

ORIGINALDecision No. 73752

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 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. 141

Filed November 10, 1966;
 Amended November 6, 1967.

E. O. Blackman, for California Dump Truck
 Owners Association, petitioner.
Karl D. Roos and Harry C. Phelan, Jr., for
 California Asphalt Pavement Association;
G. Ralph Grago, for Associated Independent
 Owner-Operators, Inc.; Richard W. Smith,
H. F. Kollmyer and A. D. Poe, for Cali-
 fornia Trucking Association; Scott J.
Wilcott, for California Rock Products
 Association; C. Fred Imhoff and Jack
Royster, for Industrial Asphalt, inter-
 ested parties.
R. J. Carberry and Ralph J. Staunton, for
 the Commission staff.

O P I N I O N

This petition seeks increases of 25 percent in the Ante-
 lope Valley zone rates and 35 percent in the mileage-tonnage rates
 for the transportation of asphaltic concrete and cold road oil
 mixture¹ between points in Southern Territory, as set forth in
 Minimum Rate Tariff No. 7 (MRT 7).

Duly noticed public hearings were held in this proceeding
 on October 5 and 6, 1967 and January 3, 1968, before Examiner
 Mallory, in Los Angeles. On October 5 and 6, 1967, evidence in

¹ Hereinafter collectively referred to as "asphaltic concrete."

support of the relief sought was presented by petitioner California Dump Truck Owners Association (CDTOA), and by California Trucking Association (CTA). On November 6, 1967, the petition was amended to limit the issues to those described above. On November 8, 1967, California Asphalt Pavement Association (CAPA) filed a motion to dismiss the petition, which was denied by Decision No. 73514, dated December 19, 1967. At the hearing on January 3, 1968, CAPA presented evidence in opposition to the relief sought. The matter was submitted subject to the filing by CDTOA of an amendment to the petition or a late-filed exhibit. Late-filed Exhibit 141-7 was received on January 12, 1968. CAPA, on October 6, 1967, had filed a motion for the filing and distribution of an Examiner's Proposed Report and Recommended Order.

Southern California Mileage Rates

Separate scales of mileage-tonnage rates on asphaltic concrete in Southern Territory were established in Decision No. 48712, dated June 16, 1953, in Case No. 4808.² No adjustments have been made since that time in mileage rates for asphaltic concrete in Southern Territory.

CDTOA's secretary-manager presented exhibits to show that in Decision No. 48712, the Commission found that the mileage rates established therein were related to a base hourly rate of \$6.64 for a 12-ton 3-axle dump truck. He testified also that no direct comparison could be made with the minimum hourly rates in effect at that time, because such rates were the so-called "double-factor"

² Prior to that time asphaltic concrete rates were based upon the rock, sand and gravel mileage rates, plus a fixed additive in cents per ton regardless of the length of haul. Decision No. 48712 converted the existing rates into a separate scale for asphaltic concrete, and increased said rates by 10 percent.

rates.³ Single-factor hourly rates were initially established in MRT 7 pursuant to Decision No. 50845, dated December 14, 1954, in Case No. 5437. The applicable hourly rate for a 12-ton truck (8-9 cubic yards) established by that decision was \$6.60 per hour. The witness stated that hourly rates had been adjusted from time to time, to reflect current wages paid by dump truck carriers. The current hourly rate (Decision No. 72933, dated July 11, 1967, in Case No. 5437, Petitions 144 and 145) for a 12-14 ton truck is \$10.01 per hour. The witness determined from the foregoing information that hourly rates for asphaltic concrete had increased in the period between the issuance of Decision No. 48712 and Decision No. 72733 by 51.7 percent. He asserted that this is a measure of the need for an increase in the mileage rates on asphaltic concrete.

Evidence in support of the rate increase was also presented by the assistant director of CTA's Division of Transportation Economics. The witness showed that the increases in drivers' wages for a 3-axle dump truck operated within the so-called "core area" of Southern California in the period January 1, 1962 to May 1, 1967 was 46 percent.⁴ This witness also developed the percentage-wise increases in asphaltic concrete hourly rates in the period between October 12, 1960 and August 6, 1966, for equipment of 18 to 19 cubic yards in Southern Territory and for 19 to 20 cubic yards in Northern Territory. In that period, the Southern Territory hourly rates were increased by 15.8 percent, and the Northern

³ MRT 7, at that time, provided specific rates for a unit of equipment, to which must be added the "generally prevailing" hourly wage scales. The latter were not shown in the tariff.

