

ORIGINAL

Decision No. 8C307

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 cement and )  
 related products (commodities for which )  
 rates are provided in Minimum Rate )  
 Tariff 10).

Case No. 5440  
 Petition for Modification  
 No. 76  
 (Filed October 8, 1971)

Richard W. Smith, and A. D. Poe, Attorneys at Law,  
and H. F. Kollmyer, for California Trucking  
Association, petitioner.

Ray S. Bruton, and Mike Mallin, for Miles & Son's  
Trucking Service, Inc.; Allen L. Cole, for  
Max Binswanger Trucking; Henry Fikse, Attorney  
at Law, for Fikse Bars, Inc.; Jack French, for  
J-M Cement Carriers; Frank R. Golzen, for  
Universal Transport System; Glen B. Green, for  
Lang Transportation Corporation; Fred Lohnes,  
for Daniel Lohnes Trucking, Inc.; Stanley A.  
Ziganti, for CAP Transport, Inc.; and George B.  
Shannon, for Southwestern Portland Cement Co.,  
respondents.

Eugene R. Rhodes, for Monolith Portland Cement Co.;  
M. J. Nicholas, for Western Motor Tariff Bureau,  
Inc.; William Mitze, for Riverside Cement Co.;  
J. M. Gallagher, for The Flintkote Co., Calaveras  
Cement Division; Donald L. Denney, for L. R.  
Denney, Inc.; Doran N. Damitz, for Ideal Cement  
Co.; Fred R. Covington, for Kaiser Cement &  
Gypsum Corporation; E. J. Bertana, for Lone Star  
Industries, Inc.; William T. Barklie, for  
California Portland Cement Co.; T. W. Anderson,  
for Pacific Western Industries, Inc.; and  
Joe S. Tedesco, for TTT, Inc.; interested  
parties.

Everest A. Benton, Frederick W. Foley, and E. Carmody,  
for the Commission staff.

O P I N I O N

This petition of California Trucking Association (CTA) was heard May 3 and 12, 1972 before Examiner Thompson at San Francisco.

Petitioner requests the Commission to increase the minimum rates for the transportation of cement prescribed in Minimum Rate Tariff 10 (MRT 10). The proposal is supported by all of the producers of cement in California and is opposed by the Commission staff.

CTA asserts that by reason of increases in labor costs already incurred by the carriers and additional increases in labor costs which will be incurred July 1, 1972, the rates for the transportation of cement by highway carriers are and for the future will be insufficient and unreasonably low. It alleges that no adequate and practical method of increasing carrier revenues to offset such increases in costs is available except by the increase of minimum rates and charges in MRT 10 and corresponding increases in the rates in the tariffs of cement carriers. Its rate proposal was developed with the major shippers of cement with the view towards producing an eight percent increase in the revenues of the carriers while providing a minimum of disruption to existing patterns in the marketing and distribution of cement.

A brief review of the decisions of the Commission since 1967 in the establishment and adjustments of minimum rates for the transportation of cement will assist in an understanding of the issues presented herein by the parties and of the evidence offered in connection therewith.

On May 21, 1965, CTA filed Petition for Modification No. 26 in Case No. 5440 requesting the Commission to direct its staff to prepare cost and economic studies prerequisite to the revision of rates and charges in MRT 10. By Decision No. 70028, dated November 30, 1965, the Commission directed such studies to be made. Following hearings held in March 1967, the Commission issued Decision No. 72503 on May 31, 1967. Said decision adopted rate proposals

presented by CTA and the cement producers other than Monolith Portland Cement Co., Nevada Cement Co., and Southwestern Portland Cement Co. Said proposals provided a progression of rates different from and at rate levels higher than the rates proposed by the Commission staff. On July 25, 1967, the Commission denied Monolith's petition for rehearing but suspended the rates ordered in Decision No. 72503 and reopened the proceeding for the receipt of further evidence. Further hearings were held in October 1967 at which time the staff updated its cost study to reflect labor costs as of October 1, 1967, known changes in tax rates, changes in constructive mileages, the increase in the maximum speed of truck vehicles to 55 miles per hour, a correction in the calculation of line-haul use hours for gravity hopper and flat-bed equipment, and increases in the labor portion of indirect expenses. All other cost and performance factors reflected those prevailing in the Spring of 1966. This revised cost study was Exhibit 26-6 and disclosed increases in costs from those considered in Decision No. 72503 of between three and five percent. The staff presented schedules of proposed rates which were directly related to said costs. In its Decision No. 73607, dated January 8, 1968, the Commission rejected that rate proposal and it also rejected the so-called industry proposal which it had adopted in Decision No. 72503 holding, inter alia, that the staff proposal gave full weight to the costs per length of haul and little or no weight to the value of service, marketing requirements of the shippers and revenue needs of the carriers; and that the industry proposal gave full weight to the latter rate-making factors and too little weight to the costs per length of haul. In said decision the Commission found,

"3. In establishing or approving scales of minimum rates in this proceeding, consideration must be given to the rate-making elements set forth in Section 3662 of the Public Utilities Code [cost of service and length of haul] and, in addition thereto, consideration should be given to the value of the transportation service to shippers, to the marketing practices of the cement producers, and to the revenue needs of carriers."

