete producers in connection with the transportation of asphaltic

¹⁵ The figures shown in parentheses are page references to the reporter's transcript.

concrete that is sold f.o.b. plant is limited to the loading of the material into the carriers' vehicles (RT 3826); that as a matter of consignees' convenience the producers make shipping arrangements with the carriers (RT 3825); that in making said arrangements the producers do not inform the carriers whether they (the carriers) should bill the producers or the consignees for the freight charges; that in usual practice the producers, acting on behalf of the consignees, pay the freight charges (RT 3826); that the delivery instructions which the producers furnish the carriers are not complete; that supplementary instructions are frequently given by the consignees to the carriers (RT 3920, 3921); that the shipping instructions which the producers furnish the carriers are not in written form (RT 3922); and that CAPA sees no objection to written definition of the services to be provided by the carriers (RT 3922, 3923). The testimony of CAPA's executive director supports the conclusions of the Examiner that "the carriers and the other parties involved do not enter into any real agreement as to what specific services are to be provided; what payments are to be made for the services rendered; and who is responsible for the payment of the transportation charges". CAPA's charges of error in this respect are without merit.

CAPA's prediction that "a chaotic situation" would result if the Examiner's recommendation is adopted does not conform to the testimony of CAPA's executive secretary that written definition of the carriers' duties would be helpful to the elimination of disputes.

The ITCOU's objections to the Examiner's recommendations are on the grounds that in arranging with the carriers in the transportation of asphaltic concrete the producers cannot foresee and specify all of the services which carriers may be called upon to provide in connection with a particular shipment. However, a requirement that orders for a carrier's services be in writing does not preclude the issuance of supplementary written orders to cover services not specified in the original shipping or service orders.

The exceptions of the Commission's staff to the written shipping or service orders which the Examiner recommended were made on the grounds that the proposal is "impractical and largely unenforceable". However, the staff does not suggest any alternative measures to reduce the uncertainties in the present arrangements. In fact, the staff apparently advocates that such uncertainties be continued. Regarding the performance of services which are not specified in the delivery instructions given by the carriers by the asphaltic concrete plants, the staff asserts that

" . . . quite often parties are not available at destinations with authority to provide additional written instructions. Thus, strict adherence to the rule would prevent the carrier from serving the transportation needs in such cases".

We do not accept the staff's concept that carriers should perform services demanded by persons who lack the authority to make such demands on behalf of their employers and to commit their employers for payment for said services. Shippers and consignees should not expect service from the carriers unless they

(the shippers and consignees) are willing to accept the obligation of paying for the services ordered.

The assertion that a rule requiring a written shipping order would be "largely unenforceable" can hardly be regarded as a considered evaluation of the rule. Since the rule would require that the shipping order be in the possession of the carrier and retained in the carrier's vehicle while services under the order are being performed or provided, it is evident that one check that can be readily made is that which can be made at the jobsite to determine, as the carriers arrive with their loads, whether the carriers have in their possession the required documents, the terms thereof, and whether the services which the carriers provide at the jobsite are in conformity with the orders. Appropriate penalty actions can be instituted for failures disclosed by such checks of the carrier to obtain, and act in accordance with, the required shipping documents.

A further exception of the staff to the Examiner's recommendation is that the minimum rates would not be applicable to the transportation performed if the carrier is not furnished with written shipping instructions. The staff misinterprets the provisions governing the application of the rates. The pertinent tariff provisions which would apply are as follows:

Rates . . . apply for transportation
from all points within the production
areas to all points within the delivery
zones described in Directory No. 1.

As is evident from reading of the rule, the applicability of the minimum rates is not contingent upon whether the transportation is performed pursuant to written order.

We find that the proposed rule that written orders for carriers' services be a prerequisite to the performance of said services is reasonable and justified. It will be adopted subject to modification for purposes of clarification. Also, under the rule which the Examiner proposed, the preparation of the shipping orders would devolve upon the consignor or consignee. For purposes of convenience, the carriers may wish to prepare the documents in some instances and the consignors or consignees may wish to prepare the documents in other instances. It is not necessary to specify who should prepare the documents, provided that they are prepared. The rule will be modified accordingly.

Miscellaneous

The remaining exceptions to be considered are those of Vernon Asphalt Materials Co. and Vernon Asphalt Materials of Inglewood. These companies urged that the traverse data of record be adjusted to reflect changes in highways and freeways which have occurred since studies leading to the data of record were initiated.

The exceptions of the Vernon Asphalt companies are mainly prospective in nature. To the extent that they apply to present traverse data which are a basis for the various rate proposals involved herein, the exceptions do not provide sufficient basis for modification or other action with respect to said data.