⁴ The evidence presented by CTA appears to be primarily directed to the need for an increase in the "core area" zone rates. The amendment to the petition filed November 6, 1967 withdrew the request for increases in "core area" zone rates, as such rates were transferred to Minimum Rate Tariff No. 17, pursuant to Decisions Nos. 73274 and 73275, dated October 27, 1967.

Territory rates were increased by 16.2 percent, to give effect to increased drivers' wages. These comparisons were furnished because they assertedly show the lowest increase in hourly rates for all sizes of dump truck equipment occurring in the compared period. The witness indicated that increases in hourly rates are proportionally greater for smaller equipment, because labor represents a greater percentage of the total hourly rate for such equipment.

Neither CDTOA nor CTA made any study of the costs of providing service under the distance rates. The only factors considered in their presentations were the increases in the corresponding hourly rates and increased drivers' wages. The witnesses for CDTOA and CTA testified that they made no investigation to determine the current costs of equipment, or operating expenses other than labor, nor of any changes in productivity. Nor did these witnesses make any investigation to determine whether carrier operations conducted under the current mileage-tonnage rates are profitable.

The executive director of CAPA presented exhibits and testimony in opposition to the proposed increase. The presentation of this witness was directed to the fact that the evidence adduced in support of the increase related to only one factor, namely labor costs. This witness asserted that when other factors are considered, the current rates are not unreasonably low. The witness testified that the current mileage rates were developed from the hourly rate for a 12-ton 3-axle truck (Decision No. 48712, supra). More recent studies presented in other phases of this proceeding showed that the capacity of a 3-axle truck is currently

14.3 tons.⁵ This assertedly represents an increase in payload of 19.2 percent. The witness also testified that, at the current time, 5-axle equipment having a capacity of 24.6 tons is also used to transport asphaltic concrete. Assertedly, the capacity of the larger 5-axle equipment is 105 percent of the equipment used as a basis for the development of the mileage rates in Decision No. 48712 (supra). No effect was given to the use of this larger equipment in the development of the current mileage rates. The position of CAPA is that technological advances in equipment capacities should be given consideration, in addition to labor cost increases, in any adjustment.⁶ Cross-examination of this witness indicated that asphaltic concrete mileage-tonnage rates are seldom used by shippers represented by CAPA, as the predominant rates are the zone rates in Minimum Rate Tariff No. 17 (MRT 17) or the hourly rates in MRT 7.

CAPA argued that current cost and economic studies should form the basis for any adjustment in mileage rates on asphaltic concrete; that the record herein is not sufficient to serve as a basis for such an adjustment; and that the petition, insofar as it seeks increases in the mileage rates, should be denied.

Based on the evidence presented herein the Commission finds as follows with respect to the sought increase in mileage-tonnage rates on asphaltic concrete in Southern Territory:

1. CDTOA endeavored to relate the need for the proposed increases in asphaltic concrete mileage rates to the increases in hourly rates for a 3-axle unit heretofore granted by the Commission in the period since the mileage rates were last adjusted. Said

⁵ Exhibit A-88, received in evidence in Case No. 5437, Order Setting Hearing, dated March 24, 1959.

⁶ The witness stated that he recognized that operating costs are greater for a 5-axle unit of equipment than for a 3-axle unit, therefore there is no direct correlation between equipment capacities and operating costs per hour or per ton-mile.

hourly rates are applicable to the transportation of all commodities under bunker loading conditions in Southern Territory. There was no showing of the comparability of operating conditions under hourly rates and mileage rates.

2. Evidence adduced by CTA was primarily directed to the increases in drivers' wage costs since 1960.

3. Evidence adduced by CAPA showed that capacities of 3-axle trucks have increased since the mileage-tonnage rates were last adjusted; and that, since that time, larger 5-axle equipment units have come into use with respect to transportation of asphaltic concrete in Southern Territory.

4. The record shows that mileage-tonnage rates for asphaltic concrete have limited application in Southern Territory.

5. No party to this proceeding submitted in evidence a study evaluating all of the changes in cost factors and operating conditions occurring since the mileage-tonnage rates on asphaltic concrete were last considered by the Commission.

6. The record herein does not support the granting of any specific increase in mileage-tonnage rates for transportation of asphaltic concrete in Southern Territory.

