

ORIGINALDecision No. 72733

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 (commodi-
ties for which rates are provided
in Minimum Rate Tariff No. 7).

Case No. 5437
Petition for Modification
No. 144 (Filed March 15, 1967)

Petition for Modification
No. 145 (Filed March 27, 1967,
Amended April 11, 1967)

E. O. Blackman, for California Dump Truck Owners
Association, Petitioner in Petition No. 144,
and interested party in Petition No. 145.
R. W. Smith, H. F. Kollmyer, and Arlo D. Poe,
for California Trucking Association, Petitioner
in Petition No. 145, and interested party in
Petition No. 144.
G. Ralph Grago, for Associated Independent Owner-
Operators, Inc.; Harry C. Phelan, Jr., for
California Asphalt Plant Association; E. J.
Bertana, for Pacific Cement Aggregates;
James H. Rogers, for Upper California Truck
Owners Association; interested parties.
Billy Atkins, Don D. Tobey, Joseph G. Nauyokas,
Vernice Smith, Betty Campbell, Wilma Lacy,
Lelio Giorgi, Clifford T. Burnitt, Luther F.
Prawl, Chet. C. Smith, Robert Skinner,
Audrey S. Duncan, Elizabeth Gilbreath, and
Albert Giorgi, for various dump truck
carriers, respondents.
Robert E. Walker, Robert J. Carberry and
Robert W. Stich, for the Commission staff.

O P I N I O N

These matters were heard on a consolidated record before
Examiner Mallory at San Francisco on May 9 and May 17, 1967.

Petition No. 144, and Petition No. 145 as originally filed, were

submitted on the latter date. The First Amendment to Petition No. 145 was continued on the Commission's calendar.^{1/}

California Dump Truck Owners Association (CDTOA), petitioner in Petition No. 144 and California Trucking Association (CTA), petitioner in Petition No. 145, seek adjustments in the hourly rates set forth in Minimum Rate Tariff No. 7 (MRT 7), to reflect the increased wages for dump truck drivers effective May 1, 1967, pursuant to contracts with teamster unions.

The petitions allege that since the last adjustment in hourly rates pursuant to Decision No. 70907, dated June 28, 1966, costs of highway carriers operating under hourly rates in MRT 7 have increased and that compensating increases in hourly rates and charges are necessary to maintain such rates at reasonable levels.

Evidence in support of the petitions was presented by witnesses for CDTOA and CTA. The evidence shows that straight time wages and fringe benefits for drivers of dump truck equipment were increased effective May 1, 1967, pursuant to collective bargaining agreements between teamster unions and the Associated General Contractors by 45 cents per hour in the Upper Northern District and by 30 cents per hour in the Lower Northern District and in Southern Territory.

^{1/} First Amendment to Petition No. 145 was filed on May 11, 1967. The amended petition seeks, in addition to offset increases in rates to compensate for wage adjustments, changes in the levels of rates to alleviate what petitioner asserts are inequities resulting from the changeover from the "cubic yard" method to "net payload capacity" method of determining hourly rates in Minimum Rate Tariff No. 7 (Decision No. 72223, dated March 28, 1967).

CDTOA seeks increases in the straight time hourly rates of 48 cents per hour in Upper Northern District and 32 cents per hour in Lower Northern District and Southern Territory. CTA seeks corresponding increases of 56 cents and 37 cents per hour. Both associations seek proportional increases in hourly rates applicable to work performed on Saturdays, Sundays, holidays and for over eight hours in any one shift.

The rates proposed by CDTOA represent the increased wage costs mentioned above, plus an allowance for carriers' profit (before income taxes) as indicated by an operating ratio of 93 percent. The witness stated that although other elements of cost have increased, his association is not seeking increases in such costs in order to avoid delay in receiving urgently needed rate increases.

The increases in rates proposed by CTA reflect, in addition to the increased wage costs, increases in workmen's compensation insurance effective October 1, 1966. The total of the increased wages, fringe benefits and workmen's compensation insurance was expanded by 5.5 percent to represent the asserted increase in indirect expenses attributable to increased wages, by 5.49 percent to represent asserted increases in taxes and insurance based on gross revenues, and were further expanded for an allowance for carrier profit as represented by an operating ratio (before taxes) of 93 percent.

