

**ORIGINAL**Decision No. 73966

## 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 provided in )  
 Minimum Rate Tariffs Nos. 7 and 17). )

Case No. 5437  
 (Order Setting Hearing  
 dated June 9, 1967)

Richard W. Smith, W. A. Dillon, H. F.  
Kollmyer and A. D. Poe, for California  
Trucking Association; E. O. Blackman,  
for California Dump Truck Owners  
Association; Ralph Grago, by E. O.  
Blackman, for Associated Independent  
Owner-Operators, Inc.; Scott J. Wilcott,  
for Southern California Rock Products  
Association; H. Herman Ohs, for  
Consolidated Rock Products; and E. J.  
Bertana, for Pacific Cement and  
Aggregates; interested parties.  
R. J. Carberry, Robert E. Walker, and  
Robert W. Stich, for the Commission  
staff.

O P I N I O N

Order Setting Hearing dated June 9, 1967, in Case No. 5437 (Decision No. 72587) was issued for the purpose of receiving evidence relating to the need for, and advisability of, establishing procedures for considering proposed amendments to Minimum Rate Tariffs Nos. 7 and 17 (MRT 7 and MRT 17) on a periodic basis or other basis.

A duly noticed public hearing was held before Examiner Mallory in Los Angeles on October 10 and 11, 1967, and in San Francisco, on December 6, 1967 and January 18, 1968. The matter was submitted subject to the filing of closing statements on or before February 26, 1968. Such statements were filed by Southern California Rock Products Association (SCRPA) and California Trucking Association (CTA).

Exhibit 1 of the Commission staff, introduced at the initial hearing on October 10, 1967, proposed that the Commission issue an order establishing general instructions and forms to be used for development of tie-in times and mileages by petitioners seeking the establishment of new production areas in MRT 17. Such order would also provide that (1) MRT 7 and MRT 17 would be revised not oftener than twice per year, (2) petitions filed prior to specified semiannual cut-off dates would be consolidated for hearing within two months of said cut-off dates, and (3) designated types of rate adjustments would be subject to such procedures.

Following cross-examination on these proposals, the Commission staff, at the hearings in December and January, amended its proposals to request that the information appearing in the attachments to Exhibit 1, relating to forms and general instructions for the development of tie-in times and mileages for new production areas, be made available to interested parties as general guidelines in the preparation of data required to be furnished under the sixth ordering paragraph of Decision No. 68543 (64 Cal. P.U.C. 30).<sup>1/</sup>

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1/ Said ordering paragraph reads as follows (at page 46):

"In seeking the establishment of further production areas and delivery points, together with rates from and to said areas and points, respectively, petitioners shall be relieved of the requirement that they set forth in their petitions the precise rates which they seek to have established. This waiver does not relieve petitioners from furnishing, in support of their petitions, such time and distance data and territorial descriptions as necessary to the integration of the additional production areas and delivery points which are involved into the rate structure established by this order or amendments thereto."

The balance of the staff proposal was amended (in Exhibit 3), as follows:

" . . . the issuance of tariff pages be consolidated into semi-annual effective dates.

" . . . the first Saturday in May and the first Saturday in October be selected as the dates upon which the tariff pages be made effective. Exceptions to the semi-annual effective dates may have to be made when special circumstances warrant such deviation."

The Commission staff representatives stated that no definitive order of the Commission is necessary to accomplish the above described objectives. The staff indicated that a "policy" decision of the Commission would be sufficient to give effect to the amended staff proposals.

The Secretary-Manager of California Dump Truck Owners Association (CDTOA) also submitted a proposal in behalf of that association and the Associated Independent Owner-Operators, Inc. He proposed the following be adopted, as guidelines to interested parties:

"1. Except in Commission approved special instances, changes in tariff pages reflecting additions to and modifications of MRT 17 will not be published more frequently than semi-annually; the effective dates of such pages will be April 1 and October 1.

"2. For the information of all concerned, and to the extent practical, this Commission will follow the policy of combining matters for bearing relative to MRT 17 on a common record, with the foregoing tariff publication dates in mind."

In support of the staff proposal concerning periodic amendment of MRT 7 and MRT 17, the staff witness testified that both tariffs have been amended frequently in recent years; that

the preparation and printing of amended tariff pages and mailing of said pages to the several thousand holders of the tariffs are expensive; and that time and effort of the Commission staff would be saved and printing and mailing costs would be reduced if the staff proposal was adopted. The witness also explained that shippers and carriers would benefit because several tariff changes would be made concurrently on fixed dates, and marketing practices could be adjusted to fit the proposed pattern of tariff adjustment. The witness for CDTOA indicated that the same general reasons were the basis for his proposal.

In its closing statement SCRPA states that it is in agreement with both proposals, but feels that the proposal of CDTOA is more precise. SCRPA believes that the staff proposal, as set forth in Exhibit 3, appears uncertain with respect to the word "issuance" in paragraph one.

CTA, in its closing statement, opposed both the proposals of the Commission staff and CDTOA with respect to semiannual publication dates for amendments to MRTs 7 and 17. It argued that no matters of substantive evidentiary value were developed to show that the trucking industry would benefit in any way from semiannual tariff publication. CTA also argued that the inflexibility of a semiannual publication schedule can exclude from the tariff, at least for a six-month period, modifications important to both shippers and carriers.

The Commission concludes that it is not necessary or required for effective regulation of dump truck minimum rates to fix regular publication or effective dates for amendments of MRT 7 and MRT 17.<sup>2/</sup> The Commission further concludes that this is a matter within the internal control of the Commission and appropriate internal procedures for the processing and handling of decisions affecting MRT 7 and MRT 17 have been or will be developed to minimize the exigencies of tariff publication and distribution described in the staff testimony. As it appears necessary, and when no undue delays will occur, decisions involving MRT 7 and MRT 17 will be issued with common effective dates.<sup>3/</sup>

The Commission will continue to consolidate matters for hearing in accordance with Rule 55 of its Rules of Practice and Procedure. Unrelated matters may not be consolidated. Related matters will not be consolidated if such consolidation would unduly delay the submission of any proceeding.<sup>4/</sup>

The Commission Transportation Division staff will furnish information to any interested party who may require assistance in developing and preparing the data required to be furnished pursuant to the sixth ordering paragraph of Decision No. 68543 (supra).

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<sup>2/</sup> As no definitive order is requested herein, findings of fact are unnecessary.

<sup>3/</sup> Decisions of the Commission must be issued within a reasonable time after submission of the proceeding; otherwise petitioners could be denied the relief they seek for an indefinite period of time if such relief is withheld pending the disposition of other proceedings (In re MRT 17, 66 Cal. P.U.C. 298).

<sup>4/</sup> See Decision No. 73039, dated September 12, 1967, in Case No. 5437, Orders Setting Hearing dated March 22, 1966 and February 15, 1967, and Petition No. 112; and Decision No. 73670, dated January 30, 1968, in Case No. 5437, Petition No. 156.

O R D E R

IT IS ORDERED that the proceeding initiated by Decision No. 72587, dated June 9, 1967, in Case No. 5437, is hereby discontinued.

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

Dated at San Francisco California, this  
9th day of APRIL, 1968.

[Signature]  
President

[Signature]

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Commissioners