

**ORIGINAL**Decision No. 73786

## 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 cement and  
related products (commodities for  
which rates are provided in Minimum  
Rate Tariff No. 10).

Case No. 5440  
Petition for Modification  
No. 26  
(Petition for Modification of  
Decision No. 73607, filed  
February 13, 1968)

SUPPLEMENTAL OPINION AND ORDER

Decision No. 73607, dated January 9, 1968, in this proceeding, revised the rates and rules governing the transportation of cement and related articles as set forth in Minimum Rate Tariff No. 10 (MRT 10). Said revised rates and rules are scheduled to become effective March 1, 1968.

On February 13, 1968, California Trucking Association (CTA) filed a pleading entitled "Petition for Modification of Decision No. 73607 Involving Minimum Rate Tariff No. 10". CTA requests an immediate ex parte order of the Commission modifying Decision No. 73607 by revising upward the minimum rates for transportation in Northern Territory (Item No. 205 of MRT 10), and extending to March 31, 1968, the effective date of the tariff changes provided by Decision No. 73607.

In support of the request, CTA alleges the following:

The changes provided by such decision are numerous and complicated. The adversary nature of the proceeding resulted in the adoption of a rate structure which is a mixture of various dated proposals and studies, modified from their original format

by the Commission. Accordingly, the resulting rate structure was not susceptible of measurement and analysis by any of the original studies of the parties but has required further and additional study and analysis. Subsequent to the review of the effect of Decision No. 73607 upon the cement industry, various meetings have been held by interested parties to discuss the appropriate means of implementing necessary revisions. Such parties have agreed unanimously that the effective date of the tariff revisions established by Decision No. 73607 should be extended until March 31, 1968 (a Sunday). Such extension will permit the Commission to issue its order authorizing the modifications proposed herein, provide for adequate advance notification of changes to cement purchasers, and will permit the changes to occur on a day properly related to trade practices involving billing and accounting procedures. Petitioner urges that Commission decision on this filing be issued before March 1, 1968, so that the above stated objectives may be achieved.

In support of the proposed higher level of rates for Northern Territory the petition states that subsequent investigation by interested parties indicates that the adjustments provided by the Commission in Decision No. 73607 did not adequately provide for presently foreseeable circumstances. Special studies of the impact resulting from the Distance Table change indicate that the impact in Northern Territory will exceed the statewide situation considered by the Commission. Exceptions to the Distance Table are substantially more limited in Northern Territory, and the impact of the distance changes has considerably more direct impact in that Territory. Petitioner asserts that many major construction projects

involving the highway and water programs of the State will require transportation during 1968 to points in Northern Territory which are not ordinarily considered to be "principal markets" as that term was used in the Commission considerations.

CTA also alleges that the current situation involving labor costs in Northern Territory is more critical than could have been foreseen by the Commission during the 1967 hearings. The "final" employer offer of improvements in the basic labor contracts for Northern Territory (which expired with April 1, 1967) has been rejected by vote of the union membership. Further discussions indicate that substantially greater costs may well be incurred before agreement is reached between cement carriers and the Teamsters Union on a new cement contract for Northern California. In addition to the new higher labor costs which will result, the carriers will also face substantial retroactive payments.

The petition further states that Northern Territory cement producers and their carriers have reached a unanimous conclusion that modification of the Northern Territory cement rates as provided in Decision No. 73607 is necessary to reflect the additional impact of circumstances which could not be fully foreseen by the Commission from the record developed in 1967. The petition avers that such changes reflect the considered judgments of cement shippers and carriers as to the level of minimum rates which will be necessary if the carriers are to be compensated adequately for operations under the new Distance Table and labor costs which can be reasonably foreseen as having application during 1968, and if shippers are to receive the transportation services which will be necessary to cement distribution during 1968. The volume and nature of special transportation services involved in the transportation of

cement during 1968 will be such that all parties are agreed that the adequacy and sufficiency of carrier service without such tariff modifications is questionable. The petition states that producers of cement in Northern Territory have alleged that their primary concern involves the availability of carrier service for the transportation of their product, and feel that the proposed tariff modification is necessary to that end.

The petition further states that petitioner is informed and believes that the proposed extension of the effective date of Decision No. 73607 to March 31, 1968, is desired by, and supported by all shippers and carriers of cement and their representatives. The proposed modification of the Northern Territory rates is similarly supported by all Northern Territory cement producers, and their carriers. The petition alleges that petitioner knows of no party who objects to the relief proposed in the petition, and that the unanimous desire of all parties for a decision prior to March 1, 1968, justifies the expedited action possible by ex parte action of the Commission.

The Commission has considered the facts and allegations set forth in the Petition for Modification of Decision No. 73607, and concludes that sufficient information has not been furnished therein for the issuance of an ex parte order granting the rate relief sought. The petition is based on two primary considerations, the effect of constructive mileage changes on rates in Northern Territory, and the effect of wage contracts now in the process of negotiation. Although the petition alleges that special studies of the impact of the Distance Table change were considered by petitioner and other parties, the results of said studies were not incorporated in the pleading. The wage changes which form the

second consideration relied upon for the proposed changes in Northern Territory rates have not, as yet, become finalized.

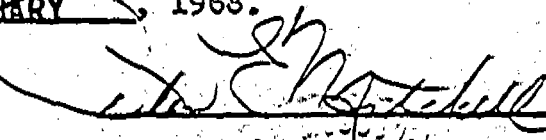
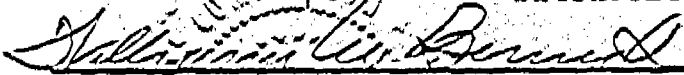
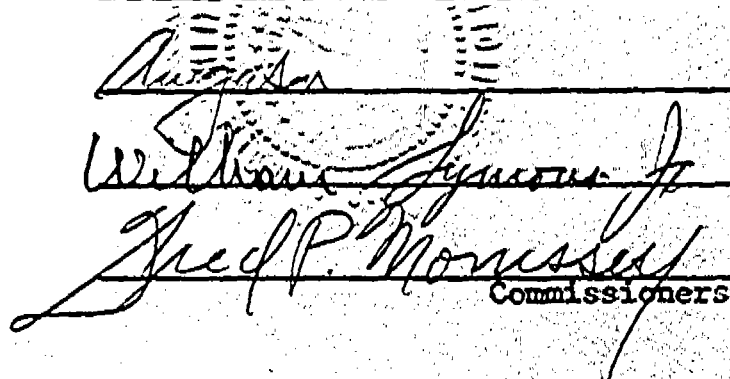
The Commission further concludes that the request for an ex parte order granting the rate relief sought should be denied and that the petition filed February 13, 1968 should be set for hearing.

The Commission is satisfied that the request for an extension of time to March 31, 1968, of the effective date of the rates authorized by Decision No. 73607 is moot if the request for an ex parte order increasing Northern Territory rates is not granted. In view of the conclusions expressed therein, no useful purpose would be served by extending the effective date as requested.

O R D E R

IT IS ORDERED that the request for an ex parte order set forth in the pleading filed by California Trucking Association in Case No. 5440, Petition for Modification No. 26, is denied, and IT IS FURTHER ORDERED that such pleading shall be set for hearing at such time and place and before such Commissioner and/or Examiner as shall hereinafter be designated.

Dated at San Francisco, California, this  
27<sup>th</sup> day of FEBRUARY, 1968.

  
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President  
  
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Commissioners  
  
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Commissioners