

Decision No. 75588**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 sand, rock, gravel
and related items (commodities for
which rates are provided in Minimum
Rate Tariffs Nos. 7 and 17).

) Case No. 5437
) Petition No. 173
) (Filed January 13, 1969)
) Petition No. 174
) (Filed January 13, 1969;
) Amended January 31, 1969)
) Petition No. 175
) (Filed January 15, 1969)
) Petition No. 179
) (Filed January 31, 1969)

Richard W. Smith, H. F. Kollmyer and A. D. Poe,
for California Trucking Association, peti-
tioner in Petitions Nos. 174 and 179.

E. O. Blackman, for California Dump Truck Owners
Association, petitioner in Petitions Nos.
173 and 175.

Harry C. Phelan, Jr., for California Asphalt
Pavement Association; Fred Imhoff, by Harry C.
Phelan, Jr., for Industrial Asphalt Corpora-
tion; Richard G. Brown, G. Ralph Grago and
Robert Kelley, for Associated Independent
Owner Operators, Inc.; interested parties.

H. E. Frank and Robert W. Stich, for the Commis-
sion staff.

INTERIM OPINION

Petitions Nos. 173, 174 and 175 seek adjustments in the hourly rates in Minimum Rate Tariff No. 7 (MRT 7) to compensate for increases in operating costs since the rates were last adjusted. Petition No. 179 seeks corresponding increases in the hourly accessorial rates set forth in Minimum Rate Tariff 17 (MRT 17).. The matters were consolidated for hearing on a common record.

Public hearing was held before Examiner Mallory at San Francisco on February 14, 1969. The matters were submitted subject to the receipt of a late-filed exhibit by California Trucking Association (CTA) and a written motion by California Asphalt Pavement

Association, which have been filed.^{1/} Evidence was adduced by representatives of the two petitioners in these proceedings. The full amount of the increases sought in the petitions filed by CTA was opposed by the Commission staff.

The hourly rates in MRT 7 were last revised pursuant to Decision No. 74869, dated October 29, 1968, in Case No. 5437, Petition No. 165. The hourly accessorial rates in MRT 17 were established by Decision No. 75249, dated January 28, 1969, to become effective March 8, 1969. The current hourly rates reflect wages and allied labor costs as of August 1, 1968 in Southern Territory and Lower Northern District and as of November 1, 1968 in Upper Northern District.^{2/}

The increased costs sought to be recovered by the increased hourly rates proposed by petitioners stem principally from wage increases effective on various dates pursuant to collective bargaining agreements between dump-truck employers and their drivers. The record shows that in Southern Territory and in Lower Northern District basic wage rates and fringe benefits will be increased by 35 cents per hour effective May 1, 1969 and fringe benefits will be increased by an additional 10 cents per hour, effective July 1, 1969. In Upper

1/ The motion filed by California Asphalt Pavement Association seeks clarification of the intent of the Commission's Interested Party Letter, set out in footnote 4, infra.

2/ Southern Territory includes the Counties of Santa Barbara, Ventura, Los Angeles, Orange, San Diego, Imperial, Riverside, San Bernardino, Inyo and Mono. All other counties comprise the Northern Territory which is subdivided into two districts (Item 315 of MRT 7) as follows:

- (a) Upper Northern District - Includes all of the Northern Territory except Kern and San Luis Obispo Counties; and
- (b) Lower Northern District - Kern and San Luis Obispo Counties.

Northern District basic wage rates and fringe benefits will be increased by 44 cents per hour, effective June 1, 1969 and fringe benefits will be increased an additional 18-1/2 cents per hour, effective November 1, 1969.

In Petition No. 173, California Dump Truck Owners Association (CDTOA) seeks to increase straight time hourly rates in Southern Territory and Lower Northern Territory, effective May 1, 1969, by 48 cents per hour; and to increase the straight time hourly rates in Upper Northern District, effective June 1, 1969, by 47 cents per hour. In Petition No. 175, CDTOA seeks a further increase in the Upper Northern District straight time hourly rates of 19 cents per hour, effective November 1, 1969. In each petition CDTOA also seeks related increases in the hourly rates for overtime and holiday work.

In Petitions Nos. 174 and 179, CTA seeks to increase the straight time hourly rates in all territories by 58 cents per hour, effective June 1, 1969. Petition No. 174 also seeks related increases in the hourly rate for overtime and holiday work.

CDTOA's secretary-manager testified concerning the proposals of that association. The witness explained that CDTOA seeks only to recoup in the minimum rates the dollar amount of the increase in wages and fringe benefits expanded for a profit factor of 7 percent. He testified that CDTOA does not seek to offset the increases or decreases in other elements of carrier costs of operation.