The rates which the Commission established in Decision No. 73607 were not directly related to the costs for particular lengths of haul and, in essence, represented a balance of the positions taken by CTA and by the staff.

On February 13, 1968, CTA filed a petition for modification of the rates established for Northern Territory to reflect increases in labor costs resulting from collective bargaining agreements with the teamsters union. The petition was supported by the cement producers and was opposed by the staff. By Decision No. 73997, dated April 16, 1968, the Commission increased the Northern Territory cement rates as proposed by CTA to offset labor costs as of April 1, 1968.

In August and September 1969, CTA filed petitions seeking upward adjustments in the rates for Northern Territory and for Southern Territory to offset increases in labor costs incurred as of July 1969. Following public hearing at which all of the major California producers of cement supported the proposed increased rates, the Commission issued Decision No. 76480, dated November 25, 1969, adopting the CTA proposals. The findings in said decision state that the rates established by the Commission in MRT 10 provide for certain relationships among the rates from the various cement mills in California which historically have been maintained in order to permit the various mills to compete effectively and without any unjust or undue advantage or disadvantage, and that the maintenance of reasonable relationships in rates among the cement producers is necessary to meet the demands of the public and to avoid excessive crosshauling of portland and similar cements.<sup>1/</sup>

On August 5, 1970, CTA filed Petition for Modification No. 68 requesting an increase of one cent per 100 pounds in the rates for Southern Territory to offset labor costs effective July 1, 1970. The proposed increase was supported by the cement producers and was adopted without hearing by the Commission in Decision No. 77703, dated September 1, 1970.

---

<sup>1/</sup> See Section 3502, Public Utilities Code.

On September 10, 1970, CTA filed Petition for Modification No. 69 (amended October 21, 1970) seeking increases ranging between one cent and four cents per 100 pounds in the cement rates for Northern Territory. It was proposed that the revised rates be made effective for the full year 1971 and reflect projected labor costs for that full year giving consideration to labor cost increases that became effective July 1, 1970 and which, under existing collective bargaining agreements, would become effective July 1, 1971. This proposal was supported by the cement producers and was adopted by the Commission, without hearing, in Decision No. 77906, dated November 4, 1970. The decision after reciting the facts concerning the labor cost increases states,

"Accordingly, petitioner explains that shippers and carriers of cement, subject to the MRT 10 Northern Territory cement rates, have discussed potential tariff changes which would reflect current marketing conditions; produce additional revenues to the cement carriers to offset the increased costs; and would not disrupt established relationships between the various California cement mills involved."

The instant petition was filed October 8, 1971. Appended thereto are letters from all of the cement producers urging that the proposed rates be made effective January 1, 1972. In some of the letters there were provisos that the increases be subject to whatever guidelines may be promulgated pursuant to the Economic Stabilization Act of 1971. Guidelines were initially announced by the Price Commission on November 30, 1971. Regulations were promulgated in January 1972 which were clarified and amended in March 1972. Hearing was scheduled at the recommendation of the staff.

A cost analyst employed by petitioner testified that prior to the filing of the petition there had been a number of discussions held among the cement carriers and the cement producers. All were cognizant of the wage increases that became effective July 1, 1971 and which would become effective July 1, 1972 under the existing collective bargaining agreements entered into in 1970. The cement

producers were desirous of having cement rates fixed for a one year period commencing January 1, 1972 similar to what had been done in connection with the cement rates for Northern Territory by Decision No. 77906. CTA prepared an analysis of the effect of the increases in labor costs and determined that an increase in carrier revenues of eight percent is necessary to offset said increases in labor costs. The cement producers and the carriers determined the proposed increases in rates which they estimated would return additional revenues of eight percent.

