

ORIGINAL

Decision No. 82809

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 relat-  
ing to the transportation of sand,  
rock, gravel and related items  
(commodities for which rates are  
provided in Minimum Rate Tariffs  
Nos. 7 and 17-A).

Case No. 5437  
Petition for Modification  
No. 243  
(Filed March 23, 1973)

Bryan Aleksich, Attorney at Law, for California  
Dump Truck Owners Association, petitioner.  
E. O. Blackman, for Harrison Nichols Co.,  
respondent.  
Russell & Schureman, by Carl H. Fritze, Attorney  
at Law, for Allyn Transportation Co.; A. J.  
Eyraud, Jr., for Asbury System; George G.  
Cross, for Bulk Transportation; W. T. Meinhold,  
R. W. Smith, and A. D. Poe, Attorneys at Law,  
and Herbert Hughes, for California Trucking  
Association; protestants.  
Otha Brooks, for Shell Oil Co.; G. R. Gunter, for  
Great Lakes Carbon Corp.; G. L. Burke, by  
James C. Hazzard, for Atlantic Richfield Co.;  
T. W. Anderson, for General Portland, Inc.,  
California Division; and R. Ralph Grago, by  
E. O. Blackman, for Associated Independent  
Owner Operators; interested parties.  
Frank M. Nyulassy and Leonard Diamond, for the  
Commission staff.

O P I N I O N

This matter was heard August 15 and 16, 1973 before Examiner  
Thompson at Los Angeles and was submitted on briefs December 10, 1973.

By this petition California Dump Truck Owners Association (CDTOA) requests the addition of "petroleum coke in bulk" to the list of commodities set forth in Items 130, 131, and 320 of Minimum Rate Tariff 7 (MRT 7).<sup>1/</sup> The effect of this request is to have the distance rates and hourly rates provided in MRT 7 be the minimum rates for the transportation of petroleum coke (petcoke) in bulk in dump trucks. At present the transportation of petcoke in bulk, or in packages, is subject to the minimum rates prescribed by the Commission in Minimum Rate Tariff 2 (MRT 2).<sup>2/</sup>

Petcoke is one of the many products of the crude petroleum refining process. According to the testimony, following the fractionation in which the higher distillates are removed from the petroleum the refiner has the choice of processing the residue for fuel oil, asphalt, or petcoke. The petroleum processed by California refiners ordinarily has a high sulfur content so that in recent years, because of strictures against air pollution, production of fuel oil by these refiners has decreased in proportion to the production of asphalt and petcoke. Following removal from the refining process, petcoke is broken into sizes not exceeding lumps of four inches. This is to accommodate transportation by pipeline and also because of marketing requirements. Raw petcoke is essentially carbon, water, and a small amount of other matter. Most raw petcoke from California refiners has been, and still is, exported through ports in the

---

<sup>1/</sup> On January 19, 1974 Minimum Rate Tariff 7-A superseded MRT 7. Because of the conclusion reached herein it is not necessary to reconcile the request of petitioner in terms of lists of commodities and items in Minimum Rate Tariff 7-A.

<sup>2/</sup> The transportation of petroleum coke in bulk by hopper bottom dump trucks may be subject to the vehicle unit rates in Minimum Rate Tariff 15 (MRT 15) provided the requirements of that tariff are met.

Los Angeles-Long Beach area and in the San Francisco Bay area. Until 1973 the large portion of raw petcoke in intrastate commerce was to calcining plants where the material is reduced to a powder. The calcined petcoke is utilized in the manufacture of electrodes, most of which are cathodes used in the production of aluminum. Because of the energy shortage in 1973 the market for raw petcoke as a fuel expanded. Raw petcoke is marketed generally in three sizes: fines, granular, and lump. The refineries in California produce approximately 38 percent of the national production of petcoke, and approximately 80 percent of the statewide amount is produced at refineries in the Los Angeles Basin. Petcoke enters the marketplace via calciners, which usually call themselves carbon companies, and by brokers. Many of the marketers are subsidiaries or affiliates of the refiners.

From the evidence it appears that in the Los Angeles Basin Territory the major highway carriers of petcoke have been Allyn Transportation Co. (Allyn), Asbury Transportation, and Bulk Transportation. Most of the petcoke transported by these carriers moves under interstate rates, rates authorized by the Commission under the provisions of Section 3666 of the Public Utilities Code, or under vehicle unit rates prescribed in MRT 15. A fairly sizable amount of traffic, however, is transported by them at the rates prescribed in MRT 2.

