

Decision No. 73997

ORIGINAL

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)

Arlo D. Poe, J. C. Kaspar and H. F. Kollmyer,
for California Trucking Association, petitioner.
William W. Applegate, for Applegate Drayage Co.;
Mrs. Ardath McPherson, for Rock Transport, Inc.;
Frank J. Golzen, for Universal Transport System,
Inc; Edwin A. Acker and Ray S. Bruton, for
Miles and Sons Trucking Service, Inc.; and
Lloyd Amaral, for Amaral Trucking, respondents.
Lynn M. Watwood, Jr. and John Rohrer, for Kaiser Cement
& Gypsum Corp.; E. J. Bertana, for Pacific Cement
& Aggregates; Eugene A. Feise, for Calaveras
Cement Division of The Flintkote Co.; Walter G.
Herrigel, for Ideal Cement Co.; Eugene A. Rhodes,
for Monolith Portland Cement Co.; William Mitze,
for Riverside Division of American Cement Corp.;
George H. Roe, for California Cement Co.; George B.
Shannon, for Southwestern Portland Cement Co.; and
R. G. Moon, for Western Motor Tariff Bureau, Inc.,
interested parties.
R. J. Carberry and Robert E. Walker, for the
Commission staff.

O P I N I O N

Decision No. 73607, dated January 9, 1968, in this proceed-
ing, revised the rates and rules governing the transportation of
cement and related articles as set forth in Minimum Rate Tariff
No. 10 (MRT 10), and adopted Distance Table 6 to replace Distance
Table No. 5 as the governing constructive mileage publication for
determination of rates in said tariff. Said revised rates, rules and
other changes became 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 requested 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. The ex parte action requested was denied by Decision No. 73786, dated February 27, 1968, and the matter was set for hearing.

A duly noticed public hearing was held and the matter submitted before Examiner Mallory at San Francisco on March 11, 1968. Evidence in support of the relief sought was presented by petitioner's Director of its Division of Transportation Economics, by a member of the California Trucking Association (CTA) labor negotiation committee, and by representatives of all cement mills having production facilities and/or shipping points in Northern Territory. The proposed increase in rates was opposed by the Commission staff.

Exhibit 26-18 was presented by the chairman of the employer committee (CTA) engaged in negotiating a labor agreement with the Teamsters' Union for cement transportation. The witness stated that the labor contract expired March 31, 1967, and that negotiations have continued from time to time since that date. On March 4, 1968, the employers' "final offer" was submitted. Said offer has the support of all members of the union's negotiating committee and will be submitted immediately for ratification by the rank and file membership of the union. The employers' offer is summarized in Exhibit 26-18. It provides for a wage agreement covering the period April 1, 1967 through June 30, 1970. For the period April 1, 1967 through March 31, 1968, the basic hourly wage rate in effect on

March 31, 1967 is increased by 25 cents per hour. To the extent that carriers have paid their drivers lesser amounts, payments of this increase will be retroactive to April 1, 1967. For the period April 1, 1968 through March 31, 1969, the basic hourly wage rate is further increased by 15 cents per hour, mileage rates of pay are canceled, and a provision is added which calls for payments of 1-1/2 times the basic hourly rate for all hours worked in excess of 40 hours per week. For the period April 1, 1969 through June 30, 1970, the basic hourly wage will be increased by an additional 15 cents per hour.

The witness testified that in addition to the wage increases which will accrue on April 1, 1968 in the Cement Carrier Supplement as described above, the master agreement with the Teamsters Union calls for increased fringe benefits and for a 3-cent per hour cost of living increase effective April 1, 1968.

The witness also showed in Exhibit 26-18, the effect upon the basic wages paid by Universal Transport System, Inc., for cement transportation, because of the provisions of the new wage agreement effective April 1, 1968.^{1/} The overall effect was determined to be an increase of 12.46 percent over the basic wage costs of Universal in effect at the close of 1967. The witness asserted that the contract provisions effective April 1, 1968 would result in an increase of 19.09 percent over the basic wage cost set forth in the staff cost study (Exhibit 26-6) submitted in the proceeding leading to Decision No. 73607 (supra).^{2/}

^{1/} Exclusive of the 3-cent per hour cost of living increase.