With respect to Southern Territory and Lower Northern District, CDTOA desires that both the wage changes effective May 1, 1969 and fringe benefit changes effective July 1, 1969 be made effective in the minimum rates on May 1, 1969. The witness stated

that in his opinion such effective date would be fair and reasonable inasmuch as the contract dates fall closely together, and as carriers have experienced delays in the past in the recovery of increased costs in the minimum rates.

CTA's assistant director of its Division of Transportation Economics presented in evidence a study which developed the increases in carriers' costs since the minimum rates were last adjusted. The study gives effect to the increased wages and fringe benefits effective in May, June and July of 1969, decreased costs for Workmen's Compensation Insurance and increases in payroll taxes effective January 1, 1969. The total of these increases in costs were expanded by 5.1 percent to give effect to indirect expenses, by 5.49 percent for insurance and gross revenue taxes, and by 7 percent for profit. This method of determining increases in carriers' costs assertedly was adopted by the Commission in Decision No. 74869.^{3/} The witness proposed that the hourly rates be increased by the cost increases measured in his study.

The CTA witness also proposed that in Southern Territory and Lower Northern District the rate increases be made effective on a single date, June 1, 1969. He stated that this date falls between

3/ Decision No. 74869 reads, in part, as follows:

"As in the case of the household goods rates under consideration in Decision No. 74678 of September 17, 1968, the effect of the treatment of indirect expense upon rates in the instant case is not significant. We recognize, however, that the method of estimating indirect expenses in other proceedings involving minimum rates would have greater effect upon the determination of reasonable minimum rates. This case is not one in which the Commission should enunciate any policy or make any determination of any cost-finding procedure that should be followed in evaluating indirect expenses in the so-called offset proceedings in minimum rate cases. Accordingly, no such policy or determination will be made here."

the scheduled dates in the labor contract and, thus, would delay a portion of the increase for one month and would accelerate the balance of the increase by one month. With respect to Upper Northern District, the witness proposed that the wage increases scheduled to take place on June 1, 1969 also be made effective on that date to have concurrent effective dates for all rate changes in MRT 7. The witness also testified that in his opinion it is premature to consider at this time the increase in fringe benefits scheduled to become effective November 1, 1969 (Petition No. 175) inasmuch as he believes there will be other changes in carriers' costs which will occur between July 1 and November 1, 1969 and should be reflected in the minimum rates on or before November 1, 1969.

On motion of the Commission staff, a letter from the Commission dated October 31, 1968, addressed to Interested Parties was introduced into the consolidated record herein.^{4/} A late-filed exhibit introduced by CTA contains copies of the exchange of correspondence between CTA and the Secretary of the Commission concerning the aforementioned Interested Party letter.^{5/} The Commission staff

4/ Said letter reads as follows:

"In wage offset proceedings, only labor costs specifically changed by labor agreements (including changes responsive to statutory requirements) which are identifiable in the cost development should be measured for proposed rate adjustments.

"Elements of expense other than direct labor, as well as labor costs changed by agreement but not set forth specifically in the original cost presentation, are not deemed appropriate justification for rate adjustments in wage offset proceedings.

"The Commission has approved the foregoing statement."

5/ The last letter from the Secretary to CTA, dated January 15, 1969, stated the October 31 letter "is advisory in nature and does not deal in past practices."

urged that the increases authorized in the proceedings herein be limited to the elements of increased carrier expenses enumerated in the Interested Party letter, that is: direct labor costs and changes in costs responsive to statutory requirements. The staff representative stated that, in his opinion, conformity with said letter would require the elimination of cost increments for increased indirect expenses and the insurance portion of gross revenue expenses. The staff representative made no recommendation with respect to the date or dates that the sought rate increases should be made effective.

It was the position of CDTOA's representative that the showing of that organization conformed to the Interested Party letter. He urged that the Commission adopt the proposals of that organization.

CTA argued that the elements of cost included in its study have all been considered heretofore and adopted by the Commission in prior "offset" rate proceedings; and that the full amount of the increased costs measured in its study are necessary and justified, and should be included in the minimum hourly rates.

The record clearly demonstrates, and the Commission finds, that since the last adjustment of hourly rates and charges for dump truck transportation, for-hire carriers have been subjected to, and on May 1, June 1 and July 1, 1969 will be further subjected to, increases in their labor costs. No provision is included in the current minimum rates for such increased operating costs.