One other matter to be considered in connection with the zone rates to be hereinafter prescribed is the level of the wage costs for dump truck drivers which is to be used in the calculation of said rates. The Examiner recommended that the rates be calculated on the basis of the wage costs which became effective on January 1, 1965. However, it has been brought to the

Commission's attention in another phase of this proceeding (Petition No. 116, Case No. 5437) that during the past year a new labor contract has been negotiated with the carriers of asphaltic concrete and decomposed granite which provides for the payment of wages at higher rates than those in effect on January 1, 1965. Official notice of the wage rates which apply under this new contract is hereby taken for the purposes of the present phases of this matter. Official notice is also taken of increases in tax rates which have become effective this year under the Federal social security program. The zone rates to be hereinafter prescribed will be calculated upon the wage and social security tax rates which are applicable at the time that the zone rates become effective.

Findings and Conclusions

Upon consideration of the evidence of record and the replies to the exceptions, the Commission finds that the Examiner's recommended findings should be modified in the following respects:

a. Amend Paragraph 7a(1) and Paragraph 8a(1), Appendix A, to read as follows:

The labor costs should be those applicable to fleet operators, to which reference is made in Table No. 3 of Exhibit No. A-22, and the costs should be increased

- (a) to reflect the wage rates of record pursuant to Petition No. 116, Case No. 5437, which are applicable to the involved transportation at the time that the rates which are established by the Order herein become effective;
- (b) to reflect present Federal social security tax rates which apply in connection with the wages calculated under the aforesaid wage rates; and
- (c) to reflect other related payroll costs, and related costs of health, welfare and pensions.

- b. Amend Paragraph No. 10, Appendix C, to read as follows:

Accessorial Services - Pulling
or Towing Paving Machines

When the service of pulling or towing a paving machine is performed by a carrier at a job site as an incidental service prior to, during, or after the unloading of a shipment of asphaltic concrete from the carrier's equipment, a charge of \$1.00 per machine pulled or towed shall be assessed.

In all other respects pulling or towing services provided by a carrier shall be subject to such other minimum rates, rules and regulations as apply under the minimum rate orders of the Commission.

- c. Amend the charge for Delay Time that is specified in Paragraph 12, Appendix C, to conform to that for one-half hour at the total labor costs for drivers of 3-axle dump trucks which are calculated in accordance with the provisions of paragraph a, above. In other respects amend Paragraph 12, Appendix C, to read as follows:

Delay Time

When, in connection with the transportation of a shipment of asphaltic concrete, a carrier is delayed through no fault of its own in the unloading of said shipment, and when the unloading time exceeds one hour, a charge at the rate of \$ for each half hour, or fraction thereof, of excess delay time shall be assessed against the debtor.

In computing unloading time under this rule, said time shall commence when the carrier arrives at point of destination.

- d. Delete Paragraph No. 13 (Stand-by Service) from Appendix C.
- e. Substitute the rules and regulations in the attached Appendix E for those set forth in Appendix B.

Paragraph No. 9 of the Examiner's recommended conclusions should be amended by the addition of the following:

Also, the rates, rules and regulations (modified to the extent herein provided) which are otherwise found reasonable in Appendix A should be promulgated in the tariff approved and adopted by Decision No. 68543.

We find and conclude that the Examiner's recommended findings and conclusions, modified as specified above, are reasonable. We hereby adopt said findings and conclusions as our own.

On the basis of our findings and conclusions herein, revised minimum rates, rules and regulations for the transportation of asphaltic concrete, cold road oil mixture (also, cold liquid asphalt, in containers), and decomposed granite in dump truck equipment by for-hire carriers will be prescribed by the order which follows. Amendment of Minimum Rate Tariff No. 7 (together with related amendments of Minimum Rate Tariffs Nos. 2 and 5) to the extent necessary to carry out the effect of the order will be prescribed also.

The calculation of the numerous rates to be prescribed together with the preparation of the tariff amendments to be made are tasks of considerable magnitude. The distribution of said tariff amendments will be accomplished by further order as soon as practicable. The effective date of the rates, rules, regulations and tariff amendments which are prescribed will be as specified by the further order.

O R D E R

IT IS ORDERED that:

1. Minimum rates, rules and regulations for the transportation of asphaltic concrete, cold road oil mixture (also, cold liquid asphalt, in containers), and decomposed granite shall be established in conformity with the findings and conclusions set forth above;

2. To the extent said minimum rates, rules and regulations are made applicable, they shall supersede present provisions of Minimum Rate Tariff No. 7 which apply to the same transportation;

3. Amendments shall be made in Minimum Rate Tariffs Nos. 7, 5 and 2 to the extent necessary to give effect to this order;

4. The issuance and distribution of the tariff amendments setting forth the rates, rules and regulations prescribed herein shall be accomplished by further order;

5. The aforesaid tariff amendments shall be made effective as specified in the further order;

6. In seeking the establishment of additional production areas, together with rates from said areas, petitioners are relieved of the requirement that they set forth in their petitions the precise rates which they seek to have established. This waiver does not relieve petitioners from furnishing, in support of their petitions, such time and distance data and territorial descriptions as are necessary to the integration of the additional production areas which are involved into the rate structure established by this order or amendments thereto;

7. Common carriers are authorized to depart from the provisions of Article XII, Section 21, of the Constitution of the State of California to the extent necessary to assess or otherwise to apply the minimum rates, rules and regulations to be established pursuant to this order;

8. Petition No. 65 in Case No. 5437 and the petition filed on September 1, 1964, to set aside submission of said Petition No. 65 are dismissed;

9. The effective date of this order is twenty days after the date hereof.

Dated at San Francisco, California, this 12th
day of APRIL, 1966.

