

ORIGINAL

Decision No. 82000

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 Tariff No. 7).

Case No. 5437
Petition for Modification
No. 244
(Filed March 26, 1973)

E. O. Blackman, for California Dump Truck
Owners Association, petitioner.
G. Ralph Grago, for Associated Independent
Owner Operators; Ralph J. Staunton, for
the County of Los Angeles; Harry Phelan,
by C. Fred Imhof, for California Asphalt
Pavement Association; C. Fred Imhof, for
Industrial Asphalt; interested parties.
Leonard Diamond and Thomas Monji, for the
Commission staff.

INTERIM OPINION

California Dump Truck Owners Association (CDTOA), petitioner
in the above-entitled proceeding, seeks an ex parte order from the
Commission authorizing a 10 percent increase in the rock, sand, and
aggregate zone rates from Antelope Valley Production Area "A" to
delivery zones in the Antelope Valley area (in Los Angeles, Kern, and
San Bernardino Counties).

Public hearing was held on August 9, 1973 in Los Angeles
before Examiner Peeters. The matter was submitted subject to the
receipt of proposed findings of fact due August 20, 1973 and replies
thereto due August 29, 1973. Proposed findings were filed by
petitioner. No replies were filed. The matter is ready for decision.

Antelope Valley zone rates for the transportation of rock,
sand, and aggregates, in dump trucks, were first established by

Decision No. 56044 dated January 7, 1958. They were subsequently revised on December 31, 1960 by Decision No. 61051. A five percent increase in these rates was authorized November 10, 1970 in Decision No. 77940.

The petition was supported by the Associated Independent Owner Operators, Inc. and a shipper, Antelope Valley Aggregate, Inc. The staff took no position in the matter. Evidence was adduced through four witnesses of the petitioner.

Petitioner's principal witness was its general manager, who presented two exhibits. Exhibit 244-1 showed wage and fringe cost increases for drivers of 5-axle dump trucks transporting rock, sand, and aggregates in the amount of \$2.348 per hour subsequent to August 12, 1970, the date hearings were held on Petition For Modification No. 200 in Case No. 5437, which resulted in Decision No. 77940 referred to above.

Exhibit 244-1 showed that the increase in wage and fringe benefit costs amounted to 42 percent since September 1, 1970.^{1/} When this increase is expressed as a percentage of the hourly rates it amounts to 15 percent. As support for Exhibit 244-1, petitioner's manager relied upon Commission staff studies presented in prior proceedings relating to the same type of operations involving the same commodities. The witness pointed out that Exhibit 200-1 (incorporated by reference into this record) showed that Antelope Valley zone rates for rock, sand, and aggregate developed revenues under the zone rates that were somewhat less than the revenues which would have resulted had hourly rates been utilized. It was the witness's expert opinion that the wage increases, expressed as a percentage of the hourly rates, more than justified the sought 10 percent increase. He also pointed out that none of the prior

^{1/} Wage costs and benefits derived from Exh. 54, OSH 213, Case No. 5437 (Teamsters' Agreement 1971-1974).

decisions relative to the rates under consideration here provide any basic cost data specifically relating to this particular type of rate. The witness also pointed out that operating costs could only be developed by the Commission's staff and that absent such costs, rate adjustments must of necessity be proposed on the basis of existing, relevant, and comparable rate and revenue evidence. Petitioner's rationale for not having made any cost study or study of the running or traverse times per trip for this proceeding was that past experience demonstrated that such studies resulted in prolonged controversies. Therefor, he reasoned, rate adjustments must of necessity be proposed on the basis of existing, relevant, and comparable rate and revenue evidence. The witness testified that he had made such a comparison, based on Exhibit 200-1.

Finally petitioner's manager testified that the sought increases are interim in nature, pending a complete cost study, and the carriers are urgently in need of the increase in rates.

Certain decreases in costs were adverted to by petitioner's manager such as the repeal of the $1\frac{1}{2}$ percent Motor Vehicle Transportation License Tax which became operative July 1, 1973. We will take official notice of the statute.^{2/} However, it is averred that this decrease is more than offset by increased operating costs and the fact that the Commission raised the Transportation Rate Fund fees from $\frac{1}{2}$ of 1 percent to $\frac{1}{3}$ of 1 percent. We will take official notice of this fact.^{3/}

Exhibit 244-2 consisted of a copy of a decision and order of the Federal Pay Board dated October 31, 1972, Case No. 994, which authorized a wage increase of 70¢ per hour rather than the 85¢ sought.