There are some differences in the testimony regarding the motivations and circumstances underlying the filing of the petition herein. Giving full credence to all of such testimony it would appear that at a time unspecified, within the past year or so, Kaiser Steel Company at Fontana became interested in using raw

petcoke in the manufacture of steel. A number of suppliers were considered and a contract calling for delivery of about 200 tons per day was entered into with Continental Ore Corporation (Continental).<sup>3/</sup> Allyn is one of four "house carriers" of Kaiser Steel and has yard and office facilities adjacent to the Fontana mill. Allyn indicated its interest in performing the transportation to the general manager of Kaiser Steel. When the contract was awarded to Continental for the sale of the petcoke F.O.B. mill at Fontana, Allyn indicated to Continental that it would be willing to perform the transportation at vehicle unit rates in MRT 15 until it could obtain experience which would permit a cost analysis, after which it would undertake to obtain authority from the Commission under Section 3666 of the Public Utilities Code to transport the shipments at a rate per ton based upon such costs plus a reasonable profit. Continental decided to utilize transportation by railroad, assertedly at the direction of Kaiser. Continental at Wilmington and Kaiser at Fontana are both served by The Atchafson, Topeka and Santa Fe Railway Company and by Southern Pacific Transportation Company. Continental used the services of both railroads but because of car shortages was unable to obtain sufficient rail cars from either or both railroads for the movement necessary for Kaiser's utilization of 200 tons daily. The western regional manager of Continental persuaded Kaiser to permit the shipments to be moved by highway carrier. Assertedly, Kaiser consented, but reluctantly, because its facilities for storage of petcoke is limited to 600 tons,

---

<sup>3/</sup> Continental Ore Corporation is the parent company of Wilson Carbon Corporation and Continental Coke Corporation. During the proceeding the names of the three companies were used by the parties interchangeably. For purposes here we will consider the three corporations collectively as Continental.

or three days' supply. Continental's manager then engaged the services of what he called highway carrier owner-operators with tractors and hopper bottom dump semitrailers and trailers.<sup>4/</sup> Although Item 200 of MRT 2 authorizes the alternative use of rail carload rates for the transportation of the same kind of commodity between the same points, the carload rates which had been assessed Continental by the railroads were not suitable nor available to the movement by highway carrier because the rate was subject to a minimum weight of 1,000 tons which had to be shipped at one time and the facility at Kaiser will accommodate only 600 tons maximum at one time. There are rail carload rates subject to minimum weights of less than 1,000 tons but they are much higher than Continental is willing to pay for delivery F.O.B. mill under its contract with Kaiser.

According to his testimony, on or about March 11, 1973, the manager of Continental engaged highway carriers to transport petcoke from Wilmington to Kaiser at a rate of \$2.61 per ton, which was apparently the rate for distances over 60 but not over 65 miles prescribed in MRT 7; however, records were maintained to assure

---

<sup>4/</sup> The manager defined owner-operator as a man that owns only one truck, or complete rig, and drives it himself (RT 46). His statement or his definition is at variance with the evidence which discloses that he has engaged four units operated by Allyn (RT 47 and RT 143), and that he engaged the services of his brother-in-law who owns one tractor and two complete sets of trailing equipment.

protection of the monthly vehicle unit minimum rates prescribed in MRT 15.<sup>5/</sup> The revenues earned by the carriers exceeded the charges required under MRT 15. The manager stated that he prefers the rates in MRT 7 over the rates in MRT 15 even though it cost Continental more because,

"...we have been fortunate until now. For example, (were) Kaiser to shut down for a week for some reason, not be able to take delivery of material, we would still be obligated through our monthly rates on trucks, we wouldn't absorb them somewhere else, why, that would in effect be raising our cost per ton."

The manager stated that he considered having highway carriers obtain authority from the Commission under Section 3666 to charge a reasonable rate per ton for the movement but elected not to do so because he had already decided to use individual owner-operators for the haul. These operators would have problems in establishing operating records in order to individually obtain the authorities. He was also aware that the market of petcoke for fuel was expanding and was desirous of having the tonnage rates in MRT 7 available to him for movements resulting from sales to new customers. He discussed that possibility with the general manager of petitioner who, after consulting with the president and other members of the board of directors of petitioner, filed this petition.