Frederick B. Helms
President

W. E. Mitchell

August

William W. Bennett
Commissioners

I concur, except that I would fix the minimum rate for a sub-subhauler at 100% of the rate for the corresponding subhauler. George F. Grover

APPENDIX A

Recommended Findings and Conclusions
of Examiner Abernathy

Recommended Findings

Upon the basis of the record in these phases of Case No. 5437, the Examiner recommends that the Commission find that:

1. Subject to modification to give effect to the exception specified below, the round-trip times which are shown in Exhibit No. A-23 (Case No. 5437, Order Setting Hearing of March 24, 1959) as the times required per round trip in the transportation of asphaltic concrete and cold road oil mixture from the respective production areas to the delivery zones listed in connection with said round-trip times are reasonable times for the purposes of computing the costs of, and developing minimum rates for, the transportation of asphaltic concrete and cold road oil mixture (also, cold liquid asphalt, in containers) from said production areas to said delivery zones.

EXCEPTION: The round-trip times should be reduced to the extent necessary to exclude therefrom provision for terminal end times. (The resultant times would be round-trip vehicle running times.)

2. Subject to modification to give effect to the exception specified below, the round-trip times which are shown in Exhibit No. A-52. (Case No. 5437, Order Setting Hearing of March 24, 1959) are reasonable times for the purposes of computing costs and developing minimum rates for the transportation of asphaltic concrete and cold road oil mixture (also, cold liquid asphalt, in containers) from the respective production areas to the respective delivery zones between which the round-trip times apply.

EXCEPTION: The round-trip times should be reduced by 4 per cent.

3. Subject to modification to give effect to the exception specified below, the round-trip times for 'Rock Z' which are shown in Exhibit No. A-23 from Los Angeles Production Area L (19-L), and the round-trip times which are shown in Exhibit No. A-25 (Case No. 5437, Order Setting Hearing of March 24, 1959) from Los Angeles Production Areas EE, Q, QA, QB, R and Z, are reasonable times for the transportation of decomposed granite from said production areas to the respective delivery zones.

Appendix A

EXCEPTION: The round-trip times should be reduced to the extent necessary to exclude therefrom provision for terminal end times. (The resultant times would be round-trip vehicle running times.)

4. The one-way distances which are shown in Exhibits Nos. A-23 and A-52 as the one-way distances between the production areas and delivery zones listed in connection with said distances are reasonable distances for the purposes of computing the costs of, and developing minimum rates (as hereinafter specified) for, the transportation of asphaltic concrete, cold road oil mixture (also, cold liquid asphalt, in containers), and decomposed granite from said production areas to said delivery zones.
5. The following are reasonable terminal end times and terminal end distances for use in these phases of Case No. 5437 in computing the costs of, and developing minimum rates for, the transportation of asphaltic concrete, cold road oil mixture (also cold liquid asphalt, in containers):

	<u>Terminal End Time (in minutes)</u>	<u>Terminal End One-Way Distance (in miles)</u>
3-axle dump truck	34	.15
3-axle dump truck and 2-axle trailer	50	.4

6. The following are reasonable terminal end times and terminal end distances for use in these phases of Case No. 5437 in computing the costs of, and developing minimum rates for, the transportation of decomposed granite:

	<u>Terminal End Time (in minutes)</u>	<u>Terminal End One-Way Distance (in miles)</u>
3-axle dump truck	16	.35
3-axle dump truck and 2-axle trailer	31.3	.5

7. Subject to the modifications listed below, the time and mileage costs per ton which are set forth in Table No. 12 of Exhibit No. A-22 for three-axle dump trucks are reasonable costs for the transportation of asphaltic concrete from production areas to delivery zones within the Core Area. Said costs are also reasonable costs, or are reasonable for use in the development of blended costs, for the transportation of asphaltic concrete from production areas in Ventura County to delivery zones

Appendix A

in Santa Barbara or Ventura Counties:

- a. The time costs should be modified to give effect to changes in the components of said costs as follows:
 - (1) The labor costs should be those applicable to fleet operators, to which reference is made in Table No. 3 of Exhibit No. A-22, and the costs should be increased to reflect the wage rates as of January 1, 1965 (as shown in Exhibit No. A-59), related payroll costs, and related costs of health, welfare and pensions.
 - (2) Compensation insurance should be computed at 4.7 per cent.
 - (3) Annual costs of other insurance (bodily injury, property damage, fire, theft and collision) should be computed as amounting to \$575.
 - (4) The use factor to be used in the development of time costs should be 1,650 hours per year.
 - b. The mileage costs should be reduced to exclude the provision therein included for terminal end mileage.
8. Subject to the modifications listed below, the time and mileage costs per ton which are set forth in Table No. 13 of Exhibit No. A-22 for three-axle dump truck and two-axle trailer combinations are reasonable costs, or are reasonable for use in the development of blended costs, for the transportation of asphaltic concrete from production areas in Ventura County to delivery zones in Santa Barbara or Ventura Counties:
- a. The time costs should be modified to give effect to changes in the components of said costs as follows:
 - (1) The labor costs should be those applicable to fleet operators, to which reference is made in Table No. 3 of Exhibit No. A-22, and the costs should be increased to reflect the wage rates as of January 1, 1965 (as shown in Exhibit No. A-59), related payroll costs, and related costs of health, welfare and pensions.

Appendix A

- (2) Compensation insurance should be computed at 4.7 per cent.
 - (3) Annual costs of other insurance (bodily injury, property damage, fire, theft and collision) should be computed as amounting to \$660.
 - (4) The use factor to be used in the development of the time costs should be 1,970 hours per year.
- b. The mileage costs should be reduced to exclude the provision therein included for terminal end mileage.
9. The time and mileage costs which are found reasonable in the preceding paragraph 7 for the transportation of asphaltic concrete are also reasonable costs for the transportation of decomposed granite from Los Angeles County Production Areas EE, Q, QA, QB, R and Z.
 10. The time and mileage costs which are found reasonable in the preceding paragraph 8 for the transportation of asphaltic concrete are also reasonable costs for the transportation of decomposed granite from Los Angeles County Production Area L.
 11. Terminal end costs per ton, computed in the following manner, are reasonable costs to be used in the development of costs of transporting asphaltic concrete and cold road oil mixture (also cold liquid asphalt in containers):
 - a. For 3-axle dump trucks:

Add to the time costs,
(calculated by multiplying the time costs, per ton per minute, found reasonable in paragraph 7, above, by 34 minutes).

The applicable mileage costs,
(calculated by multiplying the mileage costs, per ton mile, which are found reasonable in paragraph 7, above, by .15 miles).
 - b. For three-axle dump truck and two-axle trailer combinations:

Add to the time costs,
(calculated by multiplying the time costs, per ton per minute, found reasonable in paragraph 8, above, by 50 minutes).

Appendix A

The applicable mileage costs,
(calculated by multiplying the
mileage costs, per ton mile,
which are found reasonable in
paragraph 8, above, by .4 miles).

12. Terminal end costs per ton, computed in the following manner, are reasonable costs to be used in the development of the costs of transporting decomposed granite:

- a. For 3-axle dump trucks:

Add to the time costs,
(calculated by multiplying the
time costs, per ton per minute,
found reasonable in paragraph 9,
above, by 16 minutes).

The applicable mileage costs,
(calculated by multiplying the
mileage costs, per ton mile,
which are found reasonable in
paragraph 9, above, by .35 miles).

- b. For 3-axle dump truck and 2-axle trailer combination:

Add to the time costs,
(calculated by multiplying the
time costs, per ton per minute,
found reasonable in paragraph 10,
above, by 31.3 minutes).

The applicable mileage costs,
(calculated by multiplying the
mileage costs, per ton mile,
found reasonable in paragraph 10,
above, by .5 miles).

13. Rates in cents per ton, computed in the following manner, are, and will be, reasonable zone minimum rates for the transportation of asphaltic concrete and cold road oil mixture (also, cold liquid asphalt, in containers) from production areas to delivery zones within the Core Area:

- a. Selecting from the round-trip running times found reasonable in paragraph 1, above, the running time which applies between the production area and delivery zone for which the rate is to be calculated, multiply said running time by the time costs per ton found reasonable in paragraph 7, above. (The product is the running time costs in cents per ton for the trip involved).

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- b. Selecting from the one-way distances found reasonable in paragraph 4, above, the distance which applies between the production area and delivery zone for which the rate is to be calculated, multiply said distance by the distance costs found reasonable in paragraph 7 above. (The product is the distance costs in cents per ton for the trip involved.)
 - c. Add to the time and distance costs per trip developed under subparagraphs a. and b. above, the terminal end costs found reasonable in paragraph 11, above, for three-axle dump trucks, and expand the resultant sum by dividing it by 92.38 per cent to include provision for income taxes and profit totaling 7.5 per cent and the gross revenue taxes applicable thereto.
 - d. Reduce the figure resulting under subparagraph c., above, to the nearest full cent. (Fractional amounts of .5 cent or more, increase to the next full cent.) The resultant figure is the rate to be used.
14. Rates in cents per ton, computed in the following manner, are, and will be, reasonable zone minimum rates for the transportation of asphaltic concrete and cold road oil mixture (also, cold liquid asphalt, in containers) from production areas in Ventura County to delivery zones in Santa Barbara or Ventura Counties.
- a. When the one-way distance which is shown in Exhibit No. A-52 as the one-way distance between the production area and delivery zone involved does not exceed 15 miles:

Compute the rates in accordance with the procedure outlined in the above paragraph 13.
 - b. When the one-way distance which is shown in Exhibit No. A-52 as the one-way distance between the production area and delivery zone involved is more than 34 miles:

Compute the rates in accordance with the procedure outlined in the above paragraph 13, except that the time and distance costs which are to be used in the computations are those found reasonable in paragraph 8 above, and the terminal end costs to be used in the computations are those found reasonable in paragraph 11, above, for three-axle dump truck and two-axle trailer combination.