The CTA witness explained that the expansion factor for indirect expenses was developed from the factors for indirect expenses set forth in cost exhibits introduced by the Commission's staff in Case No. 5437, Order Setting Hearing dated March 22, 1966.^{2/}

^{2/} Said proceeding has not been submitted. At the time of the hearing in the proceedings herein, the staff witness sponsoring said cost exhibits was undergoing cross-examination thereon in the order setting hearing phase. Parties other than the staff have not had an opportunity in the order setting hearing to present their cost evidence or their views with respect to the staff showing.

The witness stated that he selected the figure of 10.3 percent as being the most representative of the various indirect expense ratios set forth in the aforementioned staff exhibits. He also stated that in other proceedings involving offset increases in minimum rates the staff had indicated that approximately fifty percent of indirect expenses are related to labor. The CTA witness testified that the factor of 5.15 percent for indirect expense is one-half the total indirect expense factor used in the staff studies.

Decision No. 70907, supra, denied that portion of the prior offset rate increase relating to indirect expenses, stating as follows:

"While the Commission has consistently held that indirect expenses are a cost of transportation which may be considered in the establishment of minimum rates for dump truck transportation service, it has also followed the practice, in proceedings such as this where an increase in minimum rates is sought to provide for higher direct labor costs, of allowing only sufficient increase to cover the additional labor costs and payroll items. The specific increase sought by CTA, 15 percent of direct expenses, previously has been denied as not having been justified. (citation.) The record herein does not disclose what amount, if any, of indirect expenses is attributed to wages."

Said decision further states that prior offset adjustments of the hourly rates in MRT 7 have reflected only changes in wage costs, fringe benefits, payroll costs and gross revenue taxes, and that no adjustments in rate levels have been made in offset proceedings of this kind for indirect expenses.

CTA has attempted to meet the objection to its previous showing on indirect expenses in Decision No. 70907 by adopting for the purpose of this proceeding the indirect expense ratios set forth in staff exhibits under consideration in Order Setting Hearing dated March 22, 1966. As heretofore indicated, such cost exhibits have

not been adopted by the Commission as a basis for the adjustment of hourly rates in MRT 7. Acceptance of the factors for indirect expense developed in said staff cost exhibits for the purposes of this proceeding would have the effect of adopting the results of said exhibits prior to their consideration in the proceeding in which they were introduced. The Commission does not desire nor does it intend to pass on the merits of said exhibits in this proceeding. Therefore, the portion of the proposed rate adjustment relating to indirect expenses will be denied.

The Commission, in Decision No. 70907, supra, also stated that no adjustment had been made in prior offset proceedings involving hourly rates in MRT 7 for insurance expense as a percentage of gross revenue. This statement was not correct. (See Decision No. 64528, dated November 7, 1962, in Case No. 5437, Petitions Nos. 85 and 86, unreported.) The proposed adjustment for gross revenue expense, which includes insurance, should be granted.

The Commission finds that the hourly dump truck rates in MRT 7 should be increased to reflect the increases in wages and fringe benefits effective May 1, 1967, in collective bargaining agreements between teamster unions and the Associated General Contractors; and the increases in workmen's compensation insurance, effective October 1, 1966; and further finds that the total of said amounts should be further increased to reflect an adjustment for gross revenue expense (insurance and transportation taxes) and profit, and that other portions of the sought increases should be denied.

The increases in the minimum rates which this record shows are necessary to compensate for increases in labor and payroll costs and gross revenue expenses which have been incurred since the hourly dump truck rates were last increased pursuant to Decision No. 70907, supra, are the following:

INCREASES IN RATES AND CHARGES
(In Cents Per Hour)

Items Nos. 360 and 367 (Upper Northern District)

Column M (straight time)	53
Column O (Sundays and Holidays)	88
Column P (Saturdays)	71

Items Nos. 361 and 367 (Lower Northern District)

Column M (straight time)	35
Column O (Sundays and Holidays)	52
Column P (Saturdays)	44

Items Nos. 365, 366, 367, and 368 (Southern Territory)

Straight time	35
Sundays and Holidays	52
Saturdays and over 8 hours	44

The Commission finds that the increases in the minimum hourly rates and charges for dump truck transportation, as set forth in the preceding table, have been justified and that said rates and charges as so increased will be the just, reasonable and non-discriminatory minimum rates and charges for the services to which they apply.