^{2/} The record shows in the prior proceeding the Northern Territory wage costs were based on management's offer at that time of \$3.71 per hour with no provision for overtime pay. The calculated increase of 19 percent is based on \$3.86 per hour with overtime premium pay at time and one half for hours in excess of 40 hours per week using the actual hours worked when there was no provision for overtime pay as basis for the test. Management may reduce the number of overtime hours worked where premium pay is required to be paid which may reduce the calculated 19 percent increase in basic labor rates.

CTA's Director of its Division of Transportation Economics submitted in evidence Exhibit 26-19, setting forth revenues, expenses and operating ratios of groups of carriers engaged in cement transportation under Northern Territory distance rates. The witness stated that the exhibit showed that such carriers have experienced a continuous deterioration in their profit margin over the last four years until, in 1967, for-hire carriers of cement in Northern Territory, as a group, had an operating ratio in excess of 100. The following table shows the combined operating revenues, operating expenses and operating ratios of a group of 12 carriers, who earned 50 percent or more of their total revenues from the transportation of cement in the year 1967:

TABLE I
Year 1967

Revenues	\$3,007,190
Expenses*	\$3,052,227
Operating Ratio*	101.5%

* Based on carrier records adjusted only to provide for owners' salaries.

The witness estimated that \$2,500,000 of the revenue shown in the tabulation in Table I was earned from the transportation of cement. The witness indicated that operating ratios of individual carriers included in the above tabulation ranged from 93.5 percent to 117.1 percent; and that five of the carriers operated at a profit and seven of the carriers operated at a loss during 1967.

The witness asserted that if the proposed increase in rates had been in effect during 1967, the carriers (as a group) whose operating results are shown in Table I would have operated at a profit. He estimated that such carriers' operations in 1968 under proposed rates would be near the break-even point because of increased wage costs and other increased expenses. The witness also estimated that

the effect of the wage negotiations would result in an average increase overall in the estimated total labor costs reflected in the latest staff cost study (Exhibit 26-6) of approximately 8 percent for the period beginning April 1, 1968.

CIA's witness estimated that the effect of the proposed rate increase would approximate a three percent increase over revenues earned by carriers of cement in 1967. The total revenues earned by such carriers in 1967 under Northern Territory cement rates were estimated to be approximately \$5,000,000, resulting in a total increase in revenues under proposed rates over those in effect in 1967, of \$150,000.

Witnesses representing Kaiser Cement & Gypsum Company, Calaveras Cement Division of the Flintkote Company, Ideal Cement Company and Pacific Cement and Aggregates testified that they had made analyses of their cement traffic transported by for-hire motor carriers from all shipping points of their companies in Northern Territory. The transportation charges for the year 1967 for these companies ranged from \$614,000 to \$1,870,000. The total for the four cement companies was \$4,609,000.^{3/} Said transportation charges were increased by amounts ranging from 0.01 percent to 1.5 percent under rates effective March 1, 1968, in Northern Territory, as prescribed by Decision No. 73607 (supra). Under the current proposal, transportation charges would be increased over the level paid in 1967 by amounts ranging from 2.90 percent to 6.3 percent. The witnesses stated that they support the increases sought in the instant petition, as they believe such increases are necessary to preserve to them adequate and sufficient for-hire transportation services.

^{3/} Nevada Cement Company, which operates a distribution facility at Perkins, also ships cement in Northern Territory. Data were not submitted for this company concerning transportation charges.

The Commission staff opposed the granting of the sought rate increases. The staff contended that the Commission, in the past, has stated that only known increases in costs, as reflected in wage agreements, will be given consideration in a rate increase proceeding, and that the employers' offer to the teamsters union does not constitute a wage agreement until ratified by the union. Subsequent to the close of the hearing, the Commission was notified by letter dated April 4, 1968, from CTA's Director of its Division of Transportation Economics (received herein as Exhibit 26-20) that the proposed wage contract summarized in Exhibit 26-18 was ratified by the union membership.

The staff also opposes the sought increase on the ground that the allegation in the petition herein that the changeover from Distance Table No. 5 to Distance Table 6 resulted in an overall reduction in revenues to carriers in Northern Territory was not specifically proved by evidence adduced at the hearing. The evidence clearly shows that a small increase in carriers' revenues results from the rates for Northern Territory prescribed by Decision No. 73607 (*supra*) and that the carriers' costs will be increased above those used as a basis for rates in that decision.

Based on the record herein, the Commission finds as follows:

1. Carriers transporting cement in Northern Territory will incur on April 1, 1968 increased wage costs not heretofore considered by the Commission in the establishment of rates for transportation of cement within that territory.