The questions presented herein concerning the guidelines announced in the "Interested Party" letter dated October 31, 1968, should not be resolved on the basis of the limited presentation in this record. A determination of whether indirect expenses,

insurance expense, other costs not directly related to labor costs or taxes, and a factor for profit should form the basis for offset rate adjustments, should be the subject of a further hearing. In the interim, only that part of the increased operating costs which relate to increased labor and payroll expenses and taxes should be reflected in the rate structure. The Commission finds that, pending the receipt of additional evidence in a further hearing, the increases in rates and charges set forth in the tariff pages appended to the orders in these proceedings have been shown to be reasonable and justified. The motion of California Asphalt Pavement Association is moot and should be denied.

It is expected that the Commission staff and petitioners will be prepared to present additional direct evidence at a further hearing concerning the cost factors which they deem appropriate to be included in wage offset or cost offset proceedings of this type. When the parties are ready to proceed with their further showings they shall notify the Commission so that a further hearing may be set.

The Commission also finds that the relief sought in Petition No. 175 is premature in that the sought rate increases are related to increased fringe benefits scheduled to become effective on November 1, 1969. The instant orders in these proceedings being interim in nature, Petition No. 175 also will remain open for the receipt of further evidence at an appropriate time.

The Commission concludes that the tariff amendments resulting from the orders herein should be effective on June 1, 1969; that Minimum Rate Tariff No. 7 should be amended by the following order; and that, to avoid duplicate distribution of tariff pages, Minimum Rate Tariff 17 should be amended by a separate order.

INTERIM ORDER

IT IS ORDERED that:

1. Minimum Rate Tariff No. 7 (Appendix A of Decision No. 32566, as amended) is hereby further amended by incorporating therein, to become effective June 1, 1969, the revised pages attached hereto and listed in Appendix A also attached hereto, which pages and appendix by this reference are made a part hereof.

2. In all other respects said Decision No. 32566, as amended, shall remain in full force and effect.

3. The motion of California Asphalt Pavement Association is denied.

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

Dated at San Francisco, California, this 22nd day of APRIL, 1969.

President

Augustin
Richard P. Monroney
W. H. Harrison

William Symons, Jr.
Commissioners

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

APPENDIX A TO DECISION NO. 75588

List of Revised Pages to Minimum Rate Tariff No. 7

Authorized by said Decision

Twenty-seventh Revised Page 42

Twenty-first Revised Page 42-A

Twenty-third Revised Page 42-C

Seventh Revised Page 42-D

Fourth Revised Page 42-E

Fourth Revised Page 42-F

(END OF APPENDIX A LIST)

Item No.	SECTION NO. 4--HOURLY RATES (Continued)					
◊ 360	COMMODITIES, as described in Item No. 320 (Items Nos. 360 and 361). (For Application of Rates see Item No. 362.)					
	Number of Axles Per Unit of Equipment	NORTHERN TERRITORY (See Item No. 110) (1) Rates in Cents per Hour (See Item No. 300)				
		Upper Northern District (See Item No. 315)				
		COLUMN A			COLUMN C	
		M	O	P	M	O P
	2	1282	1857	1568	1219	1794 1505
	3	1412	2015	1712	1336	1940 1637
	4	1537	2124	1830	1437	2024 1730
	5(2)	1659	2269	1963	1546	2156 1850
	5 or more (3)	1712	2322	2016	1590	2200 1894
(1) Minimum charge shall be the rate for one hour. (2) Applies to units of equipment not meeting with the legal requirements for the maximum allowed load. (3) Applies to units of equipment meeting with the legal requirements for the maximum allowed load. (Continued in Item No. 361)						
◊ Increase, Decision No. 75588						
EFFECTIVE JUNE 1, 1969						
Issued by the Public Utilities Commission of the State of California, San Francisco, California. Correction No. 1300						

Item No.	SECTION NO. 4 - HOURLY RATES (Continued)						
0361	COMMODITIES, as described in Item No. 320 (Items Nos. 360 and 361). (For Application of Rates see Item No. 362.)						
	Number of Axles Per Unit of Equipment	NORTHERN TERRITORY (See Item No. 110) (1) Rates in Cents per Hour (See Item No. 300)					
		Lower Northern District (See Item No. 315)					
		Column A			Column C		
		M	O	P	M	O	P
	2	1234	1752	1492	1165	1681	1423
	3	1344	1868	1605	1263	1788	1525
	4	1472	1986	1728	1363	1877	1620
	5 (2)	1604	2149	1876	1474	2019	1746
	5 or more (3)	1655	2202	1929	1517	2062	1789
(1) Minimum charge shall be the rate for one hour. (2) Applies to units of equipment not meeting with the legal requirements for the maximum allowed load. (3) Applies to units of equipment meeting with the legal requirements for the maximum allowed load.							
◊ Increase, Decision No. 75588							
EFFECTIVE JUNE 1, 1969							
Issued by the Public Utilities Commission of the State of California, San Francisco, California.							
Correction No. 1301							

