

**ORIGINAL**Decision No. 73424

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the operations, rates and practices of MOUNTAIN ROCK PRODUCTS, a corporation, and the following individuals:  
 Fred E. Topper, doing business as F. E. Topper Trucking, Dennie W. Reed, Sr., Vincent L. Oddo, Merlyn K. Mason, Lowell C. Robinson, and Melvin M. Wilson.

Case No. 7827  
 Petition for Modification  
 of Decision No. 69103  
 (Filed November 2, 1966)

Raymond L. Curran of Gibson, Dunn & Crutcher, for  
Mountain Rock Products, petitioner.  
Harley C. Hardesty, for the Commission staff.

O P I N I O N

On November 2, 1966, Mountain Rock Products filed its petition herein for modification of Decision No. 69103 requesting that the order in said decision be modified so as to allow the fair rental value of the trailing equipment provided by Mountain to be included in computing the amounts already paid to the lessor-subhaulers for the purpose of determining all instances where lessor-subhaulers may have been paid less than the amounts required by MRT 7. The Commission issued its order granting rehearing on December 6, 1966, and the matter was heard in Los Angeles before Examiner Cline on March 16, 1967. At the conclusion of the hearing the matter was taken under submission.

During the course of the hearing the parties stipulated that the Commission could consider the appropriateness of the inclusion in Mountain's report of the amounts paid for the Board of Equalization tax, the Public Utilities Commission tax and the insurance charges, as well as the fair rental value of the trailing equipment, for purposes of determining the amounts of the under-payments by Mountain to its subhaulers.

The Commission staff and Mountain resolved all their differences at the hearing except the method of determining the number of miles to be used as the factor in computing the fair rental value of the trailing equipment furnished by Mountain to the subhaulers. Mountain contended that round-trip miles should be used, whereas the Commission staff urged that one-way miles should be used.

Findings

The Commission finds as follows:

1. Clay and gypsum hauls are the transportation with which we are concerned in this proceeding.
2. Most of the trips involved in this proceeding were triangular. The first leg of the trip usually involved an empty haul, the second leg was usually a clay and gypsum haul and the third leg was usually a cement haul back to the point of origin.
3. A few of the clay and gypsum hauls involved only the empty hauls and the clay and gypsum hauls but not the usually related cement hauls.
4. The reasonable rental value for the trailing equipment is ten cents per mile less 2.7 percent for insurance, or 9.73 cents per mile.
5. The Board of Equalization tax amounts to 1.5 percent of 95 percent of the Total Applicable Revenue shown in Exhibit No. 1 herein.
6. The P.U.C. tax amounts to .33 percent of 95 percent of the Total Applicable Revenue shown in Exhibit No. 1 herein.
7. The reasonable amount applicable for insurance paid by Mountain amounts to 2.7 percent of 95 percent of the Total Applicable Revenue shown in Exhibit No. 1 herein.

Conclusions

The Commission concludes:

1. The reasonable rental value for the trailing equipment furnished by Mountain to the subhauler, the Board of Equalization tax, the P.U.C. tax and the reasonable amount applicable for insurance paid by Mountain for the subhaulers should be included in computing the amounts already paid to its lessor-subhaulers for the purpose of determining all instances where the lessor-subhaulers may have been paid less than the amounts required by MRT 7.

2. The mileage factors to be used in computing the reasonable rental value for the trailing equipment where clay and gypsum hauls were combined with cement hauls should be computed by adding the mileage of the clay and gypsum haul legs and a pro-rata share of the mileage of the empty haul legs based on the ratio of the mileage of the clay and gypsum haul legs and the total mileage of the clay and gypsum haul legs and the cement haul legs of the triangular trips.

3. The mileage factors to be used in computing the reasonable rental value for the trailing equipment where no cement hauls were involved and only clay and gypsum hauls were involved should be computed by adding the mileage of the empty hauls to the mileage of the clay and gypsum hauls.

O R D E R

IT IS ORDERED that in computing the amount of underpayments to the subhaulers pursuant to the order in Decision No. 69103, Mountain Rock Products may include, as amounts paid to such subhaulers, the following:

1. The fair rental value of the trailing equipment provided by Mountain Rock Products to its subhaulers at the rate of 9.73 cents per mile multiplied by the number of miles such equipment was used. Where the clay and gypsum hauls were combined with the cement hauls the mileage factors should be computed by adding the mileage of the clay and gypsum haul legs and a pro-rata share of the mileage of the empty haul legs based on the ratio of the mileage of the clay and gypsum haul legs and the total mileage of the clay and gypsum haul legs and the cement haul legs of the triangular trips. Where no cement hauls were involved and only clay and gypsum hauls were involved the mileage factors should be computed by adding the mileage of the empty hauls to the mileage of the clay and gypsum hauls.

2. The Board of Equalization tax in the amount of 1.5 percent of 95 percent of the Total Applicable Revenue shown in Exhibit No. 1 herein.

3. The P.U.C. tax in the amount of .33 percent of 95 percent of the Total Applicable Revenue shown in Exhibit No. 1 herein.

4. Insurance in the amount of 2.7 percent of 95 percent of the Total Applicable Revenue shown in Exhibit 1 herein.

The Secretary of the Commission is directed to cause service of this order to be made upon all of the respondents herein.

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

Dated at San Francisco, California, this 5<sup>th</sup> day of DECEMBER 1967.

[Signature]  
President  
[Signature]  
[Signature]  
[Signature]  
Commissioners