

ORIGINAL

Decision No. 71270

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 and 17).

Case No. 5437
Petition No. 121
(Filed November 1, 1965.)

- John R. Schell and William R. Walker, for San Diego County Rock Producers Association, petitioner.
- James A. Hearn, for Griffith Company, interested party.
- Alex O. Swanson, for H. G. Fenton Materials Co., interested party.
- Fred Imhof, for Southern California Rock Products Association, interested party.
- Harry Phelan, Jr. (by Fred Imhof), for California Asphalt Plant Association, interested party.
- Richard W. Smith, Arlo D. Poe and J. C. Kaspar, for California Trucking Association, interested party.
- E. O. Blackman, for California Dump Truck Owners Association, interested party.
- Norman Haley, for the Transportation Division of the Commission's staff.

ORDER SETTING ASIDE SUBMISSION AND REOPENING FOR FURTHER HEARING

San Diego County Rock Producers Association, petitioner herein, seeks the establishment of zone rates as minimum rates for the transportation of rock, sand, gravel, decomposed granite, asphaltic concrete, and other specified commodities within the westerly portion of San Diego County.

On May 16, 17 and 27, 1966, public hearings were held before Examiner Abernathy at San Diego on zoning proposals which petitioner recommended be adopted as basis for the subsequent prescription of zone rates. In general, petitioner recommended that about 280 delivery zones and about 30 production areas be established within the area involved.¹ With the close of the hearings on May 27, 1966, the zoning recommendations were taken under submission for decision.

The descriptions of the proposed zones are set forth in Exhibits Nos. 121-6, 121-7 and 121-8 in this matter. Petitioner's original proposals are shown in Exhibit 121-6. Exhibits Nos. 121-7 and 121-8 contain restatements of the zone descriptions, including amendments thereto which were made to meet questions raised at the hearings concerning the clarity and completeness of the original descriptions. Insofar as petitioner is concerned, either the zone descriptions as originally proposed, or those as amended, are acceptable.

On June 10, 1966, the staff of the Commission's Transportation Division filed a petition seeking reopening of this

¹ The term "delivery zones" refers to areas which are so designated and which constitute areas into which shipments of rock products are delivered. The term "production areas" refers to areas which are so designated and which constitute areas in which are located facilities, including deposits of raw materials, utilized for the production of rock products.

Under a zone system of rates, the same rate applies from a production area to all points within a delivery zone.

proceeding for the receipt of a motion which was tendered as part of the petition and which is as follows:

" . . . that the Commission adopt without further revisions, the metes and bounds descriptions of the 308 proposed production areas and delivery zones contained in Exhibit 121-6 of May 16, 1966, . . . as the basis for development of traverse data, cost factors, and proposed minimum rates for transportation of property in dump truck equipment, as specified in the petition."

As grounds for its motion the staff states in its petition that

"it has reviewed the 308 proposed areas and zones and finds that they have been arranged to fit the geographic and topographic features of the area; that they are generally the same size as those recently established in the Counties of Los Angeles, Orange, Riverside, San Bernardino, Ventura and Santa Barbara; that certain discrepancies previously found by the staff in the metes and bounds descriptions of the proposed areas and zones have been corrected in Exhibit 121-6; that the style and method of description utilized by petitioner in developing the metes and bounds descriptions correspond generally to those utilized by the Commission in describing the areas and zones contained in its Directory 1, effective October 1, 1965, governing minimum dump truck zone rates in the above-mentioned counties; and that the proposed metes and bounds descriptions were designed to apply generally in conjunction with rules governing production area and delivery zone boundary descriptions contained on page 3 of Directory 1."

Strong objection was registered by the staff to adoption of the proposed zone descriptions which are set forth in Exhibits Nos. 121-7 and 121-8. The objections were directed mainly against

the use of compass directions in the designation of the zone boundaries. In the alternative the staff recommended that prolongations of streets, avenues, roads and the like be adopted as the more ascertainable and definite directional indicators.

In a reply filed June 21, 1966, to the staff's petition, the California Trucking Association indicates preference for the zone descriptions in Exhibit No. 121-6. However, it challenges the petition insofar as the statements of facts therein contained are concerned. It points out that the record shows that the staff made no physical inspection of the area. It asserts that "consequently the validity of the staff review without physical inspection is open to question." It states that test checks of the proposed zoning through physical inspection by staff members of the California Trucking Association shows that the actual determination of the areas and zones has not followed methods previously utilized in Case No. 5437. It urges that the proceeding be reopened and further hearings be scheduled for the receipt of evidence to correct existing errors and to supply additional information necessary to support Petition No. 121.

The reopening of the proceeding for further hearing is also supported by the California Dump Truck Owners Association in a reply filed July 1, 1966. It states that the parties should have the opportunity to cross-examine on the material which has been tendered since the submission of this matter. Said parties, also, should have the opportunity to submit motions on the record, to offer further evidence and to stand cross-examination on their proposals.

A stated objective of petitioner is that minimum zone rates for the westerly portion of San Diego Area be developed through procedures and on bases similar to those used in the establishment of zone rates in portions of Los Angeles, Orange, Riverside and San Bernardino Counties pursuant to Decision No. 69469. Allegedly, petitioner's zoning proposals correspond to the system of zones which are the basis of the rates prescribed by Decision No. 69469. However, relatively little evidence was submitted concerning the standards which were followed in the determination of the areas to be included in the separate zones. In the circumstances the conflicting expressions in this regard which have been filed on behalf of the Commission's Transportation Division and of the California Trucking Association, respectively, raise serious question as to whether petitioner's proposals are, in fact, a reasonable basis of zones upon which zone rates should be subsequently predicated.

Further information should be provided in connection with what standards were considered as guides in the selection of the specific zones that were proposed; how the standards were applied; whether the resultant zones are relatively homogenous and substantially similar areas for which zone rates can be reasonably prescribed, and whether the zone boundaries are reasonably definite. To these ends the proceeding should be reopened in order that the Commission's Transportation Division and the California Trucking Association may present evidence and recommendations in support of their respective positions. Also opportunity should be afforded petitioner and other interested

parties to present evidence or further evidence and recommendations in the above-mentioned or in related respects. Therefore, good cause appearing,

IT IS ORDERED that submission of Petition No. 121 in Case No. 5437 is set aside and the matter is reopened for further hearing for the purposes hereinbefore indicated, at a time and place to be designated hereafter.

Dated at San Francisco, California, this 13th day of SEPTEMBER, 1966.

President

George J. Crow

Frederick B. Scholoff

Commissioners

Augustus

Commissioners

Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.