Exhibit 76-1 sets forth the development of hourly costs of drivers for each of the territories and compares said costs to those included in the development of costs utilized in the establishment of the present rates for Northern and Southern Territories. The developments consider the driver wage rates and fringe benefits effective July 1, 1972, under the existing labor agreements, the April 1972 rates for workmen's compensation insurance, and the current rates of taxes on payroll. The increase in total driver hourly labor costs from the prior developments are 18.13 percent for the northern carriers and 15.63 percent for the southern carriers. The July 1, 1972, driver labor costs so developed were substituted into the prior cost studies to obtain a comparison of total cost per 100 pounds at 100 percent operating ratio for various lengths of haul in the two territories. Also substituted in said studies was the current rate for fees due the Public Utilities Commission (P.U.C. fees) under the Transportation Rate Fund Act. The comparison shows increases in total costs ranging between 8.46 percent and 15.00 percent for Northern Territory and increases ranging between 6.67 percent and 11.36 percent for Southern Territory. Basically, the costs per 100 pounds developed in Exhibit 76-1 utilize all cost factors set forth in Exhibit 26-6 except for those factors pertaining to driver labor costs and to P.U.C. fees. Also set forth in Exhibit 76-1, but not utilized in the development of the costs per 100 pounds, is a comparison of the hourly cost of employing mechanics as of July 1, 1972

with the cost as of July 1, 1970 in the case of southern carriers, and as of July 1, 1971, in the case of northern carriers. The comparison shows an increase of 30.58 percent for the southern group and an increase of 17.16 percent for the carriers in Northern Territory.

Exhibit 76-3 shows the impact of the 1972 cost increases upon the 1971 results of operations of eighteen cement carriers. It shows a consolidated operating ratio of 96.2 percent for 1971 operations which with modifications to provide for increases in the costs of employing drivers, mechanics, clerical labor and supervisory personnel, as well as the increase in P.U.C. fees, projects to a consolidated operating ratio of 103.7 percent. Modified for the above increased expenses and for revenue increases under the proposed rates the consolidated operating ratio is 97.3 percent. Adjustments had been made in the 1971 expenses of the sample of eighteen carriers to eliminate extraordinary items (such as depreciation adjustments required because of the sale of properties) and to provide for compensation to owners where the ownership of the carrier is vested in an individual or partnership and the owner or partner actively participates in the operation and management of the business.

In general, the foregoing constitutes petitioner's case in chief and indicates that the proposed increases will not completely offset the increases in costs.

The staff opposed the increases on a number of grounds and presented testimony and exhibits to support its opposition.

The staff asserts that the operating results of the carriers improved substantially in 1971 as compared to prior years and that the increased costs can be absorbed by the carriers. In support of this assertion it offered Exhibit 76-6 which is a summary of the gross operating revenues and the operating expenses recorded by seventeen carriers on their annual reports for each year 1968 through 1971.<sup>2/</sup>

---

<sup>2/</sup> The seventeen carriers are also included in the eighteen carrier sample in Exhibit 76-3. One of the carriers whose results were included in Exhibit 76-3 did not file an annual report and therefore was not included in Exhibit 76-6.

During cross-examination it developed that two of the carriers had filed two reports for the year 1971. Miles and Son Trucking Company filed one report for the first four months of 1971 and another report for the remaining eight months. Examination of the annual reports discloses that the ownership of the carrier was transferred on April 30, 1971, and the report used by the staff showed a depreciation adjustment in the amount of \$195,179 because of sale and retirement of equipment. Daniel Lohnes Transport Co. filed an annual report for the first three months of 1971 and another one for the remaining nine months. Examination of said reports shows that the ownership changed from an individual proprietorship to a corporation on April 1, 1971. CTA objects to the use of unadjusted entries of revenues and operating expenses shown in the annual reports as indicative of the results of carrier operations in the transportation of property. It asserts that closing entries necessary because of changes in ownership are not reflective of transportation operations but ordinarily represent capital gains or losses, as the case may be; that adjustments to depreciation expense as in the case of the \$195,179 entry in the report of Miles and Son Trucking Company are not connected with the performance of transportation but only to the sale of operating equipment and the going market for such equipment at the time of sale; and that in the case of carriers that are not incorporated the compensation to owners for their services in actual transportation operations is not recorded as operating expense in the annual reports. We agree with CTA that the unadjusted data appearing in Exhibit 76-6 does not show a true picture of the operating results of any or all of the seventeen carriers. The exhibit does provide evidence, however, to refute the staff's assertion that the carriers will be able to absorb the increases in labor costs without adverse effect. Except for Miles and Son Trucking Company and Daniel Lohnes Transport Co., it would appear that the carriers included therein have submitted their annual reports each year in the same manner because of continuance of ownership. Eliminating the revenues and expenses of the two



above-named carriers from consideration provides the following results:

Comparison of Unadjusted Results  
of Fifteen Cement Carriers,  
1968 Through 1971

	<u>1971</u>	<u>1970</u>	<u>1969</u>	<u>1968</u>
Operating Ratios - %	95.32	95.65	96.63	95.65

The foregoing shows that the carriers' results in 1971 were approximately the same as in prior years. During each of the years there were increases in the minimum rates to provide additional revenues to offset increases in labor costs. Why the carriers should now be able to absorb increases in labor costs without an offsetting increase in the minimum rates is not apparent.

