

ORIGINAL

Decision No. 73653

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 pro-
vided in Minimum Rate Tariffs Nos. 7
and 17).

Case No. 5437
Petition for Modification
No. 155
(Filed December 29, 1967)

OPINION AND ORDER

In this petition California Asphalt Pavement Association (CAPA) alleges that the charges in Item 500 of Minimum Rate Tariff 17 for unloading and spreading service were improperly made applicable to asphaltic concrete and cold road oil mixture,^{1/} and requests that the provisions of such item be canceled or suspended as to those commodities.

The petition alleges that said item was added to MRT 17 by Decision No. 72020, dated February 15, 1967, in Petition No. 123; and that said decision related only to rates for transportation of rock, sand and gravel. The petition further alleges that Decision No. 71874, dated January 17, 1967, in Order Setting Hearing dated March 24, 1959, initially established rates for transportation of asphaltic concrete in MRT 17 and that said decision did not provide any charges for unloading and spreading of asphalt.

^{1/} Hereafter collectively referred to as "asphaltic concrete".

Petitioner seeks amendment of MRT 17, as proposed, without hearing, or, in the alternative, suspension of the tariff item insofar as it applies to asphaltic concrete pending further hearing. By letter dated January 2, 1968 (received herein as Exhibit 155-1), California Dump Truck Owners Association (CDTOA) and Associated Independent Owner Operators (AIOO) oppose the granting of the petition on an ex parte basis and object to the suspension of the item pending a hearing. The letter directs the Commission's attention to an Examiner's Recommended Report and Order issued preceding the establishment of rates on asphaltic concrete in MRT 17, which provided that asphaltic concrete rates in MRT 17 should apply only when the commodity is dumped into the ground or into a self-propelled spreading machine.

The establishment of charges for unloading and spreading of asphaltic concrete in Item 500 of MRT 17 appears to have been inadvertent and contrary to the Commission's intention in Decision No. 71874. That decision was issued following rehearing of Decision No. 68543 (64 Cal. P.U.C. 30). Decision No. 68543 would not have established unloading and spreading charges. Said decision never became effective. In Decision No. 71874, the Commission found (in finding 5) that the rates and rules which should be established pursuant to that decision were those set forth in Exhibit A-88. Exhibit A-88 did not contain any rule or charge for unloading and spreading of asphaltic concrete. ✓

Decision No. 71874 was stayed pending disposition of a petition for a writ of review in the California Supreme Court.

C. 5437 (Pet. 155) ds

Said writ was denied on October 11, 1967. Decision No. 71874 was made effective November 6, 1967, pursuant to Decision No. 73275. During the period that Decision No. 71874 was under suspension, the Commission issued Decision No. 72020, dated February 15, 1967, in Petition No. 123. Decision No. 72020 established the provisions of Item 500. The findings in said decision relating to the establishment of Item 500 pertain only to transportation of rock, sand and gravel. The tariff item was not expressly limited to rock, sand and gravel, since at that time the tariff applied only to those commodities because of the suspension of the asphaltic concrete rates.^{2/} When the rates on asphaltic concrete were reestablished pursuant to Decision No. 73275, the provisions of Item 500 properly should have been restricted to apply to commodities other than asphaltic concrete.

We find that the provisions of Item 500 of MRT 17 insofar as they are applicable to asphaltic concrete and cold road oil mixture were established inadvertently and contrary to specific findings in prior decisions. We conclude that, in view of the foregoing finding, a public hearing is not necessary, and that the petition herein should be granted as provided in the order which follows.

IT IS ORDERED that:

1. Minimum Rate Tariff 17 (Appendix B to Decision No. 69469, as amended) is hereby amended by incorporating therein,

^{2/} The tariff also applied to decomposed granite and expanded slag, which are not usually spread.

C. 5437 (Pet. 155) hjh

to become effective March 2, 1968, Eighteenth Revised Page 1-2 and First Revised Page 1-23, attached hereto and by this reference made a part hereof.

2. In all other respects said Decision No. 69469, as amended, shall remain in full force and effect.

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

Dated at San Francisco, California, this 23rd day of JANUARY, 1968.

E. H. Atchell
President

William C. Bennett

Augusta

William J. ...

Fred P. ...
Commissioners

SECTION 1--RULES AND REGULATIONS (CONTINUED)

☞TARIFF PAGES CHECK SHEET

ORIGINAL AND REVISED PAGES AS NAMED BELOW AND SUPPLEMENTS 4 AND 5 CONTAIN ALL CHANGES FROM THE ORIGINAL TARIFF IN EFFECT ON THE DATES SHOWN THEREON.