---

<sup>5/</sup> The testimony of the manager provides an inference that the carriers engaged by him under that arrangement may have disregarded or disobeyed minimum rate orders promulgated by the Commission. This proceeding looks only towards the establishment of minimum rates for the future. In any event, the evidence of record, as a whole, does not support the findings necessary for a conclusion that the carriers were in violation of Sections 3664, 3667, or 3668 of the Public Utilities Code.

Evidence in support of the petition consists of the testimony of the regional manager of Continental, who formerly had transported petcoke as a highway permit carrier, the general manager of petitioner, and two highway permit carriers engaged by Continental. Their testimony consists of assertions that there is no movement of petcoke at the rates named in MRT 2, that the aforesaid rates are too high to move the traffic, that the shipments of petcoke move in identical vehicles as does sand and aggregates, that the conditions of loading and unloading petcoke, sand, and aggregates are the same, and that the costs of transporting petcoke are the same or substantially the same as transporting sand and other commodities for which tonnage rates and hourly rates are prescribed in MRT 7. Petitioner argued that under such circumstances the minimum rates in MRT 7 would be the just, reasonable, and non-discriminatory minimum rates for the transportation of petcoke in dump truck equipment.

Protestants presented the testimony of one shipper and the three major carriers of petcoke in the Los Angeles area. The witnesses testified that there are major movements of petcoke at rates named in MRT 2, that the vehicles used in transporting petcoke have appurtenances different from those transporting materials subject to the rates in MRT 7, that conditions of loading and unloading petcoke are different, that the cost of transporting petcoke is greater than the cost of transporting commodities for which rates are named in MRT 7, and that economic and commercial considerations with respect to petcoke are different from the considerations regarding materials transported under MRT 7.

The fact that the witnesses for petitioner were personally familiar only with the circumstances surrounding the transportation of petcoke for short distances to or from the Los Angeles harbor area, and that they are concerned primarily with the Wilmington-Kaiser haul, contributed to the conflict in the evidence regarding

the circumstances under which petcoke is transported. Other than a reference by petitioner that, from the end of World War II until March 1973, one of the only two intrastate petcoke movements subject to the Commission's minimum rate regulations was transportation from Union Oil Refinery in Contra Costa County to a calcine plant five miles away, there is no evidence concerning the circumstances of the transportation of petcoke by highway carriers from refineries and calcine plants in the San Francisco Bay area. It is within the Commission's knowledge that there is other transportation of petcoke by highway carriers in that area. We take official notice of Decision No. 68218 in Application No. 46638 and Decision No. 77624 in Application No. 51744.

With respect to the contentions of petitioner and protestants that the rates prescribed in MRT 7 are or are not suitable and reasonable for the transportation of petcoke in dump truck equipment, it is necessary to determine just what transportation conditions and other considerations form the basis of the rates prescribed therein. For that purpose, we take official notice of the decisions of the Commission establishing said minimum rates including, among others, Decisions Nos. 28274, 28625, 28836, 29172, 32566, 33647, 40714, 62376, and 73544. Following the enactments of the Highway Carriers' Act and City Carriers' Act in 1935, the Commission established minimum rates for dump truck transportation of the following commodities: sand, rock, gravel, excavated material, and/or road building material. The rates so established approximated the hourly rates in National Recovery Act codes at the time. Approximately six months thereafter it was shown that there was considerable transportation of those commodities in dump trucks where it had been the custom in southern California to assess rates on a tonnage basis rather than on an hourly basis and that there were certain distinguishing factors connected with such transportation, such as high use factors and proprietary competition, which justified a low level of minimum rates. At that time, tonnage rates and zone rates



were established for southern California. Particularly involved were decomposed granite and asphaltic concrete products from production plants. In 1939, following investigations and studies by the Commission staff and public hearings, the Commission by Decision No. 32566 established minimum rates for transportation of certain commodities in dump trucks in City Carriers' Tariff No. 6 and Highway Carriers' Tariff No. 7 (subsequently renamed Minimum Rate Tariff 7). There is no discussion in that decision regarding the selection of commodities that were to be subject to that minimum rate tariff; however, it is apparent from the discontinuance of the terms "excavated material", "road building material", and "rock", as well as the selection of commodities that were listed in the tariff, that there was an effort made to include all commodities that had been moving in dump truck equipment that could have been subject to the prior minimum rates prescribed for sand, rock, gravel, excavated material, and/or road building material. In addition, there was included mud and mud compounds used in oil well drilling, debris from street or highway maintenance or from demolition of buildings, manure, fertilizer, and cement clinker. Except for the last three commodities mentioned, all of the listed commodities are unprocessed materials of mines or quarries, are materials used in mining for petroleum, or are nonmetallic materials involved in construction. Manure and fertilizer were subsequently removed from the application of the minimum rate tariff. Cement clinker is still listed as one of the commodities subject to the rates in MRT 7. At this time we are not aware of why the minimum rates in the dump truck tariff were made applicable to cement clinker nor are we aware of any present day movement of cement clinker in dump trucks.