The staff also asserts that in many instances, and particularly with respect to the shorter lengths of haul, the present rates exceed the costs projected by petitioner. Exhibit 76-7 contains a comparison of the present rates with the costs shown in Exhibit 76-1 for various lengths of haul. It shows that in general the present rates exceed the projected costs for distances under 125 miles and are lower than the costs for greater lengths of haul. Presumably, the exhibit is intended to show that the rates do not follow the cost curves and that if any adjustments in rates are justified the greater lengths of haul should bear whatever increases are required. Such contention flies in the face of reality. As shown earlier herein the rate structure established in 1968 did not follow the cost curve because it was found necessary to give greater weight to other rate-making factors, including the value of the service to the shippers, the marketing practices of the cement producers and to the revenue needs of the carriers. Subsequent adjustments gave primary consideration to the maintenance of the relationships of the rates among the cement mills and to the revenue needs of the carriers. For example, the increase of one cent per 100 pounds prescribed in Decision No. 77703 resulted in percentage increases in bulk cement of 17 percent for ✓

distances not exceeding three miles and 1.7 percent for 500 miles. The flat one-cent increase was not oriented to the increases in costs for particular lengths of haul. While the rates as a whole are cost-oriented in that they are intended to provide progressions of rates which will produce the revenues necessary to meet the carriers' costs of operation, individual rates for particular lengths of haul are not and have not been oriented to the cost for said length of haul. To do so would materially change competitive relationships of the cement producers in primary markets and would be disruptive of the transportation and distribution of cement.

Staff also contends that petitioner has not shown that the proposed increase is consistent with the aims and the guidelines of the Federal Economic Stabilization Program administered by the Price Commission. We are required to give consideration to the guidelines promulgated by the Price Commission and set forth in Title 6, Chapter III, Part 300, Section 300.16 of the Federal Regulations and do so here.

IS THE INCREASE COST-JUSTIFIED?

Yes. There were two types of showings in this regard. Exhibit 76-1 shows the increases in the costs of transporting cement for various lengths of haul since the minimum rates were last adjusted giving effect only to the following changes in levels of expense:

- (a) Increases in wages of drivers resulting from contracts negotiated in 1970 providing for increases in wage rates effective July 1, 1971 and July 1, 1972 and for additional increases resulting from cost-of-living provisions effective not later than July 1, 1972.
- (b) Increases in fringe benefits (pension and health and welfare contributions) effective on and prior to July 1, 1972.
- (c) Increases in compensation insurance rates as of April 1, 1972.

- (d) Added costs of vacations, holidays and premium pay resulting from wage increases described in (a).
- (e) Added cost of payroll taxes resulting from increased payroll and from changes in payroll tax rates effective January 1, 1972.
- (f) Added costs of fees payable to the State Public Utilities Commission as a result of increased rate of P.U.C. fees.
- (g) Added costs of taxes and fees payable to State Board of Equalization and State Public Utilities Commission on additional revenues to be provided by the proposed increases in rates for transportation.

Although Exhibit 76-1 shows increases in wages and benefits payable to mechanics, such was not given effect in the development of the costs per 100 pounds shown therein. This exhibit shows increases in the costs of transporting cement for various lengths of haul ranging between 6.67 percent in the case of the longer hauls and 15.00 percent in the case of the shorter hauls.

The second type of showing consisted of a summary of the revenues and expenses for 1971 operations of a sample of nine northern carriers and nine southern carriers with adjustments to reflect increases in expense levels in the following categories of costs: driver labor costs, labor costs for mechanics and service personnel, labor costs for clerical and supervisory personnel, and P.U.C. fees. The estimated increase in said expenses for the eighteen carriers is \$761,381 which represents an increase in total operating expense of 7.8 percent. Because of transportation taxes and fees based on gross revenue received from the transportation of property, in order to recover revenues sufficient to offset a 7.8 percent increase in expenses other than said taxes, an increase in rates of something over 8 percent is required. Except for the charges for accessorial services prescribed in Item 100 of MRT 10, the increases in rates proposed by petitioner center about eight percent. With respect to the charges in Item 100, they have not been adjusted since March 1, 1968. Accessorial services predominantly involve services performed

by driver labor. Applicant proposes increases in accessorial charges of between 37 and 47 percent. Such increases are consistent with the increases in cost since March 1, 1968.