Antelope Valley Zone Rates

Asphaltic concrete zone rates in Antelope Valley were established pursuant to Decision No. 56044, dated January 7, 1958, in Case No. 5437, Petition No. 29. The zone rates provided therein were developed from a base hourly rate of \$7.93 per hour for 3-axle equipment of 12-1/2-ton capacity. The rates were increased by 20 percent pursuant to Decision No. 61051, dated November 15, 1960, in Case No. 5437, Petition No. 58. The witness for CDTOA demonstrated that the corresponding hourly rates for transportation of asphaltic concrete in Southern Territory had increased by 22.5

percent in the period from the date of establishment of the Antelope Valley Zone rates to the date of the initial hearing. The witness for CIA showed that hourly wage costs for a 3-axle truck had increased in the period from January 1, 1962 to the date of the hearing by approximately 46 percent; and that hourly rates for 3-axle trucks had increased, in that period, by approximately 24 percent.

CAPA presented evidence to show that the Antelope Valley zone rates are based on specific round trip delivery times from Production Area A to specific delivery zones;⁷ that revenues based upon the present zone rates and current vehicle capacities produce the same or greater revenues than the current hourly rates based upon the round trip running times set forth in the tariff; and that revenues under the rates proposed herein would greatly exceed revenues computed upon current hourly rates and round-trip running times in the tariff. Such comparisons were furnished for both 3-axle equipment and 5-axle equipment.

The present zone rates were developed from an hourly rate for 3-axle equipment, as such equipment was the predominant unit of equipment in use at the time the rates were established. The witness for CAPA testified that 5-axle equipment currently is used for approximately 20 percent of the number of loads transported from Antelope Valley Production Area A.⁸ The witness stated that the tariff provides that zone rates must be used to the exclusion of other types of rates provided in the tariff. He pointed out that examples set forth in exhibits which he presented showed that, for 5-axle equipment, present zone rates produce revenues

⁷ Production Area A is the only production area located in Antelope Valley from which zone rates are set forth in MRT 7.

⁸ Based on an analysis of all loads transported in a period in late 1967.

substantially greater than revenues under current hourly rates. The witness proposed that the Antelope Valley zone rates be canceled, and that hourly rates be made applicable in lieu thereof.

Counsel for CDTOA requested opportunity to study the aforementioned proposal of CAPA, and to present it to the portion of the membership of CDTOA operating under the Antelope Valley zone rates. CDTOA was granted permission to amend its petition to seek cancellation of the zone rates, or to file a late-filed exhibit indicating that CDTOA did not agree to the proposal. Such late-filed exhibit was received January 12, 1968.

The Commission finds as follows with respect to the proposed increases in Antelope Valley zone rates on asphaltic concrete:

1. The evidence shows that, although wage costs have increased in the period since the Antelope Valley zone rates were last adjusted and the hourly rates for asphaltic concrete in Southern Territory have been adjusted upward in that period, the present zone rates produce revenues approximately the same, or greater than the current hourly rates.

2. Antelope Valley zone rates are required by tariff rule to be used in exclusion to other rates in the tariff.

3. It has not been shown that the present Antelope Valley zone rates are unreasonably low in relationship to other minimum rates set forth in MRT 7 or on any other basis.

4. The proposal of CAPA to cancel the Antelope Valley zone rates was opposed by CDTOA. Said proposal is beyond the scope of the petition, as amended, in this proceeding.

The Commission concludes as follows:

1. Petition No. 141, as amended, should be denied.
2. The proposal of CAPA with respect to cancellation of the Antelope Valley zone rates in MRT 7 should be denied.

3. In view of conclusion 1, above, the motion of CAPA to dismiss Petition No. 141 should be denied.


4. The request of CAPA for an Examiner's Report and Recommended Order should be denied.

O R D E R

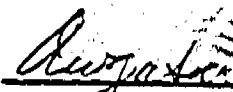
IT IS ORDERED that Petition for Modification No. 141, as amended, in Case No. 5437 is hereby denied.

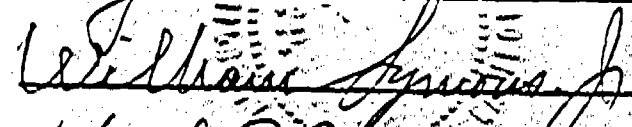
The effective date of this order shall be twenty days after the date hereof.

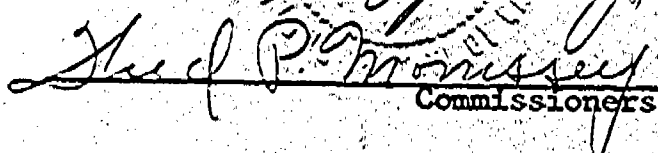
Dated at San Francisco, California, this 20th day of FEBRUARY, 1968.



President






Commissioners

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