

ORIGINALDecision No. 73039

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 relat-
 ing 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
 Order Setting Hearing of
 March 22, 1966
 Order Setting Hearing of
 February 15, 1967
 and
 Petition for Modification No. 112

ORDER DENYING MOTION TO
 CONSOLIDATE PROCEEDINGS

Order Setting Hearing dated March 22, 1966, in Case No. 5437, was issued by the Commission for the purpose, among other things, of providing a vehicle for the receipt of evidence relative to the establishment of Statewide minimum rates for transportation by a carrier who provides a driver and power unit of equipment without trailing equipment, and rules necessary to implement such rates, which may specify the limits of arrangements with persons furnishing trailing equipment.

Order Setting Hearing dated February 15, 1967, states as follows:

"In Decision No. 72020, dated February 15, 1967, in Case No. 5437, Petition No. 123, it was concluded that an inquiry should be made into the relationship between overlying and underlying carriers engaged in transportation of property in dump truck equipment, including the nature of and justification for fees paid to overlying carriers. A public hearing should be held (in Case No. 5437) for the receipt of evidence in this matter."

First Amended Petition No. 112, in Case No. 5437, filed May 23, 1967, by California Dump Truck Owners Association (CDTOA) seeks, among other things, the establishment in Minimum Rate Tariffs

Nos. 7 and 17 of rules governing the compensation to a carrier for the use of a power unit and driver when pulling dump truck trailing equipment owned by another carrier. Generally, such arrangements are made between subhaulers, who furnish the tractor and driver, and overlying carriers, who furnish the trailing equipment.

On July 7, 1967, California Trucking Association (CTA) filed a motion to consolidate for hearing on a common record the proceedings described above, and to incorporate the relevant Commission staff cost studies and rate proposals relating to tractor-driver-only carrier operations. Said pleading also requests an ex parte order effecting such consolidation.

In support of its request, CTA asserts that the subject matter of the three proceedings sought to be consolidated is interrelated, insofar as it encompasses driver-tractor-only operations of a subhauler for an overlying carrier. CTA states that the proceeding in Order Setting Hearing dated February 15, 1967 is broader in scope than either Petition No. 112 or the involved portion of the Order Setting Hearing dated March 22, 1966; and is, in fact, broad enough to include within it a complete examination of the subject matter of the other two proceedings. CTA alleges that since the basic regulation of the overlying carrier to underlying carrier relationship is the cornerstone upon which each of these proceedings must be built, the changes in the current basic regulation proposed by Petition No. 112 and the Order Setting Hearing of March 22, 1966, should be considered on the same record wherein it is considered whether or not such a cornerstone shall continue to exist. CTA asserts that any action on those two proceedings before hearings on the Order Setting Hearing dated February 15, 1967, presupposes that such hearings will establish the need for the continuation of the basic regulation in present form.

CTA states that it is possible that in such proceeding the Commission may decide that the present regulation is based upon faulty premises; if so, any additional regulation pyramided thereon in the interim will be no less faulty. CTA urges that all three of these matters should be considered by the Commission on a common record to assure the validity and relevancy of resultant regulation to current conditions.

The motion should be denied for the following reasons:

1. Decision No. 73038, issued today, discontinued the proceeding in Order Setting Hearing dated March 22, 1966. This proceeding no longer appears on the Commission's open docket.
2. Petition No. 112, in addition to the request relating to the establishment of compensation for tractor-driver-only dump truck carrier operations, seeks the promulgation of rules relating to payments and allowances for services of shippers on behalf of carriers.
3. The burden of proof with respect to Petition No. 112 lies with petitioner, California Dump Truck Owners Association. Said association has indicated its desire to proceed with its petition separately from the Order Setting Hearing dated February 15, 1967.
4. In connection with Order Setting Hearing dated February 15, 1967, the Commission staff studies are in progress, but the present indication is that the staff studies will not be completed for several months.

5. It would not be reasonable for petitioner in Petition No. 112 to be denied the relief it seeks pending completion of staff studies in Order Setting Hearing dated February 15, 1967.

IT IS ORDERED that the motion of California Trucking Association, filed July 7, 1967, in Case No. 5437 is hereby denied.

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

Dated at San Francisco, California, this 12th day of SEPTEMBER, 1967.

[Signature]
President

[Signature]

[Signature]

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Commissioners

Commissioner Fred P. Morrissey
present but not voting.