DOES THE INCREASE REFLECT FUTURE INFLATIONARY EXPECTATIONS?

No. All of the items of increases in expense considered herein are definite and have been measured with respect to their impact upon total operating costs. The projections do not reflect any future inflationary expectations.

IS THE INCREASE THE MINIMUM REQUIRED TO ASSURE CONTINUED, ADEQUATE AND SAFE SERVICE?

Yes. The transportation of cement is a highly competitive business. The establishment of minimum rates at a reasonable level is necessary to assure continued service. It has been shown by petitioner that unless the rates are increased the carriers will conduct operations at a loss and that the proposed increases in rates will provide additional revenues not in excess of the increases in costs.

DOES THE INCREASE REFLECT LABOR COSTS IN EXCESS OF THOSE ALLOWED BY PRICE COMMISSION POLICIES?

No. The increases in wages and fringe benefits were prescribed in contracts entered into prior to November 8, 1971. Such contracts have not been disturbed by the Pay Board.

DOES THE INCREASE TAKE INTO ACCOUNT EXPECTED AND OBTAINABLE PRODUCTIVITY GAINS?

Yes. The record shows that the costs considered in the establishment of the minimum rates reflected a maximum speed limit of 55 miles per hour for vehicles transporting cement and reflected maximum loads permitted upon the highways of this State (Decision No. 73607, supra). We take official notice of Vehicle Code Sections 22406, 35411 and 35551. The maximum speeds, maximum sizes and maximum loads of vehicles presently transporting cement are the same as considered in the cost studies underlying the minimum rates.

Productivity gains resulting from increased speeds, bigger equipment or larger loads is therefore not possible under present statutes. The present rates take into account the costs of the loading and unloading of bulk cement by gravity and by pneumatic means, and of sacked cement by the loading and unloading of palletized cargo by fork-lift. Further improvements in the techniques of loading and unloading cement are not immediately apparent. The minimum rates for transportation of cement are governed by constructive mileages prescribed in the Distance Table. Improvements of highways for faster movement of through traffic are reflected in changes in constructive mileages. Since 1967 there have been two reissues of the Distance Table as well as many amendments thereto which have revised constructive mileages because of changes in highway conditions. This is a continuing project of the Commission so that any productivity gains by cement carriers because of improved highway conditions have been, and in the future will be, taken into account by appropriate revisions in constructive mileages prescribed in the Distance Table.

WILL THE INCREASE ACHIEVE THE MINIMUM RATE OF RETURN NEEDED TO ATTRACT CAPITAL AT REASONABLE COSTS AND NOT TO IMPAIR THE CREDIT OF THE CARRIERS?

Yes. Cement carriers are common carriers defined in Section 211(d) of the Public Utilities Code, and are public utilities as defined in Section 216(a) thereof. The greatest requirement for capital of cement carriers is in the purchase or acquisition of motor vehicle equipment. The financing of such acquisitions usually and ordinarily is by installment purchase and by short-term notes with the equipment as collateral. Neither the cost data appearing in Exhibit 76-1 nor the operating results depicted in Exhibit 76-3 take into account income taxes, interest charges for financing the purchase of equipment nor a return on equity capital. The 1971 consolidated operating ratio for the eighteen sample carriers shown in Exhibit 76-3 is 96.2 percent, and adjusted to reflect the increases in operating

costs and for additional revenues from the proposed rate increases is 97.3 percent. Stated in another way, the latter figure represents a ratio of net operating revenues (net sales) to gross operating revenue (gross sales) of 2.7 percent. This net represents the earnings available to cover income taxes, if any; interest charges, if any; and return on stockholders' equity. Such net return on sales is deemed to be the bare minimum for such purposes.

DID THE PROCEDURES OF THE COMMISSION PROVIDE FOR REASONABLE OPPORTUNITY FOR PARTICIPATION BY ALL INTERESTED PERSONS OR THEIR REPRESENTATIVES IN THIS PROCEEDING?

Yes. Notice of the filing of the petition was made by CTA to shippers and carriers of cement. Notice of the filing of the petition appeared on the Commission's Daily Calendar. Notice of hearing was served by the Commission upon all producers of cement in California and upon all parties known to be interested in the rates prescribed in MRT 10. Notice of hearing was also provided in the Commission's Daily Calendar. Attached to the petition are letters from the nine major California producers of cement supporting the petition. Appearances at the hearing were made on behalf of each of said nine cement producers, ten cement carriers as well as petitioner and the Commission staff. All parties were accorded full opportunity to present evidence, to cross-examine witnesses and to present argument.

