

ORIGINAL

Decision No. 76873

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 (com-  
modities for which rates are  
provided in Minimum Rate Tariff  
No. 7).

Case No. 5437  
Order Setting Hearing 192  
(Filed November 12, 1969)

T. H. Peceimer, for the Commission staff.  
E. J. Bertana, for Pacific Cement &  
Aggregates; Richard Smith, H. F. Kollmyer,  
and Arlo D. Poe, for California Trucking  
Association; E. O. Blackman, for California  
Dump Truck Owners Association; and G. Ralph  
Grago, by E. O. Blackman, for Associated  
Independent Owners-operators, Inc., interested  
parties.

O P I N I O N

Order Setting Hearing 192, in Case No. 5437, reads as  
follows:

"In Decision No. 76283 dated October 21, 1969, in  
Case No. 8841, a question was raised concerning the  
determination of the exact point from which mileages  
should be calculated in order to compute distance  
rates set forth in Minimum Rate Tariff No. 7.

"It appears that hearings should be held for the  
receipt of evidence concerning adjustments, if any,  
that may be appropriate to the minimum rate tariff  
in the light of Decision No. 76283."

Public hearing was held and the matter submitted before  
Examiner Mallory at San Francisco on January 15, 1970.

A transportation rate expert from the Commission's  
Transportation Division presented in evidence a proposal designed  
to remove ambiguities in Minimum Rate Tariff No. 7 which assertedly  
gave rise to the Order Setting Hearing.

Representatives of California Dump Truck Owners Association and the California Trucking Association concurred in the staff proposal. No one opposed the staff proposal nor was evidence presented by other parties.

The staff witness testified as follows: Decision No. 76283, dated October 21, 1969, in Case No. 8841, dealt with alleged rate violations occurring in connection with the transportation of crushed rock and gravel moving from commercial producing plants to freeway and road construction sites in Minimum Rate Tariff No. 7. A problem arose at the hearing as to the determination of the exact point from which mileages should be calculated in order to compute the distance rates.

The witness stated that the problem concerns the definition of the point of origin and its application to the computation of mileages. Prior to October 22, 1966, the definition of point of origin read:

"Point of origin means the precise location at which a shipment is physically delivered by the consignor or his agent into the custody of the carrier for transportation."

On October 22, 1966, by Decision No. 71303, in Case No. 5437, Petition No. 128, the following wording was added to the definition then existing:

"All points within a single commercial producing plant shall be considered as one point of origin...."

The decision stated in part:

"Petitioner alleges that the current variations between the definitions of technical terms in Tariff No. 7 and those in Tariff 17 result in discrimination between shippers and carriers operating within the defined area in Southern California and those operating in the rest of the State. Petitioner asserts that the proposed revisions will result in neither increases nor reductions in freight charges and that such revisions will achieve uniformity between the minimum rate tariffs involved insofar as the technical terms are concerned."

Since the establishment of Minimum Rate Tariff No. 7 effective January 3, 1940, Item No. 40 of the tariff has provided that:

"Distances to be used in connection with distance rates named herein shall be:

- (a) ... the actual mileages traversed, including any detour to and from scales to obtain weight of shipment."

The staff witness testified that the current definition of point of origin is appropriate to apply only in connection with zone rates and the lightweight aggregate rates in northern territory which are subject to the distance table.

The staff witness recommended that, in order to provide rules to apply the rates originally established, distance rates subject to actual mileages should be computed from the precise location at which the wheels of the equipment start turning following the commencement of loading. Proposed amendments to Items Nos. 11 and 40, of Minimum Rate Tariff No. 7, to accomplish this recommendation were set forth in Exhibit No. 192-1.

In the circumstances, the Commission finds that the proposed amendments of Minimum Rate Tariff No. 7 will be reasonable and should be adopted. We conclude that Minimum Rate Tariff No. 7 should be amended as provided in the order which follows.

#### O R D E R

IT IS ORDERED that:

1. Minimum Rate Tariff No. 7 (Appendix "A" to Decision No. 32566, as amended) is hereby further amended by incorporating therein to become effective April 11, 1970, Tenth Revised Page 3-B, and Twenty-first Revised Page 4, attached hereto and by this reference made a part hereof.

C. 5437, OSH 192 hjh

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

This order shall become effective twenty-four days after the date hereof.

Dated at San Francisco, California, this 3rd day of MARCH, 1970.