Three carrier witnesses for CDTOA testified that there had

^{2/} Revenue & Taxation Code, Division 2, Part 4, Motor Vehicle Transportation License Tax, repealed, Stats. 1972, Ch. 563, Operative July 1, 1973. (Sec. 9601, et seq.)

^{3/} Resolution A-3978 dated March 21, 1972, effective July 1, 1972.

been substantial increases in operating costs (10-40 percent) over the past three years for fuel, oil, tires, parts, labor repair, and insurance as well as investment, in addition to the driver wage and fringe benefit costs.

With respect to a new section of freeway in the area, the witnesses testified that perhaps 10 percent of the hauling involved in this proceeding was benefited by the freeway resulting in a savings of 10 minutes per load, but that the remaining 90 percent of the hauling involved was not affected by the freeway. Due to the length of the hauls where the freeway is used, a 10-minute saving per load, was insufficient to enable another load to be hauled in a day. They also testified that in Lancaster and Palmdale there has been an increase in traffic and the number of traffic signals which actually resulted in slower travel time according to their experience. They concluded that, on balance, the total time involved in hauling is probably the same or even greater than prior to the freeway construction.

One witness, the chairman of the Antelope Valley Chapter of CDTOA, testified that in the past two years approximately 25 carriers domiciled in the area had left or gone out of business and only two new carriers had entered the business. He expressed the opinion that this attrition was due to inadequate rates for transportation.

Discussion

The history of the zone rates in the Antelope Valley area is detailed in Decision No. 77940. It will not be repeated here, but official notice will be taken of that decision.

Petitioner's rationalization for not having made a cost study or traverse time study was that these have proven controversial in the past and consumed an unwarranted amount of time. As a consequence, petitioner has relied upon cost studies prepared by the staff. Although petitioner's witness stated that he did make a study

comparing the hourly rates with the zone rates, he did not produce such study. Rather, he relied upon staff studies which developed the drivers' labor cost per hour introduced in prior proceedings, to support Exhibit 244-1 and, the staff study contained in Exhibit 200-1 which converts rates per ton into hourly rates.

The statement by the chairman of CDTOA's Antelope Valley Chapter that low rates caused 25 carriers to go out of business in the past two years, while only two came in was not supported. It is just as reasonable that there was an overabundance of carriers in the area as it is that inadequate rates caused their demise.

As pointed out in Decision No. 77940, we wish to reiterate that the hourly rates should be viewed as indicative only of the extent that some of the operating costs of dump truck carriers serving the Antelope Valley area have increased. In view of the more general nature of the hourly rates, the reliance of petitioner upon those rates to substantiate the alleged need for the sought zone rate increases raises a question as to the extent that the hourly rates constitute a valid measure of what level of rates is appropriate for the zone rates, without a cost study to measure such increases.

Petitioner is reminded that it has the burden of convincing the Commission of the validity of its petition by clear and convincing facts relevant to the rates sought to be increased. It is expected petitioner will assume its proper burden in future proceedings.

Although precise cost figures would be a more desirable basis upon which to predicate rate increases, the record discloses that a 10 percent increase is justified, and should be granted. However, since petitioner is seeking an interim increase only, pending a complete cost study, we will authorize the increase for a six-month period. Prior to the expiration of this authorization, it is expected that petitioner will present appropriate and adequate studies supporting the specific rates involved.

Findings

1. Wage and fringe benefit cost increases which have occurred for the 5-axle dump truck unit since Decision No. 77940 amount to 42 percent. This is an increase of 15 percent of the hourly rates in effect at the time of the last adjustment.
2. The operating costs have increased for the transportation of rock, sand, and aggregate in the Antelope Valley Area.
3. The sought increases in the rock, sand, and aggregate zone rates in Minimum Rate Tariff No. 7 for the transportation of said commodities in dump trucks within the Antelope Valley zone system are based upon increased labor costs.
4. The repeal of the State Transportation Tax of $1\frac{1}{2}$ percent results in a cost decrease.
5. The raising of the Transportation Rate Fund Fee increased costs.
6. Increased labor and other operating costs have more than offset the decrease in tax costs.
7. In addition to wage and fringe benefit cost increases other operating cost increases have occurred which are not offset by any appreciable cost decreases.
8. The sought increase is cost justified and does not reflect future inflationary expectations.
9. The most recent increase in labor costs involved has been approved by the federal wage regulatory authorities.
10. There are no known, or expected, productivity gains to be obtained, nor are there any available carriers known who are willing to continue providing service at the existing rates.
11. The zone rates for the transportation of rock, sand, and aggregates from Antelope Valley Production Area "A" to points in delivery zones for the Antelope Valley area (Los Angeles, Kern and San Bernardino Counties) were established without benefit of cost studies.