Findings

We find that:

1. The present structure of the minimum rates in Minimum Rate Tariff 10 was established by the Commission in its Decision No. 73607, dated January 9, 1963, to provide revenues to cement carriers adequate and sufficient to meet the costs of providing the service as of October 1, 1967, and to provide for certain relationships among the rates from the various cement mills in California which relationships historically have been maintained in order to permit the various cement mills to compete effectively and without any unjust or undue advantage or disadvantage, and to prevent excessive crosshauling of portland and similar cements.

2. Since said decision there have been adjustments in the level of the distance rates for the transportation of cement; the most recent adjustment in the distance rates for Northern Territory being prescribed in Decision No. 77906, dated November 4, 1970, so as to provide revenues sufficient to meet the costs of performing service during the year 1971; the most recent adjustment in the distance rates for Southern Territory being prescribed in Decision No. 77703, dated September 1, 1970, to provide revenues sufficient to meet the costs of performing service as of July 1, 1970.

3. No change in the level of rates and charges for accessorial services (Item 100) has been made since March 1, 1968, the present level of said rates and charges having been prescribed by Decision No. 73067.

4. Since the establishment of the present distance rates in said Decisions Nos. 77703 and 77906, and the establishment of the present rates and charges in Item 100 of MRT 10 pursuant to Decision No. 73607, cement carriers and cement contract carriers have incurred increases in expenses, and will incur additional increases in labor costs, to such an extent as to make the transportation of cement at the minimum rates noncompensatory. ✓

5. The carriers are, and will be, in need of additional revenues in order to continue to provide to the public reasonable and dependable service in the transportation of cement. ✓

6. The rates proposed by petitioner reasonably reflect the historical relationships of rates among the cement mills and should provide sufficient revenues to the carriers to assure to the public reasonable and dependable service in the transportation of cement.

7. The rates proposed by petitioner are the just, reasonable and nondiscriminatory minimum rates for the transportation of cement by highway carriers and for accessorial services in connection therewith.

8. Increases that will result from the establishment of the proposed rates as minimum rates are justified.

9. To the extent that the rates and charges of common carriers for the transportation of cement over the public highways of this State are less in volume or effect than those hereinabove found to be the just, reasonable and nondiscriminatory minimum rates for such transportation and for accessorial services in connection therewith, said rates of common carriers are, and for the future will be, unreasonable, insufficient and not justified by actual competitive rates of competing carriers or by the costs of other means of transportation.

10. The increases are consistent with the criteria prescribed by the Price Commission in Section 300.16 of the Federal Regulations.

Conclusions

We conclude that Minimum Rate Tariff 10 should be amended as proposed by petitioner, that common carriers should be directed to amend their tariffs so as to maintain rates not less in volume or effect than those prescribed in said minimum rate tariff, and that certification of the increases be made as required by Section 300.16 (e) of the Federal Regulations.

O R D E R

IT IS ORDERED that:

1. Minimum Rate Tariff 10 (Appendix A to Decision No. 44633, as amended) is further amended by incorporating therein, to become effective September 1, 1972, the revised pages attached hereto, and by this reference made a part hereof, which pages are numbered as follows:

Sixth Revised Page 6-A  
Fifth Revised Page 12-A  
Fourth Revised Page 12-B.

2. Common carriers subject to the Public Utilities Act, to the extent they are subject also to Decision No. 44633, as amended, are directed to establish in their tariffs the increases necessary to conform with the further adjustments ordered herein.



3. Common carriers maintaining rates on a level other than the minimum rates for transportation for which rates are prescribed in Minimum Rate Tariff 10 are authorized to increase such rates only to the level of Minimum Rate Tariff 10 rates authorized herein.

4. 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 such tariff publications shall be made effective not later than September 1, 1972; tariff publications which are authorized but not required to be made by common carriers as a result of the order herein may be made effective not earlier than the tenth day after the effective date of this order, and may be made effective on not less than ten days' notice to the Commission and to the public if filed not later than sixty days after the effective date of the minimum rate tariff pages incorporated in this order.

5. Common carriers, in establishing and maintaining the rates authorized hereinabove, are 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 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.

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

7. The certificate set forth in Appendix A attached hereto is the certificate of the Commission to the Price Commission regarding the increases in rates prescribed in this order.

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

Dated at San Francisco, California, this 25<sup>th</sup> day of JULY, 1972.