2. Carriers transporting cement in Northern Territory, as a group, are in need of additional revenues to continue to provide reasonable and sufficient transportation services.

3. The increased rates proposed herein are necessary to provide adequate revenues to carriers engaged in the transportation of cement.

4. The increased rates proposed herein are reasonable and are justified.

5. To the extent that the rates, rules and charges set forth in MRT 10 have been found heretofore to constitute reasonable minimum rates and charges for common carriers as defined in the Public Utilities Act, said provisions, as hereinafter adjusted, are, and will be, reasonable minimum rates for said common carriers. To the extent that the existing rates and charges of said common carriers for the transportation involved are less in volume or effect than the minimum rates and charges hereinbefore designated as reasonable for said carriers, to that same extent the rates and charges of said carriers are hereby found to be, now and for the future, unreasonable, insufficient and not justified by the actual competitive rates of competing carriers or by the costs of other means of transportation.

The Commission concludes that the instant petition herein should be granted, and that MRT 10 should be amended as provided by the order which follows, and that common carriers should be directed to increase their rates to the levels established by the order herein.

O R D E R

IT IS ORDERED that:

1. Minimum Rate Tariff No. 10 (Appendix A of Decision No. 44633, as amended) is further amended by incorporating therein, to become effective June 1, 1968, Second Revised Page 12-A, attached hereto and by this reference made a part hereof.

2. Tariff publications required to be made by common carriers as a result of the order herein shall be filed not earlier than the effective date of this order and may be made effective not earlier

than the tenth day after the effective date of this order on not less than ten days' notice to the Commission and to the public and shall be made effective not later than June 1, 1968.

3. Common carriers, in establishing and maintaining the rates authorized hereinabove, are hereby authorized to depart from the provisions of Section 460 of the Public Utilities Code to the extent necessary to adjust long- and short-haul departures now maintained under outstanding authorizations; such outstanding authorizations are hereby modified only to the extent necessary to comply with this order; and schedules containing the rates published under this authority shall make reference to the prior orders authorizing long- and short-haul departures and to this order.

4. In all other respects the aforesaid Decision No. 44633, as amended, shall remain in full force and effect.

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

Dated at San Francisco, California, this 16th day of APRIL, 1968.

John E. Fitzhugh President
William L. Bernard
Augusta
William J. Francis Jr.
Paul P. Monahan Commissioners

Second Revised Page 12-A

Cancels

First Revised Page 12-A

MINIMUM RATE TARIFF NO. 10

SECTION NO. 2--RATES IN CENTS PER 100 POUNDS				Item No.
NORTHERN TERRITORY RATES				
M I L E S		R A T E S		
Over	But Not Over	(1) Bulk	(2) Sack	
0	3	6	7½	
3	5	6-¾	8½	
5	10	7½	9	
10	15	8	9½	
15	20	8½	10	
20	25	9	10½	
25	30	9½	11	
30	35	10	11½	
35	40	10½	12	
40	45	11	12½	
45	50	11½	13	
50	55	12½	13-¾	
55	60	12-¾	14½	
60	65	13½	14-¾	
65	70	14	15½	
70	75	14½	16	
75	80	15	16½	
80	85	15-¾	17½	
85	90	16½	17-¾	0205
90	95	17	18½	
95	100	17½	19	
100	105	18½	19-¾	
105	110	19	20½	
110	115	19½	21	
115	120	20	21½	
120	125	20½	22	
125	130	021	22½	
130	135	021½	23	
135	140	022½	23-¾	
140	145	022-¾	24½	
145	150	023½	24-¾	
150	160	024½	25-¾	
160	170	025½	26-¾	
170	180	026½	27-¾	
180	190	027½	028-¾	
190	200	028½	029-¾	
200	210	029½	030-¾	
210	220	030½	031-¾	
220	230	031½	032-¾	
230	240	032½	033-¾	

240	250	033½	034-3/4
250	260	034½	035-3/4
260	270	035½	036-3/4
270	280	036½	037-3/4
280	290	037½	038-3/4
290	300	038½	039-3/4
300	-	(Rates for distances exceeding 300 miles are contained in Item No. 215.)	

(1) Rates apply on shipments in bulk.
(2) Rates apply on shipments in packages.

◇ Increase, except as noted)	Decision No. 73997
○ No Change)	

EFFECTIVE JUNE 1, 1968

Issued by the Public Utilities Commission of the State of California,
San Francisco, California.

Correction No. 120