Conclusion

The zone rates in Minimum Rate Tariff 7 for the transportation of rock, sand, and aggregates, in dump trucks, from Antelope Valley Production Area "A" to delivery zones in the Antelope Valley area (in Los Angeles, Kern and San Bernardino Counties) should be increased by 10 percent for a period of six months, pending the production of complete cost studies of the transportation.

Petition 244 should be kept open for receipt of further evidence.

INTERIM ORDER

IT IS ORDERED that Minimum Rate Tariff 7 (Appendix "A" of Decision No. 32566, as amended) is hereby further amended by incorporating therein, to become effective November 16, 1973, and to expire six months after the effective date, the revised page attached hereto, and made a part hereof by this reference, said page being specifically identified as Third Revised Page 38-A-A1.

Submission of Petition for Modification No. 244, Case No. 5437 is set aside.

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

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

Dated at Los Angeles, California, this 16th
day of OCTOBER, 1973.

Vernon L. Stevenson
President

William Symons, Jr.

[Signature]

Commissioners

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

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Commissioner D. W. Holmes, being necessarily absent, did not participate in the disposition of this proceeding.

MINIMUM RATE TARIFF 7

SECTION 3--RATES FROM PRODUCTION AREAS TO DELIVERY ZONES IN CENTS PER TON (Continued)										ITEM
MATERIAL, viz.: Granite, decomposed; Gravel; Sand;										
Stone, crushed, chips or waste; Stone, natural, blocks, pieces or slabs, rough quarried; Stone, natural, sawed, nor further finished.										
FROM (1) ANTELOPE VALLEY PRODUCTION AREA A TO (1) ANTELOPE VALLEY DELIVERY ZONES MINIMUM WEIGHT 8 TONS										
FOR ROUND-TRIP DELIVERY TIMES (in minutes) TO DETERMINE ZONE RATES ON THIS PAGE SEE ITEM 269 ON PAGE 38-B-1										
Minutes (E)Rate		Minutes (E)Rate		Minutes (E)Rate		Minutes (E)Rate		Minutes (E)Rate		
30	32	70	78	110	124	150	171	190	217	
31	33	71	79	111	125	151	172	191	218	
32	35	72	81	112	128	152	174	192	220	
33	36	73	83	113	129	153	175	193	221	
34	37	74	84	114	130	154	176	194	222	
35	39	75	85	115	131	155	177	195	223	
36	40	76	86	116	132	156	178	196	224	
37	41	77	87	117	133	157	179	197	226	
38	42	78	88	118	134	158	180	198	227	
39	43	79	89	119	135	159	182	199	228	
40	44	80	90	120	136	160	183	200	229	
41	45	81	91	121	138	161	184	201	230	
42	46	82	92	122	139	162	185	202	231	
43	47	83	94	123	140	163	186	203	232	
44	48	84	95	124	141	164	187	204	233	
45	50	85	96	125	142	165	188	205	234	
46	51	86	97	126	143	166	189	206	235	
47	52	87	98	127	144	167	190	207	237	
48	53	88	99	128	145	168	191	208	238	
49	54	89	100	129	146	169	193	209	239	
50	55	90	101	130	147	170	194	210	240	
51	56	91	102	131	149	171	195	211	241	
52	58	92	105	132	151	172	197	212	243	
53	59	93	106	133	152	173	198	213	244	
54	61	94	107	134	153	174	199	214	245	
55	62	95	108	135	154	175	200	215	246	
56	63	96	109	136	155	176	201	216	248	
57	64	97	110	137	156	177	202	217	249	
58	65	98	111	138	157	178	204	218	250	
59	66	99	112	139	158	179	205	219	251	
60	67	100	113	140	160	180	206	220	252	
61	68	101	114	141	161	181	207	221	253	
62	69	102	116	142	162	182	208	222	254	
63	70	103	117	143	163	183	209	223	255	
64	72	104	118	144	164	184	210	224	256	
65	73	105	119	145	165	185	211	225	257	
66	74	106	120	146	166	186	212	226	259	
67	75	107	121	147	167	187	213	227	260	
68	76	108	122	148	168	188	215	228	261	
69	77	109	123	149	169	189	216	229	262	
(1) For descriptions of Antelope Valley Production Area and Delivery Zones, see Pages 33-V to 33-V-22, inclusive.										
o (E) Expires with o Change) o Increase) Decision No. 82000 o Reduction)										
EFFECTIVE										
Correction ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.										