William J. Sturgeon, Jr. President  
Arthur J. Sturgeon  
Donald J. Sturgeon Commissioners

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner J. P. Vukasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

APPENDIX A

Certificate of the Public Utilities Commission  
of the State of California Re Increases in Rates  
for Certain Transportation Services Performed by  
For-Hire Highway Carriers within California

Pursuant to provisions of Section 300.16 of the Economic Stabilization Act Amendments of 1971, the Public Utilities Commission of the State of California (Cal. P.U.C.) does hereby certify to the Federal Price Commission as follows:

1. The increases aggregating eight percent in rates, which are ordered by the Cal. P.U.C. by this decision, apply to rates which the Cal. P.U.C. has heretofore established as minimum rates for the transportation of cement within California by for-hire highway carriers as defined by the Cal. P.U.C. in reasonably efficient circumstances. ✓
2. Said rate increases are cost-based and do not reflect future inflationary expectations.
3. Said rate increases are the minimum, or are less than the minimum, required to assure continued, adequate and safe service by carriers engaged in for-hire highway transportation of cement within California.
4. The dollar amount of the increased revenue which the increases in rates are expected to provide the carriers collectively is about \$1,624,632.
5. Said rate increases are not sufficient to return to the carriers increases in operating costs which the carriers have experienced and which are not reflected in present minimum rates; hence, said rate increases:
  - a. Will not result in an increase in earnings which the Cal. P.U.C. has heretofore determined to be the minimum required to maintain adequate and safe transportation for the public.
  - b. Will not increase the carriers' overall rate of return on capital.
6. Sufficient evidence was taken at public hearings held before the Cal. P.U.C. in connection with said rate increases to support the certification herein made.

SECTION 1--RULES (Continued)		ITEM												
<p style="text-align: center;"><b>ACCESSORIAL SERVICES</b></p> <p>When carrier performs any accessorial or incidental service which is not authorized to be performed under rates named in this tariff, and for which a charge is not otherwise provided, additional charges shall be assessed as follows:</p> <table><tr><td></td><td colspan="2" style="text-align: center;">Charges in Cents</td></tr><tr><td></td><td style="text-align: center;"><u>For First 30 Minutes or Fraction Thereof</u></td><td style="text-align: center;"><u>For Each Additional 15 Minutes or Fraction Thereof</u></td></tr><tr><td>(a) For Driver, Helper, or Other Employee per Man-----</td><td style="text-align: center;">435</td><td style="text-align: center;">218</td></tr><tr><td>(b) For Unit of Equipment-----</td><td style="text-align: center;">115</td><td style="text-align: center;">57</td></tr></table> <p>The charge for unit of equipment shall apply whenever the accessorial or incidental service requires its use, or whenever the unit of equipment is inactivated by reason of its driver or helper being engaged in such service.</p>			Charges in Cents			<u>For First 30 Minutes or Fraction Thereof</u>	<u>For Each Additional 15 Minutes or Fraction Thereof</u>	(a) For Driver, Helper, or Other Employee per Man-----	435	218	(b) For Unit of Equipment-----	115	57	100
	Charges in Cents													
	<u>For First 30 Minutes or Fraction Thereof</u>	<u>For Each Additional 15 Minutes or Fraction Thereof</u>												
(a) For Driver, Helper, or Other Employee per Man-----	435	218												
(b) For Unit of Equipment-----	115	57												
<p style="text-align: center;"><b>DIVERTED SHIPMENTS</b></p> <p>Charges upon shipments diverted at request of consignor or consignee shall be assessed upon the basis of the charge established for the constructive mileage applicable via the point or points where diversion occurs, subject to Items 50 and 100.</p>		110												
<p style="text-align: center;"><b>SHIPMENTS TRANSPORTED IN MULTIPLE LOTS</b> (Items 115 and 116)</p> <p>When a carrier is unable to pick up an entire shipment at one time, or when more than one vehicle, or connected train of vehicles, are used to pick up the entire shipment, the following provisions shall apply in addition to other applicable rules and regulations:</p> <ol style="list-style-type: none"><li>1. The entire shipment shall be available to the carrier for immediate transportation at the time of the first pickup.</li><li>2. A single shipping document for the entire shipment tendered shall be issued prior to or at the time of the first pickup.</li><li>3. An additional shipping document shall be issued for each pickup and shall give reference to the single shipping document and shall be attached thereto and become a part thereof.</li><li>4. <ol style="list-style-type: none"><li>a. If rated under the rates in this tariff, the entire shipment shall be picked up by the carrier within a period of two days computed from 12:01 a.m. of the date on which the initial pickup commences, excluding Saturdays, Sundays and legal holidays.</li><li>b. If rated under the provisions of Items 150 and 160 (paragraph (b)) of this tariff, the entire shipment shall be picked up by the carrier within:<ol style="list-style-type: none"><li>(1) a period of two days computed from 12:01 a.m. of the date on which the initial pickup commences, excluding Saturdays, Sundays and legal holidays, when the highway carrier's trailer equipment is placed for loading by the consignor without the presence of carrier personnel or motive equipment.</li><li>(2) a 24-hour period computed from 12:01 a.m. of the date on which the initial pickup commences, when the shipment is loaded other than under the conditions specified in subparagraph (1) above.</li></ol></li></ol></li></ol> <p style="text-align: center;">(Continued in Item 116)</p>		115												
<p>◇ Increase, Decision No.</p> <p style="text-align: center; font-size: 1.5em;">80307</p>														
EFFECTIVE														
ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA														
Correction														