The Commission concludes that Minimum Rate Tariff No. 7 should be amended as provided in the order which follows:

O R D E R

IT IS ORDERED that:

1. Minimum Rate Tariff No. 7 (Appendix A of Decision No. 32566, as amended) is hereby further amended by incorporating therein, to become effective August 19, 1967, the revised pages as listed in Appendix A also attached hereto and by this reference made a part hereof.

C. 5437, Pets. 144 and 145 AB

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

3. The First Amendment to Petition No. 145 is continued on the Commission's docket.

The effective date of this order shall be twenty-five days after the date hereof.

Dated at San Francisco, California, this 11th day of JULY, 1967.

Peter E. Maguire
President
William L. Bernard
Augustin
William Thomas J.
Fred P. M. ...
Commissioners

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APPENDIX A TO DECISION NO. 72733

List of Revised Pages to Minimum Rate Tariff No. 7

Authorized by said Decision

Twenty-fourth Revised Page 42

Eighteenth Revised Page 42-A

Eighteenth Revised Page 42-C

Fourth Revised Page 42-D

First Revised Page 42-E

First Revised Page 42-F

(END OF APPENDIX A LIST)

Item No.	SECTION NO. 4--HOURLY RATES (Continued)							
	COMMODITIES, as described in Item No. 320 (Items Nos. 360 and 361). (For Application of Rates see Item No. 362.)							
	NORTHERN TERRITORY (See Item No. 110) (1) Rates in Cents per Hour (See Item No. 300)							
	Upper Northern District (See Item No. 315)							
	Legal Payload Capacity in Tons	Column A			Column C			
		Over	But Not Over	M	O	P	M	O
0360	0	8	1035	1502	1268	986	1453	1219
	8	10	1097	1575	1335	1041	1519	1280
	10	12	1159	1649	1402	1096	1585	1341
	12	14	1220	1722	1470	1151	1652	1402
	14	16	1281	1795	1538	1206	1719	1462
	16	18	1358	1873	1616	1270	1785	1528
	18	20	1435	1951	1693	1335	1852	1594
	20	22	1481	2001	1741	1375	1895	1635
	22	24	1519	2043	1782	1408	1932	1670
	24	26	1558	2086	1822	1442	1969	1706
	26	28	1596	2128	1862	1475	2007	1741
	28	(2)	037	042	040	033	038	035
	(1) Minimum charge shall be the rate for one hour. (2) Add to the rate for 28 tons the amount shown opposite this reference mark for each additional 2 tons or fraction thereof. (Continued in Item No. 361)							
	◊ Increase, except as noted) Decision No. 72733 ○ No Change)							
	EFFECTIVE AUGUST 19, 1967							
	Issued by the Public Utilities Commission of the State of California, San Francisco, California. Correction No. 1230							

Item No.	SECTION NO. 4 - HOURLY RATES (Continued)							
	COMMODITIES, as described in Item No. 320 (Items Nos. 360 and 361). (For Application of Rates see Item No. 362.)							
	NORTHERN TERRITORY (See Item No. 110) (1) Rates in Cents per Hour (See Item No. 300)							
	Lower Northern District (See Item No. 315)							
	Legal Payload Capacity in Tons	Column A			Column C			
		M	O	P	M	O	P	
0361	Over	But Not Over						
	0	8	1014	1481	1247	955	1422	1188
	8	10	1066	1534	1300	1001	1470	1235
	10	12	1118	1587	1352	1047	1517	1282
	12	14	1169	1640	1404	1093	1564	1329
	14	16	1220	1692	1456	1139	1611	1375
	16	18	1297	1772	1535	1202	1678	1440
	18	20	1374	1853	1613	1265	1745	1505
	20	22	1422	1908	1665	1305	1790	1548
	22	24	1463	1956	1710	1339	1831	1585
	24	26	1504	2004	1755	1373	1872	1623
	26	28	1546	2053	1800	1407	1912	1660
	28	(2)	041	049	045	034	040	037
<p>(1) Minimum charge shall be the rate for one hour. (2) Add to the rate for 28 tons the amount shown opposite this reference mark for each additional 2 tons or fraction thereof.</p>								
<p>o Increase, except as noted) o No Change)</p>					<p>Decision No. 72733</p>			
EFFECTIVE AUGUST 19, 1967								
<p>Issued by the Public Utilities Commission of the State of California, San Francisco, California. Correction No. 1231</p>								