Item No.	SECTION NO. 4--HOURLY RATES (Continued)			
365	COMMODITIES, as described in Items Nos. 320 and 322. (For Application of Rates see Item No. 366.)			
	Number of Axles Per Unit of Equipment	SOUTHERN TERRITORY (See Item No. 100) (1) Rates in Cents Per Hour (See Item No. 300) (See Note 1 in Item No. 366)		
		Column A	Column C	Column D
	2	1154	1118	904
	3	1252	1202	971
	4	1385	1328	1072
	5(2)	1504	1434	1156
	5 or more (3)	1585	1515	1221
	(1) Minimum charge shall be the rate for one hour, except as other- wise provided in this tariff.			
	(2) Applies to units of equipment not complying with the legal requirements for the maximum allowed load.			
(3) Applies to units of equipment complying with the legal require- ments for the maximum allowed load.				
Increase, Decision No.		75588		
EFFECTIVE JUNE 1, 1969				
Issued by the Public Utilities Commission of the State of California, San Francisco, California.				
Correction No. 1302				

Item No.	SECTION NO. 4 - HOURLY RATES (Continued)
ø366	<p data-bbox="514 419 1180 453">APPLICATION OF RATES NAMED IN ITEM NO. 365</p> <p data-bbox="360 484 1470 653">COLUMN "A" rates apply where the loading is performed by power loading device, excepting processed sand, gravel or crushed stone in stock piles at a commercial producing plant, at point of consumption or at intermediate point of transfer. A hopper chute or bunker shall not be deemed to be a power loading device.</p> <p data-bbox="360 679 1470 749">COLUMN "C" rates apply where transportation or loading is under conditions other than described under application of Column "A" rates.</p> <p data-bbox="360 775 1402 846">COLUMN "D" rates apply only when specific reference is made hereto (See Item No. 98).</p> <p data-bbox="360 872 1487 1010">NOTE 1.--(a) For transportation service furnished under this item on Sundays and/or New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, Christmas Day, add to the applicable hourly rate shown above: Ø\$6.81 per hour.</p> <p data-bbox="360 1036 1504 1367">(b) Except as otherwise provided in paragraph (a) of this note and in the Exception set forth below, for transportation service furnished under this item on Saturdays or during periods in excess of 8 hours in any one shift, add to the applicable hourly rate shown above: Ø\$3.98 per hour. Subject to Paragraph 3 of Item No. 300, "periods in excess of 8 hours in any one shift" means the time which exceeds 8 hours from the time the driver with dump truck equipment reports for service, during which time said driver is continuously engaged by one shipper or overlying carrier, irrespective of the number of loads transported within the period.</p> <p data-bbox="360 1393 1436 1565">EXCEPTION.--The additional rates set forth in paragraph (b) shall not apply to transportation service performed on days, other than Saturdays, except when service is performed by one driver with dump truck equipment for a period in excess of 8 hours in any one shift.</p>
ø Change) Decision No. 75588 ø Increase)	
EFFECTIVE JUNE 1, 1969	
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Item No.	SECTION NO. 4 - HOURLY RATE (Continued)									
	COMMODITIES, as described in Item No. 321. (For Application of Rates see Item No. 368)									
	Level Capacity of Dump Truck Body in Cubic Yards. (See Note 1 in Item No. 368)		(1) Rates in Cents per Hour (See Item No. 300)							
			NORTHERN TERRITORY (See Item No. 110)						SOUTHERN TERRITORY (See Item No. 100) (See Note 2 in Item No. 368)	
			Upper Northern District (See Item No. 315)			Lower Northern District (See Item No. 315)				
	Over	But Not Over	M	O	P	M	O	P		
	0	6	1151	1698	1423	1125	1635	1379	1056	
	6	7	1223	1791	1505	1176	1686	1430	1099	
	7	8	1266	1834	1548	1224	1734	1478	1148	
	8	9	1342	1935	1637	1275	1790	1532	1191	
	9	10	1386	1979	1681	1319	1834	1576	1229	
0367	10	11	1427	2020	1722	1360	1875	1617	1267	
	11	12	1466	2059	1761	1399	1914	1656	1315	
	12	13	1506	2103	1804	1442	1965	1703	1358	
	13	14	1537	2134	1835	1473	1996	1734	1385	
	14	15	1566	2163	1864	1500	2023	1761	1412	
	15	16	1592	2189	1890	1528	2042	1789	1450	
	16	17	1629	2239	1933	1574	2119	1846	1477	
	17	18	1659	2269	1963	1604	2149	1876	1504	
	18	19	1678	2288	1982	1623	2168	1895	1531	
	19	20	1695	2305	1999	1638	2185	1912	1558	
	20	21	1712	2322	2016	1655	2202	1929	1585	
	21	22	1729	2339	2033	1672	2219	1946	1612	
	22	23	1746	2356	2050	1689	2236	1963	1639	
	23	24	1763	2373	2067	1706	2253	1980	1666	
	24	25	1780	2390	2084	1723	2270	1997	1693	
	25	26	1797	2407	2101	1763	2333	2049	1743	
	26	(2)	017	017	017	017	017	017	027	
	(1) Minimum charge shall be the rate for one hour. (2) Add to the rate for 26 cubic yard capacity, the amount shown opposite this reference mark for each additional cubic yard or fraction thereof.									
◊ Increase, except as noted) o No change) Decision No. 75588										
EFFECTIVE JUNE 1, 1969										
Issued by the Public Utilities Commission of the State of California, San Francisco, California.										
Correction No. 1304										

