

**ORIGINAL**Decision No. 76180

## 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 and highway carriers relating to the transportation of sand, rock, gravel and related items (commodities for which rates are provided in Minimum Rate Tariff 17).

Case No. 5437  
Petition for Modification  
No. 185  
(Filed June 16, 1969)

Karl K. Roos and Harry C. Phelan, Jr., for California Asphalt Pavement Association, petitioner.  
E. O. Blackman, for California Dump Truck Owners Association; and G. Ralph Grago, for Associated Independent Owner-Operators, Inc., protestants.  
W. A. Dillon, J. C. Kaspar and A.D. Poe, for California Trucking Association; C. Fred Imhof, for Industrial Asphalt; and Ernest Gallego, for Southern California Rock Products Association, interested parties.  
Ernest H. Schrollier, Harold M. Mansperger, Ephraim T. Cherry, Jr., Garland Lacy, and Robert W. Lacy, respondents.  
Ralph Stunton and William H. Well, for the Commission staff.

O P I N I O N

Minimum Rate Tariff No. 7 (MRT 7) contains minimum rates, charges and rules for the transportation of asphaltic concrete and other commodities in dump truck equipment. Said tariff contains rates stated on three alternate bases: hourly rates, mileage-tonnage rates, and zone rates. The letter type of rates apply from specific production areas to defined delivery zones, as described in MRT 7. Said tariff contains zone rates for the transportation of asphaltic concrete within the Antelope Valley portion of Los Angeles County, and provides that such zone rates do not alternate with the otherwise applicable hourly or mileage-tonnage rates.

In this petition, California Asphalt Pavement Association (CAPA) requests an order modifying the provisions of MRT 7 to the extent necessary to permit the hourly rates to apply to the movement of asphaltic concrete when transported in trucks with trailing equipment or tractors with trailing equipment, from production facilities in Antelope Valley to destinations in said region.

The petition alleges the following: Petitioner is a non-profit corporation whose membership consists of firms engaged in the business of producing, marketing and distributing asphaltic concrete, cold road oil mixture, and related commodities, hereinafter termed "asphaltic concrete", throughout the State of California. Petitioner's members produce over 95 percent of the asphaltic concrete produced and marketed within Southern Territory as defined in Minimum Rate Tariff No. 7. Within that portion of Los Angeles County known as the Antelope Valley Area, as defined in MRT7, petitioner's members produce, market and distribute 100 percent of the asphaltic concrete sold, transported, and delivered. Petitioner's members engage the services of for-hire radial highway common carriers and highway contract carriers in transporting the majority of their products. Said products are transported over the public highways in dump trucks between points in the Antelope Valley Area for which minimum rates and rules are presently named in MRT 7. All of the asphaltic concrete transported between points in the Antelope Valley Area originates at Antelope Valley Production Area A.

Public hearing was held and the matter submitted before Examiner Mallory on August 11, 1969 at Los Angeles. Evidence was presented by witnesses testifying on behalf of petitioner and on behalf of protestant California Dump Truck Owners Association (CDTOA).

Representatives of California Trucking Association (CTA) and Associated Independent Owner-Operators, Inc. (AIOO) also opposed the granting of the petition. Other parties, including the Commission staff representatives, took no position with respect to the relief sought.

Asphaltic concrete zone rates in Antelope Valley were initially established, pursuant to a petition filed by CDTOA, by Decision No. 56044, dated January 7, 1958, in Case No. 5437, Petition No. 29 (unreported). Said decision indicates that the zone rates in cents per ton established therein were developed through conversion of an hourly cost (including profit) of \$7.93 per hour applicable to the movement of asphaltic concrete in three-axle dump trucks having a capacity of approximately 12-1/2 tons. Said zone rates were increased by approximately 20 percent pursuant to Decision No. 61051, dated November 15, 1960, in Case No. 5437, Petition No. 58 (unreported). No general revision of the Antelope Valley asphaltic concrete zone rates has been made since that date.

Petitioner's witness testified that the request herein was premised on the belief that the present Antelope Valley zone rates on asphaltic concrete produce revenues in excess of the present minimum hourly rates for movements in four-axle and five-axle dump truck equipment. The witness attempted to show this result in two exhibits, which compare revenues under existing zone rates with estimates of revenues under hourly rates for two types of equipment: trucks with transfer trailers and tractors with semi-end dump trailers. Actual times for hourly-rated movements were not obtained. Running times used by the witness are those set forth in Decision No. 61051 for transportation performed in three-axle trucks. Terminal end times (loading and unloading times and waiting time) and average loads for the larger size equipment were developed by the witness

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from data in other dump truck proceedings. The terminal end time and average load for trucks with transfer trailers were those found reasonable for such equipment in connection with the establishment of zone rates within the central "Core Area" of Southern California in Decision No. 70569, dated April 12, 1966 (65 Cal.P.U.C. 389, at 401). The terminal end time and average load for tractor and end-dump trailer units were taken from data submitted by applicant in a proceeding seeking authority to deviate from minimum rates (Fresno Cooperative Trucking, Decision No. 75592, dated April 22, 1969, in Application No. 50955).