Item No.	SECTION NO. 4--HOURLY RATES (Continued)		
	COMMODITIES, as described in Item No. 320. (For Application of Rates see Item No. 366)		
	Legal Payload Capacity in tons	SOUTHERN TERRITORY (See Item No. 100) (1) Rates in Cents Per Hour (See Item No. 300) (See Note 1 in Item No. 366)	
	Over But Not Over	Column A	Column C
	0 8	945	923
	8 10	991	962
	10 12	1037	1001
	12 14	1083	1040
	14 16	1128	1078
◊365	16 18	1188	1133
	18 20	1249	1188
	20 22	1310	1244
	22 24	1371	1299
	24 26	1420	1354
	26 28	1463	1409
	28 (2)	043	055
<p>(1) Minimum charge shall be the rate for one hour.</p> <p>(2) Add to the rate for 28 tons, the amount shown opposite this reference mark for each additional 2 tons or fraction thereof.</p>			
<p>◊ Increase, except as noted) ◊ No Change</p>		<p>) Decision No. 72733</p>	
EFFECTIVE AUGUST 19, 1967			
<p>Issued by the Public Utilities Commission of the State of California, San Francisco, California. Correction No. 1232</p>			

Item No.	SECTION NO. 4 - HOURLY RATES (Continued)
ø366	<p style="text-align: center;">APPLICATION OF RATES NAMED IN ITEM NO. 365</p> <p>COLUMN "A" rates apply where the loading is performed by power loading device, excepting processed sand, gravel or crushed stone in stock piles at a commercial producing plant, at point of consumption or at intermediate point of transfer. A hopper chute or bunker shall not be deemed to be a power loading device.</p> <p>COLUMN "C" rates apply where transportation or loading is under conditions other than described under application of Column "A" rates.</p> <p>NOTE 1.--(a) For transportation service furnished under this item on Sundays and/or New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, Christmas Day, add to the applicable hourly rate shown above: ø\$6.39 per hour.</p> <p>(b) Except as otherwise provided in paragraph (a) of this note and in the Exception set forth below, for transportation service furnished under this item on Saturdays or during periods in excess of 8 hours in any one shift, add to the applicable hourly rate shown above: ø\$3.77 per hour. Subject to Paragraph 3 of Item No. 300, "periods in excess of 8 hours in any one shift" means the time which exceeds 8 hours from the time the driver with dump truck equipment reports for service, during which time said driver is continuously engaged by one shipper or overlying carrier, irrespective of the number of loads transported within the period.</p> <p>EXCEPTION.--The additional rates set forth in paragraph (b) shall not apply to transportation service performed on days, other than Saturdays, except when service is performed by one driver with dump truck equipment for a period in excess of 8 hours in any one shift.</p>
	<p>ø Change o Increase</p> <p style="text-align: right;">} Decision No. 72733</p>
	<p>EFFECTIVE AUGUST 19, 1967</p>
	<p>Issued by the Public Utilities Commission of the State of California, San Francisco, California.</p> <p>Correction No. 1233</p>

Item No.	SECTION NO. 4 - HOURLY RATES (Continued)									
COMMODITIES, as described in Item No. 321. (For Application of Rates see Item No. 368)										
Level Capacity of Dump Truck Body in Cubic Yards. (See Note 1 in Item No. 368)		(1) Rates in Cents per Hour (See Item No. 300)								
		NORTHERN TERRITORY (See Item No. 110)					SOUTHERN TERRITORY (See Item No. 100) (See Note 1 in Item No. 368)			
		Upper Northern District (See Item No. 315)			Lower Northern District (See Item No. 315)					
Over	But Not Over	M	O	P	M	O	P			
	0 6	1035	1502	1268	1014	1481	1247	945		
	6 7	1107	1595	1350	1065	1532	1298	988		
	7 8	1150	1638	1393	1113	1580	1346	1037		
	8 9	1226	1739	1482	1164	1636	1400	1080		
	9 10	1270	1783	1526	1208	1680	1444	1118		
9367	10 11	1311	1824	1567	1249	1721	1485	1156		
	11 12	1350	1863	1606	1288	1760	1524	1204		
	12 13	1390	1907	1649	1331	1811	1571	1247		
	13 14	1421	1938	1680	1362	1842	1602	1274		
	14 15	1450	1967	1709	1389	1869	1629	1301		
	15 16	1476	1993	1735	1417	1888	1657	1339		
	16 17	1513	2043	1778	1463	1965	1714	1366		
	17 18	1543	2073	1808	1493	1995	1744	1393		
	18 19	1562	2092	1827	1512	2014	1763	1420		
	19 20	1579	2109	1844	1527	2031	1780	1447		
	20 21	1596	2126	1861	1544	2048	1797	1474		
	21 22	1613	2143	1878	1561	2065	1814	1501		
	22 23	1630	2160	1895	1578	2082	1831	1528		
	23 24	1647	2177	1912	1595	2099	1848	1555		
	24 25	1664	2194	1929	1612	2116	1865	1582		
	25 26	1681	2211	1946	1652	2179	1917	1632		
	26 (2)	017	017	017	017	017	017	027		
(1) Minimum charge shall be the rate for one hour.										
(2) Add to the rate for 26 cubic yard capacity, the amount shown opposite this reference mark for each additional cubic yard or fraction thereof.										
◊ Increase, except as noted ○ No Change		Decision No. 72733								
EFFECTIVE AUGUST 19, 1967										
Issued by the Public Utilities Commission of the State of California, San Francisco, California.										
Correction No. 1234										