Since 1939 there have been a number of additions to and deletions from the list of commodities to which the rates in the minimum rate tariff were made applicable. With a few exceptions, which will be discussed later, the added commodities come within

the categories of mining, building, paving, and construction materials, except cement or liquids, in bulk.

The exceptions, referred to hereinabove, are cement clinker, cullet, fodder, and mill scale. We have already stated that we are not presently cognizant concerning the circumstances regarding cement clinker. Cullet was included as a commodity subject to the dump truck rates by Decision No. 40714. The petitioner therein stated that manufacturers of glass normally made cullet at their own plants, that petitioner was the only known manufacturer of cullet that sold the product to glassmakers. Petitioner used carriers with dump trucks to transport cullet from its plant to the plants of the glass manufacturers. Petitioner and the carriers performing the transportation believed the rates established for dump truck hauling would be reasonable for the transportation and desired that those rates be made applicable. There were no protests. In granting the petition the Commission stated, "It does not now appear that cullet will be regularly transported in dump trucks except between the particular points in Los Angeles County hereinbefore described."

Fodder was made subject to the rates in MRT 7 by Decision No. 62376 dated August 1, 1961 in Petition No. 75. The decision, issued without hearing, recites that California Farm Bureau Federation, the petitioner therein, states that its members produce fodder which is used in the making of silage, the principal ingredients being chopped green corn and sorghum grain plants, that silage is a comparatively new type of roughage feed for livestock which is in the experimental stage and is being studied by universities, and that dump trucks are being used to transport the fodder from points of production to the silage facilities. It was asserted that producers are operating with a very slim profit and that it is imperative that just and reasonable freight rates be established which will allow them to stay in business. There were no protests and the Commission granted the petition. We do not know at this

time whether the experiment in the use of silage as a roughage feed for livestock proved successful and that fodder is being transported at those rates.

Mill scale was included in MRT 7 by Decision No. 64604 in Petition No. 87. The decision, which was issued without hearing, asserts that petitioner, Kaiser Aluminum and Chemical Corporation, utilized its own dump truck equipment to transport dead-burned dolomite from its Natividad facility to various destinations, including Emeryville, San Francisco, Niles, and Los Angeles and hauled mill scale from the above-named destination points to its facility at Natividad for use in the production of refractory material. Petitioner asserted that it desired to utilize for-hire dump truck carriers to replace its proprietary hauling and that no other "for-hire" carriage would be replaced by its use of dump truck carriers. There were no protests.

Review of proceedings involving MRT 7 shows that the inclusion of cullet, fodder, and mill scale as commodities subject to the minimum rates therein was based upon unusual circumstances surrounding the transportation which would have justified establishment of special rates under Section 3666 of the Public Utilities Code or the establishment of commodity rates for the particular movements. The application of the rates in MRT 7 to that transportation merely provided simple solutions to singular problems and in no way had any effect upon other transportation. Review of prior decisions shows that the circumstances of transportation of cement clinker, cullet, fodder, and mill scale have never had any influence upon the levels of the zone rates, distance rates, or hourly rates maintained in MRT 7.

In 1969, in enacting Article 4.3 of Division 2 of the Public Utilities Code (Statutes 1969, Chapter 1004), the legislature stated,

"The transportation for compensation over any public highway in this state of mining, building, paving and construction materials, except cement or liquids, in bulk in dump truck equipment is declared to be a highly specialized type of truck transportation. This article is enacted for the limited purpose of providing necessary regulations for this specialized type of truck transportation only, and is not to be construed for any purpose as a precedent for the extension of such regulation to any other type of transportation."<sup>6/</sup>

Review of the decisions in the establishment of the minimum rates in MRT 7 discloses that not only is the transportation described by the legislature a highly specialized type of truck transportation, but the form and levels of the minimum rates are directed to, and reflect, the particular operating conditions and competitive circumstances surrounding that specialized transportation. For example, that transportation is typically a relatively short-haul movement with a substantial portion thereof not on the regular system of highways (on what are commonly called haul-roads within a construction project). The distance rates in MRT 7 apply to actual miles, rather than to constructive miles because of that circumstance.