PAGE NUMBER	REVISION NUMBER	PAGE NUMBER	REVISION NUMBER	PAGE NUMBER	REVISION NUMBER	PAGE NUMBER	REVISION NUMBER
TITLE	2ND	2-9	ORIGINAL	5-A-2	2ND	7-I	2ND
1	ORIGINAL	2-10	ORIGINAL	5-B	2ND	7-I-1	2ND
1-1	2ND	2-11	ORIGINAL	5-B-1	2ND	7-L	2ND
1-2	18TH	3	ORIGINAL	5-B-2	2ND	7-L-1	2ND
1-2.1	1ST	4	2ND	5-D	2ND	7-L-2	2ND
1-3	4TH	4-A	2ND	5-D-1	2ND	7-M	2ND
1-3.1	3RD	4-A-1	2ND	5-D-2	2ND	7-M-1	2ND
1-4	3RD	4-A-2	2ND	5-D-3	2ND	7-M-2	2ND
1-4.1	1ST	4-B	2ND	5-F	2ND	8	ORIGINAL
1-5	2ND	4-B-1	2ND	5-G	3RD	9	ORIGINAL
1-6	2ND	4-B-2	2ND	5-G-1	1ST	10	2ND
1-7	2ND	4-CC	2ND	5-G-2	1ST	10-B	2ND
1-8	3RD	4-CC-1	2ND	5-G-3	2ND	10-C	2ND
1-8.1	ORIGINAL	4-E	2ND	5-G-4	2ND	10-E	2ND
1-9	2ND	4-E-1	2ND	5-G-5	1ST	10-G	2ND
1-10	1ST	4-E-2	2ND	5-L	2ND	10-I	2ND
1-11	ORIGINAL	4-F	2ND	5-L-1	2ND	10-J	2ND
1-12	ORIGINAL	4-F-1	2ND	5-M	2ND	10-K	2ND
1-13	ORIGINAL	4-F-2	2ND	5-M-1	2ND	10-L	2ND
1-14	3RD	4-F-3	2ND	5-O	2ND	10-M	2ND
1-14.1	ORIGINAL	4-G	2ND	5-P	2ND	10-N	1ST
1-15	3RD	4-G-1	2ND	5-P-1	2ND	10-N-1	1ST
1-15.1	ORIGINAL	4-G-2	2ND	6	2ND	10-O	1ST
1-16	4TH	4-G-3	2ND	6-F	2ND	10-O-1	1ST
1-17	ORIGINAL	4-I	2ND	6-G	2ND	10-P	1ST
1-18	ORIGINAL	4-II	2ND	6-G-1	2ND	10-P-1	1ST
1-19	ORIGINAL	4-II-1	2ND	6-O	1ST	11	2ND
1-20	ORIGINAL	4-JA	2ND	6-O-1	1ST	11-1	2ND
1-21	4TH	4-JJ	2ND	7	2ND	11-2	2ND
1-22	2ND	4-JJ-1	2ND	7-A	2ND	12	1ST
1-23	1ST	4-L	2ND	7-A-1	2ND	12-P	1ST
2	2ND	4-L-1	2ND	7-B	2ND	12-P-1	1ST
2-1	ORIGINAL	4-L-2	2ND	7-B-1	2ND	12-P-2	1ST
2-2	ORIGINAL	4-M	2ND	7-D	2ND	12-Q	ORIGINAL
2-3	ORIGINAL	4-M-1	2ND	7-D-1	2ND	12-Q-1	ORIGINAL
2-4	ORIGINAL	4-M-2	2ND	7-E	2ND	12-Q-2	ORIGINAL
2-5	ORIGINAL	4-M-3	2ND	7-E-1	2ND	13	2ND
2-6	ORIGINAL	5	2ND	7-H	2ND	13-1	1ST
2-7	ORIGINAL	5-A	2ND	7-H-1	2ND	13-2	1ST
2-8	ORIGINAL	5-A-1	2ND	7-H-2	2ND		

☞ CHANGE, DECISION NO. 73653

EFFECTIVE MARCH 2, 1968

ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA,
 SAN FRANCISCO, CALIFORNIA.
 CORRECTION 429

SECTION 1 - RULES AND REGULATIONS (CONCLUDED)	ITEM
<p style="text-align: center;">ø(1) UNLOADING AND SPREADING SERVICE</p> <p>When a carrier performs unloading and spreading service by spreader box which the carrier pushes or pulls, a charge of \$1.00 per load, or fraction thereof, shall apply in addition to the charges otherwise applicable under this tariff.</p> <p>When a carrier moves a push or pull spreader box from one location to another at the same job site in a movement which is other than that by which the carrier is concurrently performing an unloading and spreading service, a charge of \$3.00 per movement shall apply in addition to the charges otherwise applicable under this tariff.</p> <p>The carrier shall not perform unloading and spreading service by spreader box which it pushes or pulls, nor shall it otherwise move such a spreader box from one location to another at a job site, unless it has been first given a written order for said services, which order has been signed by the party (or authorized representative) who assumes the responsibility for the payment of the applicable charges.</p> <p>(1) Will not apply to the transportation of commodities as described in Item 65 of this tariff.</p>	ø500
<p>ø Change, Decision No. 73653</p>	
<p>EFFECTIVE MARCH 2, 1968</p>	
<p>ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.</p> <p>CORRECTION 430</p>	