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c. When the one-way distance which is shown in Exhibit No. A-52 as the one-way distance between the production area and delivery zone involved is more than 15 miles but not more than 34 miles:

- (1) Compute the rate which would apply for the distance involved under the procedure specified in subparagraph 14.a., above.
- (2) Compute the rate which would apply for the distance involved under the procedure specified in subparagraph 14.b. above.
- (3) Blend the rates developed in accordance with sub-subparagraphs (1) and (2), above, in the following manner:

When the one-way distance is not more than 16 miles, the rate to be used for that distance shall be 95 per cent of the rate for said distance under the provisions of sub-subparagraph (1) plus 5 per cent of the rate for the same distance under the provisions of sub-subparagraph (2).

The applicable rate for each succeeding mile, or fraction thereof, shall be calculated by the same method except that for each succeeding mile, or fraction thereof, the proportion of the rate under sub-subparagraph (1) which is used in the calculations shall be decreased by 5 per cent, and the proportion of the rate under sub-subparagraph (2) which is used in the calculations shall be increased by 5 per cent.

15. The rates in cents per ton, computed in the following manner, are, and will be, reasonable zone rates for the transportation of decomposed granite from Los Angeles Production Areas EE, Q, QA, QB, R and Z:

Compute the rates in accordance with the procedure outlined in paragraph 13, above, except that the round-trip running times to be used are those which are found reasonable from said production areas in paragraph 3, above, and except that the one-way distances to be used are those which are found reasonable from said production areas in paragraph 4, above; and except that the terminal end costs to be used are those that are found reasonable in paragraph 12, above, for three-axle dump trucks.

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16. Rates in cents per ton, computed in the following manner, are, and will be, reasonable zone minimum rates for the transportation of decomposed granite from Los Angeles Production Area L:

Compute the rates in accordance with the procedure outlined in paragraph 13, above, except that the round-trip running times to be used are those which are found reasonable from said production area in paragraph 3, above, and except that the one-way distances to be used are those which are found reasonable from said production area in paragraph 4, above, and except that the time and distance costs to be used are those found reasonable in paragraph 8, above, and except that the terminal end costs to be used are those found reasonable in paragraph 12, above, for three-axle dump truck and two-axle trailer combination.

17. Rates in cents per ton from Orange County Production Areas 30-A, 30-B and 30-D to San Diego County Delivery Zones 29 through 89, inclusive, computed in the following manner, are, and will be, reasonable zone minimum rates for the transportation of asphaltic concrete and cold road oil mixture (also, cold liquid asphalt, in containers):

- a. Compute the differentials by which present zone rates from said production areas (now designated as Orange County Production Areas A, B and D) to said delivery zones exceed present corresponding rates from said production areas to present Orange County Delivery Zone No. 23-B.
- b. Compute the rates found reasonable under the provisions of paragraph 13, above, from Orange County Production Areas 30-A, 30-B and 30-D to Orange County Delivery Zone No. 30118 (Orange County Delivery Zone No. 23-B, renumbered).
- c. Compute the differentials by which present zone rates from said production areas to San Diego Delivery Zones 29 through 89, inclusive, are more or less than the corresponding rates developed in accordance with the provisions of subparagraph b., above, to Orange County Delivery Zone No. 30118.
- d. To the extent that the rate differentials developed under subparagraph c. differ from the corresponding differentials computed under subparagraph a., adjust present rates to San Diego County Delivery Zones 29 through 89, inclusive, to the end that upon the establishment of rates to Orange County Delivery Zone No. 30118 from Orange County Production Areas 30-A, 30-B and 30-D, under the provisions of

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paragraph 13 the same differentials will continue in effect between the rates to said delivery zone and the rates to San Diego County Delivery Zones 29 through 89, inclusive, as now applies between Orange County Delivery Zone 23-B and said San Diego County Delivery Zones.

