

Decision No. 72502

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the EMERGENCY APPLI-)
 CATION of the carriers who's names)
 are attached to this application for)
 EMERGENCY AUTHORITY TO DEPART from)
 minimum rates relating to rates, rules)
 and regulations charges, allowances)
 and practices of all carriers, high-)
 way carriers and city carriers)
 relating to the transportation of)
 sand, rock and gravel and related)
 items (commodities for which rates)
 are provided in Minimum Rate tariff)
 No. 7, Section 4 as a result of the)
 order issued by the commission under)
 decision # 72223 in case # 5437)
 which was recently published by the)
 commission and effective May 6,)
 1967.)

Application No. 49375
(Filed May 16, 1967)

INTERIM OPINION AND ORDER

Each of the applicant carriers involved herein holds a radial highway common carrier permit.¹ By this application, applicants seek authority to depart from the Commission's minimum rates for the transportation of property in dump truck equipment within and between points in Shasta, Tehama, Lassen, Trinity, Siskiyou and Modoc Counties by assessing the "12-14-ton-capacity" hourly

¹ Minor discrepancies exist between certain applicants' names as they appear in the application and as they appear in the Commission's official records. Each applicant will be referred to by the name shown in the Commission's official records.

rates in Minimum Rate Tariff No. 7 on 10-wheel dump truck equipment without basing such rates on the "legal payload capacity" of the equipment used.²

Applicants assert that the mountainous terrain of the area in which they operate makes the hourly tonnage rates inappropriate inasmuch as more rugged and heavier type vehicular equipment than usual is required in this area. Applicants contend that "unladen weight" as defined in the California Vehicle Code does not reflect the actual unladen weight of the carrier's equipment. Applicants state that, should such carriers transport the maximum load under the tariff rates, they will be subject to fines and/or penalties for overloading and that this condition has already been experienced in the area involved leaving larger tonnage trucks idle.

According to applicants, at times they travel 100 miles or more up into the mountains to work on various construction sites and they cannot afford the expense of driving such great distances and then find that these jobs are no longer available to them. Applicants aver that this situation occurs because the current tonnage hourly rates, which are based on the difference between the allowed load in pounds and the unladen weight of the vehicle, discriminate against them by subjecting the use of their heavier equipment to

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Items Nos. 10, 11 and 12 of the Minimum Rate Tariff No. 7 respectively contain the following definitions, which are necessary in determining the "legal payload capacity" of the carrier's equipment:

ALLOWED LOAD IN POUNDS means the gross vehicle weight rating in pounds of the dump truck equipment as authorized by subdivisions (b) and (c) of Section 35551 of the California Vehicle Code.

LEGAL PAYLOAD CAPACITY means the allowed load in pounds less the unladen weight of the dump truck equipment.

UNLADEN WEIGHT means the weight upon which weight fees for commercial vehicles are paid pursuant to Section 9400 of the California Vehicle Code.

higher rates and lower legal payload capacities than comparable lighter equipment. Applicants declare that they incur additional expenses in performing transportation services at these construction sites, which are in areas where they must be prepared to supply their own living quarters, extra fuel, tires and parts.

Applicants indicate that there were 92 days of rain for the 6-month period, November 1966 through April 1967, that previous years have been equally as severe and that their revenues have been limited. Applicants assert that the present situation makes it impossible for them to receive an adequate return on their capital investments and that their age level prevents them from securing commensurate employment elsewhere thereby creating a hardship.

Applicants request that ex parte emergency authority be granted in this matter or, in the alternative, that the proposed rates be granted for a period of six months pending hearing.

Copies of the application were mailed to California Dump Truck Owners Association and California Trucking Association on or about May 16, 1967. The application was listed on the Commission's Daily Calendar of May 17, 1967. California Trucking Association protests the ex parte consideration requested.

Pending a public hearing, it appears, and the Commission finds, that the proposed rates are reasonable for interim application. The Commission concludes that applicants should be granted, to the extent hereinafter indicated, interim authority for a period of 180 days, unless sooner canceled, changed or extended by order of the Commission. In view of the urgency of this matter, the order herein will be made effective on the date hereof and an early hearing will be scheduled.

IT IS ORDERED that:

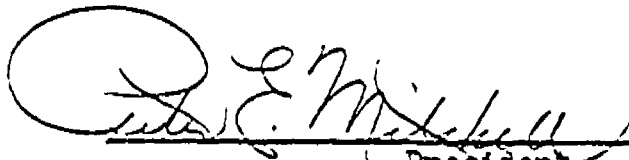
1. James T. Skaggs; James B. Smith; Arthur M. Smith and C. Boyd Miller, doing business as Enterprise Trucking; Jesse F. Rucker; James W. Lacy; Robert R. Hill; Morgan E. Edwards; Robert J. Rogers; Luther F. Prawl; Marvin J. Lachney; Herbert W. Thomlinson; Robert F. Skinner; Clifford T. Burnitt; Ivan D. Edmonds; Duane M. Einck; Jerry L. Rucker; Eugene H. Gotta; Hillary D. Cargile; John H. Schroeder; Francis W. Walker; Peter Pasero; Johnny Ray Rambo; Archie M. Gilbreath; Harvey R. Fuls; George Shull; William L. Casey; Jay S. McBryde; Lloyd H. Jacobson; E. A. Carpenter; Harold M. McConkey; Leo M. Hill; and J. H. Rodgers, Vernon D. McNees and Norman R. Mills, doing business as Superior Paving Co., are hereby authorized to transport property in dump truck equipment within and between points in the Counties of Lassen, Modoc, Shasta, Siskiyou, Tehama and Trinity at rates less or different than the established minimum rates but not less than those set forth, and subject to the conditions specified, in Appendix A attached hereto and by this reference made a part hereof.