William J. Lyons, Jr.  
President

Augusta

J. P. Roberts

T. J. Mc

Vernon L. Stinger

Commissioners

SECTION 1--RULES		ITEM
DEFINITION OF TECHNICAL TERMS (Continued) (Items 10, 11 and 12)		
<p>DRY MIXTURES OF SAND, AND/OR GRAVEL AND/OR CRUSHED STONE (WITH OR WITHOUT CEMENT) IN BATCHES means a shipment of said mixture transported in dump truck equipment provided with one or more batch gates permitting the loading and unloading of a portion or portions of the shipment separately from the other portion or portions of the shipment.</p> <p>DUMP TRUCK EQUIPMENT means any motor vehicle (including component trailing equipment) as defined in the Highway Carriers' Act, which discharges its load by gravity either (a) in conjunction with mechanical or pneumatic (induction of air used to speed gravitation) means that are an integral part of the vehicle, or (b) by opening all or a portion of the bottom, sides or end, or (c) by combination of (a) and (b). It does not include a motor vehicle engaged in the transportation of concrete mechanically mixed in transit or equipment which is unloaded by air pressure in defiance of gravity.</p> <p>HOT PLANT means a fixed installation for the heating of road oil or asphalt and the mixing of such heated oil or asphalt with rock, sand and any other ingredients to produce cold road oil mixture ("plant mix") or asphaltic concrete ("hot stuff").</p> <p>MAXIMUM ALLOWED LOAD means the maximum total gross weight with load in pounds permitted under the provisions of Section 35551 of the California Vehicle Code, based on a distance between the first and last axles of 56 feet or over.</p> <p>OVERLYING CARRIER (PRINCIPAL CARRIER) means a carrier which contracts with a shipper to provide transportation service for the latter, but which carrier in turn employs another carrier, known as the Underlying Carrier (independent-contractor subhauler), to perform that service. (See Note.)</p> <p>NOTE.-The term Overlying Carrier also includes an underlying carrier which employs another carrier to perform transportation service.</p> <p>POINT OF DESTINATION means the precise location at which a shipment is tendered for physical delivery into the custody of the consignee or his agent. It includes all locations within 300 feet of the point at which physical delivery of said shipment is initiated.</p> <p>POINT OF ORIGIN means the precise location at which a shipment is physically delivered by the consignor or his agent into the custody of the carrier for transportation. *Except for transportation subject to paragraph (a) of Item 40, all points within a single commercial producing plant shall be considered as one point of origin. A single commercial producing plant shall include only contiguous property which shall not be deemed separate if intersected by a public street or streets.</p> <p>RAILHEAD means a point at which facilities are maintained for the loading of property into or upon, or the unloading of property from rail cars or vessels. It also includes truck loading facilities of plants or industries located at such rail or vessel loading or unloading point.</p> <p>RATE includes charge, and also the ratings, minimum weight, rules governing, and the accessorial charges applying in connection therewith.</p> <p>(Continued in Item 12)</p>		611
6 Change ) * Addition ) Decision No. 76873		
EFFECTIVE		
ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA		
Correction 1316		

SECTION 1--RULES (Continued)	ITEM
<p align="center"><b>APPLICATION OF TARIFF--CARRIERS</b></p> <p>Rates provided in this tariff are minimum rates, established pursuant to the Highway Carriers' Act. They apply for transportation of property by radial highway common carriers, highway contract carriers and dump truck carriers, as defined in said Highway Carriers' Act, in bulk in dump truck equipment.</p> <p>The rates and rules contained in this tariff shall apply to transportation by underlying carriers (independent-contractor subhaulers) when such transportation is performed for other carriers, as provided in Item 94.</p>	20
<p align="center"><b>APPLICATION OF TARIFF--GENERAL</b></p> <p>Rates in this tariff do not apply to the transportation of:</p> <p>(a) Property of the United States or property transported under an agreement whereby the United States contracted for the carrier's service.</p> <p>(b) Disaster Supplies, i.e., those commodities which are allocated to provide relief during a state of extreme emergency or state of disaster; and those commodities which are transported for a civil defense or disaster organization established and functioning in accordance with the California Disaster Act to ultimate point of storage or use prior to or during a state of disaster or state of extreme emergency.</p> <p>(c) Property for which rates are provided in Minimum Rate Tariff 17, when said property is transported under the provisions of such tariff. (See Exception.)</p> <p>(d) Property which is exempt from regulation by the Interstate Commerce Commission under Section 203(b)(8) of the Interstate Commerce Act.</p> <p>For rates for the transportation of commodities in dump truck equipment, other than as provided in this tariff, see Minimum Rate Tariff 1-B, 2, 5, 9-B, 17 or 19, as the case may be.</p> <p>EXCEPTION.--Distance rates on decomposed granite in Item 131 of this tariff alternate with the zone rates in Section 21 of Minimum Rate Tariff 17 from Production Areas 19-EE, 19-Q, 19-QA, 19-QB, 19-R and 19-Z.</p>	25
<p align="center"><b>APPLICATION OF TARIFF--TERRITORIAL</b></p> <p>Rates in this tariff apply for transportation between all points within the State of California.</p>	30
<p align="center"><b>REFERENCES TO ITEMS AND OTHER TARIFFS</b></p> <p>Unless otherwise provided, references herein to item numbers in this or other tariffs include references to such numbers with letter suffix, and references to other tariffs include references to amendments and successive issues of such other tariffs.</p>	35
<p align="center"><b>COMPUTATION OF DISTANCES</b></p> <p>Distances to be used in connection with distance rates named herein shall be:</p> <p>(a) For all shipments other than those described in paragraph (b) of this item: the actual mileage traversed computed from the precise location at which loading of the unit of equipment commences to the point of destination via all other locations where either loading and/or weighing is performed.</p> <p>(b) For shipments of lightweight aggregates when moving within the Northern Territory under rates named in Item 138: the shortest resulting mileage, computed in accordance with the method provided in the Distance Table.</p>	40
Change, Decision No. <b>76873</b>	
<p align="center"><b>EFFECTIVE</b></p>	
Correction 1317	ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.