SECTION 2--RATES IN CENTS PER 100 POUNDS								ITEM
NORTHERN TERRITORY RATES								
MILES		RATES		MILES		RATES		
Over	But Not Over	(1) Bulk	(2) Sack	Over	But Not Over	(1) Bulk	(2) Sack	
0	3	9½	11½	145	150	31½	33½	
3	5	10½	12½	150	160	33	34½	
5	10	11½	13	160	170	34	35½	
10	15	11½	13½	170	180	35	36½	
15	20	12½	14½	180	190	36½	38½	
20	25	13	14½	190	200	37½	39½	
25	30	14½	16½	200	210	38½	40½	
30	35	15	16½	210	220	40	41½	
35	40	15½	17½	220	230	41	42½	
40	45	16½	18	230	240	42	43½	
45	50	16½	18½	240	250	43½	45½	
50	55	18½	20	250	260	44½	46½	
55	60	19	20½	260	270	45½	47½	
60	65	19½	21½	270	280	47	48½	
65	70	20½	22	280	290	48	49½	
70	75	20½	22½	290	300	49	50½	
75	80	21½	23½	300	320	51½	51½	
80	85	22½	24½	320	340	53½	53½	
85	90	23	24½	340	360	55½	55½	
90	95	23½	25½	360	380	57½	57½	
95	100	24½	26	380	400	60	60	
100	105	26	27½	400	420	62	62	
105	110	26½	28½	420	440	64½	64½	
110	115	27½	29	440	460	66½	66½	
115	120	27½	29½	460	480	68½	68½	
120	125	28½	30	480	500	70½	70½	
125	130	29	30½	500	---	(Add to the rate for 500 miles, 4½ cents per 100 pounds for each 25 miles or fraction thereof.)		
130	135	29½	31½					
135	140	30½	32½					
140	145	31	32½					
(1) Rates apply on shipments in bulk. (2) Rates apply on shipments in packages.								
♦ Increase, Decision No. 80367								
EFFECTIVE								
Correction								
ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA SAN FRANCISCO, CALIFORNIA								

SECTION 2--RATES IN CENTS PER 100 POUNDS				ITEM
SOUTHERN TERRITORY RATES				
MILES		RATES		
Over	But Not Over	(1)Bulk	(2)Sack	
0	3	7½	9	
3	5	7½	9½	
5	10	8½	9½	
10	15	8½	9½	
15	20	9½	10½	
20	25	10	11½	
25	30	10½	12½	
30	35	11	12½	
35	40	11½	13½	
40	45	12½	14½	
45	50	13½	15	
50	60	14½	16	
60	70	15½	17½	
70	80	17	18½	
80	90	18½	19½	
90	100	20	20½	
100	110	21	22	0210
110	120	22	23½	
120	130	23½	24½	
130	140	25	25½	
140	150	26½	26½	
150	160	27½	28	
160	170	29	29½	
170	180	30½	30½	
180	190	31½	31½	
190	200	32½	32½	
200	220	34½	34½	
220	240	37	37	
240	260	39	39	
260	280	41½	41½	
280	300	44	44	
300	320	45½	45½	
320	340	47½	47½	
340	360	50	50	
360	380	52	52	
380	400	54½	54½	
400	420	56½	56½	
420	440	58½	58½	
440	460	60½	60½	
460	480	63	63	
480	500	65	65	
500	---	(Add to the rate for 500 miles, 4½ cents per 100 pounds for each 25 miles or fraction thereof)		
(1) Rates apply on shipments in bulk.				
(2) Rates apply on shipments in packages.				
♦ Increase, Decision No. 80307				
EFFECTIVE				
ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.				
Correction				