18. Except as is otherwise provided herein, the rules and regulations which are set forth in the tariff approved and adopted by Decision No. 68543 are reasonable rules and regulations to govern the minimum rates for the transportation of asphaltic concrete, cold road oil mixture (also, cold liquid asphalt, in containers) and decomposed granite to be established in these phases of Case No. 5437.
19. The rules and regulations which are set forth in Appendices B and C, attached hereto, and by this reference made a part hereof, are, and will be, reasonable rules and regulations to be adopted as amendments or additions to the tariff to which reference is made in paragraph 18, above.
20. The selection which was made by the rate witness for the Commission's Transportation Division of the delivery zones for which zone rates should be established for the transportation of asphaltic concrete and cold road oil mixture (also, cold liquid asphalt, in containers) and for the transportation of decomposed granite from Los Angeles County Production Areas EE, Q, QA, QB, R, Z and L is reasonable.
21. The inclusion of the minimum zone rates, rules and regulations which are established in these phases of Case No. 5437 in the tariff approved and adopted by Decision No. 68543 is reasonable.
22. The procedure hereinabove outlined as an alternative procedure to be followed in the future for incorporating into the minimum rates, rules and regulations appropriate provision for new production areas is reasonable.
23. The establishment of rates for the leasing of vehicles, as sought by Petition No. 65, has not been justified.

Recommended Conclusions

1. Zone rates, as herein found reasonable in paragraph 13 of the above Findings, should be established for the transportation of asphaltic concrete and cold road oil mixture (also, cold liquid asphalt, in containers) for which 'A' index numbers are provided in Appendix 'B' to Exhibit No. A-36 (Case No. 5437, Order Setting Hearing of March 24, 1959).

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2. Zone rates, as herein found reasonable in paragraph 14 of the Findings, should be established for the transportation of asphaltic concrete and cold road oil mixture (also, cold liquid asphalt, in containers) from the production areas (except Ventura County Production Area A) to the delivery zones listed in Exhibit No. A-52.
3. Zone rates, as herein found reasonable in paragraph 15 of the above Findings, should be established for the transportation of decomposed granite from the production areas to the delivery zones for which time and mileage figures are shown in Exhibit No. A-25.
4. Zone rates, as herein found reasonable in paragraph 16 of the above Findings, should be established for the transportation of decomposed granite from Los Angeles County Production Area L to the delivery zones for which 'R' index numbers from said production area are provided in Appendix 'B' to Exhibit No. A-36.
5. Zone rates now provided in Minimum Rate Tariff No. 7 for the transportation of asphaltic concrete and cold road oil mixture from Orange County Production Areas A, B and D (also identified as 30-A, 30-B and 30-D) to San Diego County Delivery Zones 29 through 89, inclusive, should be modified to the extent specified in paragraph 17 d. of the above Findings, and should be extended to apply to the transportation of cold liquid asphalt, in containers, and should be transferred from Minimum Rate Tariff No. 7 to the minimum rate tariff approved and adopted by Decision No. 68543.
6. Zone rates, as hereinabove found reasonable in paragraph 13, of the above Findings, should be established for such transportation of asphaltic concrete and cold road oil mixture (also, cold liquid asphalt, in containers) as that (a) which is outside of the purview of paragraphs 1 and 5, above, and (b) which originates in production areas in Los Angeles County (except the Antelope Valley portion thereof), Orange County, Riverside County and San Bernardino County, and (c) for which zone rates for asphaltic concrete, and cold road oil mixture are now provided in Minimum Rate Tariff No. 7. (See Note).

Note: Zone rates established under this paragraph should be limited in application to those delivery zones approved by Decisions Nos. 61893 and 62962 which are located in the same general areas as the zones described in Minimum Rate Tariff No. 7 to which the zone rates referred to in this paragraph now apply.

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7. Zone rates, as hereinabove found reasonable in paragraph 14 of the above Findings, should be established for such transportation of asphaltic concrete and cold road oil mixture (also, cold liquid asphalt, in containers) as that (a) which is outside of the purview of paragraph 2, and (b) which originates in production areas in Ventura County, and (c) for which zone rates for asphaltic concrete and cold road oil mixture are now provided in Minimum Rate Tariff No. 7. (See Note.)

Note: Zone rates established under this paragraph should be limited in application to those delivery zones approved by Decisions Nos. 61893 and 62962 which are located in the same general areas as the zones described in Minimum Rate Tariff No. 7 to which the zone rates referred to in this paragraph now apply.

8. The application of the zone rates now provided in Minimum Rate Tariff No. 7 for the transportation of asphaltic concrete and cold road oil mixture from San Diego County Production Area I to Orange County Delivery Zones Nos. 19C, 19D, 20A, 20B, 20C, 21, 22, 23A, and 23B should be modified to the extent necessary to make said rates applicable to the corresponding delivery zones in the same general areas which were approved by Decisions Nos. 61893 and 62962 and adopted in this matter.
9. The rates, rules and regulations which should be established and published in accordance with the provisions of the foregoing paragraphs 1 through 8, inclusive, should be promulgated in the tariff approved and adopted by Decision No. 68543.
10. Common carriers should be authorized to depart from the provisions of Article XII, Section 21, of the Constitution of the State of California to the extent necessary to assess or otherwise apply the minimum rates, rules and regulations which are established in these phases of Case No. 5437.
11. The procedure hereinbefore outlined as an alternative procedure to be followed in the future for incorporating into the minimum rate provisions appropriate provision for new production areas should be approved.
12. Petition No. 65 in Case No. 5437 should be dismissed.