Item No.	SECTION NO. 4 - HOURLY RATES (Concluded)
	<p data-bbox="700 468 1195 533" style="text-align: center;">APPLICATION OF RATES NAMED IN ITEM NO. 367</p> <p data-bbox="341 598 1409 664">SUBCOLUMN "M" rates apply on all days except the days on which the subcolumn "O" or "P" rates apply.</p> <p data-bbox="341 690 1503 898">SUBCOLUMN "O" rates apply on every Sunday and on January 1, February 22, May 30, July 4, (1) November 11, December 25, the day each year proclaimed by the President of the United States to be celebrated as Labor Day and the day so proclaimed as Thanksgiving Day and the Friday immediately following such Thanksgiving Day.</p> <p data-bbox="384 950 1315 1028">(1) Applies within Lower Northern District only. (See Item No. 315)</p> <p data-bbox="341 1054 1468 1132">SUBCOLUMN "P" rates apply on every Saturday except as pro- vided in Subcolumn "O". (See Note 3)</p> <p data-bbox="341 1145 1451 1445">NOTE 1.--Level capacity of Dump Truck body means the cubical content of the body (including the bodies of all trailers, or semitrailers in the unit of equipment) in cubic yards calculated by multiplying the inside length by the average inside width and the average inside height of the sides of the body, including temporary side boards and end boards, if such boards are used, with no allowance for the crown of the load or for low head board or low tailgate.</p> <p data-bbox="341 1471 1451 1731">In the case of a Dump Truck body not constructed for use of a tailgate (such as the so-called "rock body"), the inside length shall be deemed to mean the average of the measurement along the top of the sides from the inside of the head board to the point of the angle where the sides are diverted downward to meet the floor, and the measure- ment along the floor from the inside of the head board to the end of the body.</p> <p data-bbox="341 1757 1503 1992">NOTE 2.--(a) For transportation service furnished under this item on Sundays and/or New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, Christmas Day, add to the applicable hourly rate shown above: \$6.81 per hour when the level capacity is less than 25 cubic yards; \$7.27 per hour when the level capacity is 25 cubic yards or more.</p> <p data-bbox="341 2018 1460 2226">(b) Except as otherwise provided in paragraph (a) of this note and in the Exception set forth below, for trans- portation service furnished under this item on Saturdays or during periods in excess of 8 hours in any one shift, add to the applicable hourly rate shown above: \$3.98 per hour when the level capacity is less than 25 cubic yards;</p>

ø368

or \$4.33 per hour when the level capacity is 25 cubic yards or more. Subject to Paragraph 3 of Item No. 300, "periods in excess of 8 hours in any one shift" means the time which exceeds 8 hours from the time the driver with dump truck equipment reports for service, during which time said driver is continuously engaged by one shipper or overlying carrier, irrespective of the number of loads transported within the period.

EXCEPTION.--The additional rates set forth in paragraph (b) shall not apply to transportation service performed on days, other than Saturdays, except when service is performed by one driver with dump truck equipment for a period in excess of 8 hours in any one shift.

NOTE 3.--In Del Norte, Humboldt, Lassen, Modoc, Shasta, Siskiyou, Tehama and Trinity Counties, Subcolumn "P" rates shall also apply for all time, except that provided for in Subcolumn "O", during which one driver with one unit of equipment is engaged for service for one shipper in excess of 8 hours in any one shift.

◇ Change	}	Decision No. 75588
◇ Increase		

EFFECTIVE JUNE 1, 1969

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San Francisco, California.
Correction No. 1305