The witness for CAPA testified that this Commission has recognized, in a prior proceeding involving zone rates for Antelope Valley that, for five-axle equipment, the present zone rates produce revenues substantially greater than revenues under current hourly rates. The witness also cited Commission decisions which state that lower rates are warranted for larger trucks than those produced under the "Core Area" zone rates. The witness stated that, with the exception of zone rates from certain Production Areas in Northern San Diego County, the Antelope Valley zone rates are the only Southern Territory zone rates that apply to four- and five-axle equipment, and that the so-called "Core Area" zone rates do not apply and hourly rates do apply to movements in four- and five-axle equipment in that area.

Three member truckers and the Secretary-Manager of CDTOA testified in opposition to the petition. A trucker owning and operating a three-axle truck stated that if the petition is granted, he believes that all the larger and more profitable jobs will go to carriers operating four- and five-axle equipment; and that the only

work remaining for three-axle equipment will be the less desirable jobs. An owner-operator of a truck-and-transfer trailer unit testified that he divides his activities approximately 50 percent to hauling asphaltic concrete under the Antelope Valley zone rates, and 50 percent to hauling rock, sand and gravel. Based on his experience hauling rock, sand and gravel, the witness expected that if hourly rates are established for asphaltic concrete, shippers would determine a round-trip time cycle for each destination and would pay charges based on such time cycles rather than on the actual hours worked. An owner-operator of a gasoline-powered tractor and end-dump semitrailer unit testified that his gasoline-powered tractor would be too slow and under-powered to operate efficiently under hourly rates and that he would be required to obtain a more efficient diesel-powered tractor with greater horsepower if hourly rates were established.

The Secretary-Manager of CDTCA also testified in opposition to the sought authority. His testimony was to the effect that all of the members of his association domiciled in Antelope Valley oppose the petition herein, because there are only a few dump truck units available from carriers domiciled in Antelope Valley and outside carriers would be hired to perform the larger and more profitable jobs. Thus, use factors of equipment for carrier-members in Antelope Valley would be reduced, which could cause increases in rates.

Representatives of CTA and AIOO stated that their organizations object to the establishment or revision of minimum rates without presentation of adequate studies to support the reasonableness of the relief sought. They argued that the principal factors relied upon by petitioner are related to conditions applying in connection with the laying of asphaltic concrete on airport runways for which authority to depart from minimum rates was secured in Decision No. 75592, supra.

Discussion

The evidence adduced herein does not establish the current costs of hauling asphaltic concrete in various types of dump truck equipment. Therefore, we cannot find, as in Decision No. 75249, that the costs of transportation in four- and five-axle trucks are lower than for two- and three-axle trucks, and thus that lower rates are warranted.<sup>1/</sup> The showing made by petitioner does not establish conclusively that, for four- and five-axle equipment, lower charges would result under hourly rates than under the Antelope Valley zone rates. The showing made by petitioner in this respect is not based upon the actual times required to make such hauls, but is based on traverse times for smaller three-axle equipment combined with terminal end times applicable to service outside Antelope Valley for truck-and-transfer trailer units, or traverse times for tractor-end-dump semi-trailer units obtained on the Palmdale airport project on which extremely favorable loading conditions were shown to exist. The evidence produced by petitioner fails conclusively to substantiate that the present zone rates are unreasonable or the necessity to amend the tariff as requested in the petition.

Findings and Conclusion

The evidence discloses and the Commission finds that petitioner has failed to sustain the burden of proof that existing minimum rates are unjust and unreasonable, or that the rates proposed herein will be just and reasonable, for the reasons set forth in the preceding discussion.

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<sup>1/</sup> Decision No. 75249, dated January 28, 1969 in Case No. 5437, Petitions Nos. 158, 159, 160 and 163, dealt with asphaltic concrete rates in the so-called "Core Area".

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The Commission concludes that the petition should be denied.

O R D E R

IT IS ORDERED that Petition for Modification No. 185 in Case No. 5437 is hereby denied.

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

Dated at San Francisco, California, this 16<sup>th</sup> day of SEPTEMBER, 1969.

William Synovis, Jr.  
President

Arthur

Robert

James L. Sturgeon  
Commissioners