(End of Appendix A)

Appendix B

Rules and Regulations to Govern the Transportation of Asphaltic Concrete under Zone Rates:

1. Prior to the receipt of a shipment of asphaltic concrete for transportation, the carrier shall be given a written shipping order which shall set forth or specify
 - (a) The name and address of the person, firm or corporation for whom the transportation is being performed (the debtor -- the name and address of the party liable for the transportation charges);
 - (b) The name and address of the agent (if any) for the debtor;
 - (c) The name and address of the asphaltic concrete plant from which the shipment is to be transported;
 - (d) The time when the carrier is to report to the asphaltic concrete plant to receive shipment. If more than one shipment is to be transported in continuous service, the time for reporting for the initial shipment need only be shown;
 - (e) Any service to be provided at point of unloading other than the dumping of shipment into a self-propelled paving machine or upon ground or pavement base.
2. No other services than those specified on the shipping order shall be provided by the carrier unless a written order for said other services is first given to the carrier by the ordering party.
3. A carrier shall not provide stand-by service (waiting for the receipt of orders for the shipment of asphaltic concrete) to any asphaltic concrete plant unless said plant has given the carrier a written order for the stand-by service.
4. All shipping orders and orders for stand-by service shall be retained in the vehicle of the carrier and made available to the inspection of a representative of the Commission while service under said orders is being performed or provided. In other respects said orders shall be retained in the carrier's files, as supporting documents for the carrier's bills for services under said orders, and made available to the

inspection of a representative or representatives of the Commission, for a period of not less than 3 years after the services have been provided.

5. A carrier shall not engage in the transportation of asphaltic concrete under zone rates, nor shall it provide stand-by service, within any part of the total area described in the directory prescribed by Decision No. 68543, except in accordance with the foregoing provisions.
6. The term "asphaltic concrete" as herein used includes cold road oil mixture; it also includes cold liquid asphalt, in containers.

(End of Appendix B)

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Appendix C

Rules and Regulations to be Added, or Amendments
to be Made, to Tariff to be Issued Pursuant to
Decision No. 68543

1. Asphaltic concrete, definition of

ASPHALTIC CONCRETE is a mixture of liquid or penetration type asphalt and rock, sand, gravel and/or similar materials. The term is inclusive of products known as 'hot stuff,' 'plant mix' and cold road oil mixture.

2. Cold road oil mixture, definition of

COLD ROAD OIL MIXTURE -- See asphaltic concrete.

3. Decomposed granite, definition of

DECOMPOSED GRANITE is disintegrated granite which crumbles readily when removed from its normal geographic location.

4. Application of Tariff - Commodities

Amend the above-titled tariff item to include in one paragraph which is to be designated as paragraph a, rock, sand, gravel, and cement as presently described in said item, and to add the following paragraphs b and c and Note 4, which is to apply to paragraph b:

b. Asphaltic concrete; cold road oil mixture; cold liquid asphalt in containers not exceeding 5 gallons capacity per container (subject to Note 4).

c. Decomposed granite.

NOTE 4. Cold liquid asphalt will be transported under the provisions of this tariff, at rates which apply for the transportation of asphaltic concrete, when tendered for transportation with, and as part of, a shipment of asphaltic concrete, and when the quantity so tendered does not exceed 15 gallons per shipment.

Appendix C
(Continued)

5. Computation of Charges - Returned or Diverted Shipments

- a. Amend the first sentence of paragraph (b) of the above-titled tariff item to read:

(Applies when a shipment of commodity or commodities named in Paragraph a of Item No. _____, Application of Tariff - Commodities, is diverted to point of destination within same system of zones as that in which the original point of destination is located.)

- b. Amend the first sentence of paragraph (c) of the above-titled tariff item to read:

(Applies when a shipment of commodity or commodities named in Paragraph a of Item No. _____, Application of Tariff - Commodities, is diverted to point of destination outside of the system of zones in which the original point of destination is located.)

- c. Add the following as paragraph (d) to the above-titled tariff item:

(Applies when a shipment of commodity or commodities named in Paragraphs b and c of Item No. _____, Application of Tariff - Commodities, is diverted to point of destination within same system of zones as that in which original point of destination is located.) The applicable charge shall be computed at the rate from point of origin to the original point of destination shown on the Shipping Document plus 8 cents per ton for each mile (or fraction thereof) traversed from original point of destination to the point of destination where physical delivery of the shipment is accomplished.

- d. Add the following as paragraph (e) to the above-titled tariff item:

(Applies when a shipment of commodity or commodities named in Paragraphs b and c of Item No. _____, Application of Tariff - Commodities, is diverted to point of destination outside of the system of zones in which the original point of destination is located.) The applicable charge shall be computed at the rate from

Appendix C
(Continued)

Except as is otherwise provided, distances to be used in connection with distance rates in this tariff shall be the actual mileages traversed, including any detour to and from scales to obtain weight of shipment.

