

**ORIGINAL**Decision No. 74943.

## 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 (commodi-  
ties for which rates are provided in  
Minimum Rate Tariff Nos. 7 and 17).

Case No. 5437  
Petition for Modification  
No. 112,  
Second Amendment filed  
March 11, 1968, and  
Order Setting Hearing in  
Decision No. 72028 dated  
February 15, 1967

E. O. Blackman, for California Dump Truck Owners  
Association, petitioner in Petition No. 112.  
G. Ralph Grago, Robert Kelly and Don A. Fendon,  
for Associated Independent Owner-Operators,  
Inc.; Richard W. Smith, E. F. Kollmyer, and  
A. D. Poe, for California Trucking Association,  
Inc.; Scott J. Wilcott, for Southern California  
Rock Products Association; Brundage & Hackler,  
by Daniel Feins, for Western Conference of  
Teamsters; Harry C. Phelan, Jr., for California  
Asphalt Pavement Association; Fred Imhof, by  
Harry C. Phelan, Jr., for Industrial Asphalt,  
Inc.; Bill T. Farris, for the County of Los  
Angeles (Flood Control District), interested  
parties.  
Robert L. Pavan and Bertha L. Pavan, for Pavan  
Trucking, Inc., respondents.  
Robert E. Walker, for the Commission staff.

ORDER ON MOTION TO  
CONSOLIDATE PROCEEDINGS

Petition No. 112 (Second Amendment) seeks the establishment in Minimum Rate Tariffs Nos. 7 and 17 of rules providing for compensation for separately owned power units with drivers, when such equipment is operated as a unit with trailers owned by other carriers or shippers.

Public hearings in Petition No. 112 (Second Amendment) were held in San Francisco and Los Angeles on September 17 and 18 and

October 1 and 2, 1968, respectively. At these hearings evidence was presented by petitioner, California Dump Truck Owners Association (CDTOA), and by the Commission staff.

On October 2, 1968, motions were filed by California Trucking Association (CTA) and by Associated Independent Owner-Operators, Inc. (AIOO) seeking the consolidation of Petition No. 112 (Second Amendment) with Order Setting Hearing in Decision No. 72028, dated February 15, 1967. Replies to said motions were filed by CDTOA and the Commission staff on October 14, 1968.

Order Setting Hearing dated February 15, 1967 reads, in part, as follows:

"In Decision No. 72020 it was concluded that an inquiry should be made into the relationship between overlying and underlying carriers engaged in the transportation of property in dump truck equipment, including the nature of and justification for fees paid to underlying carriers. A public hearing should be held in the captioned proceeding (Order Setting Hearing in Decision No. 72028) for the receipt of evidence in this matter."

CTA and AIOO contend that the evidence adduced in Petition No. 112 (Second Amendment) shows that the operators of power units are generally employed as subhaulers for overlying carriers which own the trailer equipment; and that a determination of the reasonable compensation for said "tractor-only" subhaulers or for trailer rental also involves the reasonableness of the fees paid by said subhaulers to overlying carriers for all the functions performed by overlying carriers, including the furnishing of trailer equipment. CTA contends that the subject matter of Petition No. 112 (Second Amendment) cannot be thoroughly considered by the Commission without the concurrent consideration of the relationship between overlying and

underlying carriers which is the subject of the Order Setting Hearing. CTA argued that consideration of trailer rental in a vacuum without consideration of the total value of all services rendered by an overlying carrier to an underlying carrier fails to recognize that the problem of trailer rental fees is directly related to the problem of how revenues shall be divided between overlying and underlying carriers. The Commission agrees with the foregoing arguments.

It is not possible, from the cost showing made by CDTOA, to determine what part of the total costs accrue for the use of trailers and what part is for the other services performed by the trailer owner (overlying carrier) for the tractor owner (subhauler). The Commission staff studies introduced in Petition No. 112 do not provide cost information from which the Commission could determine a basis for the establishment of a reasonable division of revenues between the classes of carriers involved. As CTA and AIOO are prepared to present evidence upon this subject, it appears proper, and the Commission finds, that the two proceedings should be consolidated for hearing.

CDTOA and the Commission staff oppose the consolidation of the two proceedings, principally on the grounds that consolidation would lead to delays in the establishment of long-needed provisions as sought in Petition No. 112 (Second Amendment), and that the subject matter of the two proceedings is not interrelated.

After consideration, the Commission concludes that the motions to consolidate Order Setting Hearing (Decision No. 72028) and Petition No. 112 (Second Amendment) should be granted. CTA has informed the Commission that it would be ready to proceed with its showing in approximately forty-five days after receipt of the

transcript. The following order will provide for a hearing in that period.

IT IS ORDERED that:

1. Petition No. 112 (Second Amendment) and Order Setting Hearing (Decision No. 72028) in Case No. 5437 are hereby consolidated for hearing on a common record.

2. The evidence adduced in Petition No. 112 (Second Amendment) is received in Order Setting Hearing (Decision No. 72028).

3. The consolidated proceedings referred to above are set for hearing at 10 a.m. on January 7, 1969, at San Francisco before Examiner Mallory for the receipt of evidence from California Trucking Association.

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

Dated at San Francisco, California, this 13<sup>th</sup> day of NOVEMBER, 1968.

William L. Beaudet President  
Deputy  
Richard P. Morrissey Commissioners

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

Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.