2. Concurrently with the date that Radial Highway Common Carrier Permit No. T-49809 is amended to permit operations thereunder within the area involved herein, George C. Duncan is hereby authorized to transport property in dump truck equipment within and between points in the Counties of Lassen, Modoc, Shasta, Siskiyou, Tehama and Trinity at rates less or different than the established minimum rates but not less than those set forth, and subject to the conditions specified, in Appendix A attached hereto and by this reference made a part hereof.


3. The authority herein granted shall expire 180 days after the effective date of this order unless sooner canceled, changed or extended by order of the Commission.


This order shall become effective on the date hereof.

Dated at San Francisco, California, this 26th day of MAY, 1967.



President





Commissioners

Commissioner William M. Bennett, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner William Symens, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

APPENDIX A TO DECISION NO. 72502

James T. Skaggs; James B. Smith; Arthur M. Smith and C. Boyd Miller, doing business as Enterprise Trucking; Jesse F. Rucker; James W. Lacy (See Note 1); Robert R. Hill (See Note 2); Morgan E. Edwards; Robert J. Rogers; Luther F. Prawl; Marvin J. Lachney; Herbert W. Thomlinson; Robert F. Skinner; Clifford T. Burnitt; Duane M. Einck; Jerry L. Rucker; Eugene H. Gotta; Hillary D. Cargile; John H. Schroeder; Francis W. Walker; Peter Pasero; Johnny Ray Rambo; Archie M. Gilbreath; Harvey R. Fuls; George Shull; William L. Casey; Jay S. McBryde; Lloyd H. Jacobson; E. A. Carpenter; Harold M. McConkey; Leo M. Hill; J. H. Rogers, Vernon D. McNees and Norman R. Mills, doing business as Superior Paving Co. (See Note 3); George C. Duncan (See Note 4); and Ivan D. Edmonds.

APPLICATION OF RATES

Rates in cents per hour apply to the transportation of commodities as described in Item No. 320 of Minimum Rate Tariff No. 7 within and between points in the Counties of Lassen, Modoc, Shasta, Siskiyou, Tehama and Trinity in 10-wheel dump truck equipment. (See Note 5).

<u>Transportation Performed</u>	<u>Rates in Cents Per Hour</u>	
	Column A (1)	Column B (2)
1. On all days except as shown in 2 and 3	1167	1098
2. On Saturdays	1399	1331
3. On Sundays and on: January 1, February 22, May 30, July 4, September 9, December 25, the day proclaimed by the President of the United States to be celebrated as Labor Day and the day so proclaimed as Thanksgiving Day.	1634	1564
(1) Rates apply where the loading is performed by power loading device, excepting processed sand, gravel or crushed stone in stockpiles at a commercial producing plant, at point of consumption or at intermediate point of transfer.		
(2) Rates apply when loading is under condition other than described in Column A.		

In all other respects the rates and rules in Minimum Rate Tariff No. 7 shall apply.

NOTE 1.--Whenever James W. Lacy engages any of the other applicant carriers for the transportation of property of James W. Lacy or J. W. Lacy Co. or customers or suppliers of said individual or company under the rates authorized herein, James W. Lacy shall not pay such other carriers less than 100% of the authorized rates.

NOTE 2.--Whenever Robert R. Hill engages any of the other applicant carriers for the transportation of property of Robert R. Hill or Redding Dump Truck Service or customers or suppliers of said individual or corporation under the rates authorized herein, Robert R. Hill shall not pay such other carriers less than 100% of the authorized rates.

NOTE 3.--Whenever J. H. Rogers and/or Vernon D. McNees and/or Norman R. Mills or Superior Paving Co. engage any of the other applicant carriers for the transportation of property of J. H. Rogers and/or Vernon D. McNees and/or Norman R. Mills or Superior Paving Co. or customers or suppliers of said individuals or company, J. H. Rogers and/or Vernon D. McNees and/or Norman R. Mills or Superior Paving Co. shall not pay such other carriers less than 100% of the authorized rates.

NOTE 4.--This carrier is subject to the conditions specified in ordering paragraph 2 of this order.

NOTE 5.--The territorial application of the rates herein authorized is limited to the extent provided in the permits of the individual carriers.

(END OF APPENDIX A)