8. Method of Determining Weight of Shipment

Amend the second paragraph of the above-titled tariff item to read as follows:

Otherwise, charges for commodities listed in Paragraphs a and c of Item No. _____, Application of Tariff - Commodities, shall be computed upon the basis of 2,800 pounds per cubic yard when loaded in dump truck equipment, and charges for commodities listed in Paragraph b of said item shall be computed on the basis of 3,200 pounds per cubic yard when loaded in dump truck equipment.

9. Minimum Charge

Amend the above-titled tariff item to read as follows:

The minimum charge per shipment shall be the charge for 12 tons at the applicable rate, except that when a shipment of asphaltic concrete or cold road oil mixture (also, cold liquid asphalt, in containers) is transported in a two-axle dump truck, and when the freight bill is so noted and the truck is identified on the freight bill, the minimum charge for the transportation of the shipment shall be the charge for transporting 8 tons at the applicable rate.

10. Accessorial Services - Pulling or Towing Paving and/or Ditching Machines

When pulling or towing of a paving or ditching machine or device is performed by a carrier at a job site as an incidental service prior to, during, or after the unloading of a shipment of asphaltic concrete from the carrier's equipment, a charge of \$1.00 per machine pulled or towed shall be assessed.

In all other respects pulling or towing services provided by a carrier shall be subject to such other minimum rates, rules and regulations as apply under the minimum rate orders of the Commission.

Appendix C
(Continued)

11. Debris Cleanup

When debris cleanup is performed by a carrier at the hourly rates in Minimum Rate Tariff No. 7, and when said service is performed at a job site as an incidental service to the carrier's transporting asphaltic concrete to said job site under the zone rates elsewhere provided herein, the minimum charge shall be that for one-half hour at the applicable hourly rate.

12. Delay Time

When in connection with the transportation of a shipment of asphaltic concrete a carrier is delayed through no fault of its own in the loading or unloading of said shipment, and when the loading or unloading time exceeds the time shown below for the vehicle involved a charge at the rate of \$2.50 per each half hour, or fraction thereof, of excess delay time shall be assessed against the debtor.

	<u>Loading</u>	<u>Unloading</u>
3-axle dump truck	40 minutes	60 minutes
3-axle dump truck and 2-axle trailer	50 minutes	60 minutes

In computing time under this rule, loading time shall commence when the carrier reports for duty pursuant to order for his services. Unloading time shall commence when carrier arrives at point of destination.

13. Stand-by Service

When a carrier, upon order or request from a producer of asphaltic concrete, reports to, and holds itself available for service, and when such order is other than that for the immediate transportation of asphaltic concrete, a charge of \$2.50 for each half hour or fraction thereof shall be made by the carrier against the producer for the time spent by the carrier in holding itself available for service.

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(Concluded)

In computing time under this rule, time shall be computed from the time that the carrier reports for service to the time that the carrier is discharged or is given a shipping order for the immediate transportation of asphaltic concrete.

A carrier shall not provide stand-by service except in accordance with the provisions of this rule.

(End of Appendix C)

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APPENDIX D

APPEARANCES

Petitioner in Petitions Nos. 48, 65, 80 and 90; interested party in Order Setting Hearing of March 24, 1959.

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Respondents

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Warren Goodman
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Interested Parties

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(End of Appendix D)

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APPENDIX E

RULES AND REGULATIONS TO GOVERN THE TRANSPORTATION OF ASPHALTIC CONCRETE, INCLUDING INCIDENTAL SERVICES, FROM PRODUCTION AREAS TO DELIVERY ZONES DESCRIBED IN DIRECTORY PRESCRIBED BY DECISION NO. 68543.

1. A carrier shall not engage in the transportation of asphaltic concrete without a written shipping order which sets forth or specifies
 - (a) The name and address of the debtor (the person, firm or corporation liable for the transportation charges);
 - (b) The name and address of the debtor's agent, if any;
 - (c) The transportation to be performed, including a description of shipment, the point of origin of shipment, and the point of destination of shipment;
 - (d) The signature of the debtor or of the debtor's representative or agent.
2. No services other than those specified on the shipping order shall be provided by the carrier unless a written order for said other services, signed by the party (or an authorized representative thereof) liable for the charges for said services, is first given to the carrier.
3. All shipping orders and service orders shall be retained in the vehicle of the carrier and made available to the inspection of a representative of the Commission while service under said orders is being performed or provided. In other respects said orders shall be retained in the carrier's files as supporting documents for the carrier's bills for services under said orders, and made available to the inspection of a representative or representatives of the Commission, for a period of not less than three years after the services have been provided.
4. The term "asphaltic concrete", as herein used, includes cold road oil mixture; it also includes cold liquid asphalt, in containers.
5. The term "transportation", as herein used, does not include any service by the carrier at point of destination other than dumping of shipment into a self-propelled paving machine or upon ground or pavement base.

(End of Appendix E)