Item No.	SECTION NO. 4 - HOURLY RATES (Concluded)
	<p data-bbox="655 463 1151 536" style="text-align: center;">APPLICATION OF RATES NAMED IN ITEM NO. 367</p> <p data-bbox="334 562 1402 635">SUBCOLUMN "M" rates apply on all days except the days on which the subcolumn "O" or "P" rates apply.</p> <p data-bbox="334 661 1509 828">SUBCOLUMN "O" rates apply on every Sunday and on January 1, February 22, May 30, July 4, (1)September 9, (2)November 11, December 25, the day each year proclaimed by the President of the United States to be celebrated as Labor Day and the day so proclaimed as Thanksgiving Day.</p> <p data-bbox="382 854 1287 927">(1) Applies within Upper Northern District only. (See Item No. 315)</p> <p data-bbox="382 953 1287 1025">(2) Applies within Lower Northern District only. (See Item No. 315)</p> <p data-bbox="334 1052 1168 1088">SUBCOLUMN "P" rates apply on every Saturday.</p> <p data-bbox="334 1114 1482 1374">NOTE 1.--Level capacity of Dump Truck body means the cubical content of the body (including the bodies of all trailers, or semitrailers in the unit of equipment) in cubic yards calculated by multiplying the inside length by the average inside width and the average inside height of the sides of the body, including temporary side boards and end boards, if such boards are used, with no allowance for the crown of the load or for low head board or low tail gate.</p> <p data-bbox="218 1356 297 1393">/368</p> <p data-bbox="348 1408 1492 1661">In the case of a Dump Truck body not constructed for use of a tailgate (such as the so-called "rock body"), the inside length shall be deemed to mean the average of the measurement along the top of the sides from the inside of the head board to the point of the angle where the sides are diverted downward to meet the floor, and the measurement along the floor from the inside of the head board to the end of the body.</p> <p data-bbox="348 1695 1492 1921">NOTE 2.--(a) For transportation service furnished under this item on Sundays and/or New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, Christmas Day, add to the applicable hourly rate shown above: ♦\$6.39 hour when the level capacity is less than 25 cubic yards; ♦\$6.85 per hour when the level capacity is 25 cubic yards or more.</p> <p data-bbox="348 1955 1526 2182">(b) Except as otherwise provided in paragraph (a) of this note and in the Exception set forth below, for transportation service furnished under this item on Saturdays or during periods in excess of 8 hours in any one shift, add to the applicable hourly rate shown above: ♦\$3.77 per hour when the level capacity is less than 25 cubic yards; or ♦\$4.12 per hour when the level capacity is 25 cubic yards or more.</p>

Subject to Paragraph 3 of Item No. 300, "periods in excess of 8 hours in any one shift" means the time which exceeds 8 hours from the time the driver with dump truck equipment reports for service, during which time said driver is continuously engaged by one shipper or overlying carrier, irrespective of the number of loads transported within the period.

EXCEPTION.--The additional rates set forth in paragraph (b) shall not apply to transportation service performed on days, other than Saturdays, except when service is performed by one driver with dump truck equipment for a period in excess of 8 hours in any one shift.

o Change)
o Increase)

Decision No. 72733

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