We now consider the transportation characteristics of petcoke. Calcined petcoke is a black powdery substance that must be kept dry in transit. For that reason, as well as the fact that its smudgy nature makes it an undesirable air pollutant, it requires dust inhibiting loading devices and covers while in transit. Trail-ing equipment used for transporting calcined petcoke ordinarily is not used by carriers for transporting any other commodities. The transportation characteristics of calcined petcoke appear to be more similar to those of portland cement and flue dust in bulk rather

---

<sup>6/</sup> Section 3610, Public Utilities Code.

than the commodities subject to MRT 7. Calcined petcoke has a value of about \$25 per ton at point of origin. It has a density of about 52 pounds per cubic foot. It is transported both in long- and short-haul movements.

Raw petcoke is sold and transported as fines, granular, lump, and pile run. It has a density of between 44 and 50 pounds per cubic foot and a value at origin of about five to seven dollars per ton. In southern California raw petcoke is mainly stockpiled in the Los Angeles harbor area, because a large volume of that commodity is exported through the port and because the calcining plants are located in that area. There is a large volume of truck movements of petcoke in the harbor area, much of which is transported by Allyn Transportation Co. and Asbury Transportation. Those carriers have had constructed hopper-bottom dump semitrailers and pull trailers especially modified for the hauling of petcoke. The modifications whereby the equipment differs from that used in transporting sand and aggregates consist of permanently or semipermanently installed aluminum risers, a different angle of fall in the hopper, and seals on the gates where the loads are discharged. In some instances air jets have been installed at the gates to blow away any petcoke dust. Some of the shippers operate their own equipment, which generally have the modifications just mentioned. Allyn and Asbury engage subhaulers to supplement their own equipment in the hauling of petcoke. They inspect the equipment of those carriers and engage only carriers that have hopper equipment that can transport petcoke without spillage. The reason is that they are members of a task force that includes shippers, a stevedoring company, and public officials concerned with the elimination of dust and spillage of petcoke at Long Beach harbor. The task force is monitored by the Air Pollution Control District and the Water Resources Board. Parties involved in the loading, unloading, or transportation of petcoke at the harbor have been notified that unless spillage and

dust is controlled they will be cited for creating a nuisance and will be given a cease and desist order by the Air Pollution Control District. As a result thereof, stockpiles of petcoke are moistened. The commodity is loaded onto trucks either by front-end skiploader or by bunker. The vehicles and the load are then given a shower bath and the truck is driven over a berm so that any loose petcoke is shaken off the equipment. The shower bath causes the top layer of the petcoke to form a crust. The load can be transported at least 70 miles without throwing dust because of that crust and the dampness of the load. For shipments of raw petcoke over 100 miles the loads ordinarily are covered. At destination points the loads are discharged through the bottom gates into a grizzly. After unloading, the vehicles are washed to remove dust and petcoke from the equipment.

Raw petcoke is transported from Santa Maria, Bakersfield, and points in Contra Costa County as well as Los Angeles. Bulk Transportation has participated in that traffic, particularly the long-haul traffic. It utilizes both end-dump and hopper-bottom equipment which have been modified so as to maintain a tightly sealed body and gates. For example, the end-dump equipment has air operated tail gates lined with a rubber base. Although this carrier is engaged in transporting aggregates, earth, debris, salt, and many other commodities in bulk, those trailers are never used to transport aggregates, debris, earth, or salt. They are occasionally used for transporting chemical fertilizer or grain feeds as back-hauls from outbound petcoke transportation but only if the equipment can be thoroughly cleaned following the delivery of the petcoke. The carrier does not use the equipment for transporting other commodities because of the possibility of damaging the rubber lining of the gates which is very costly to replace. Bulk Transportation has domed hopper equipment which is somewhat larger than domed hopper-bottom dump vehicles used in cement transportation. That equipment is used only for petcoke transportation. This carrier's petcoke transportation consists of what it terms individual hauls; that is they do not

involve continuous day-to-day movements between an origin and destination. It averages about 25 shipments of petcoke per month and assesses the class rates in MRT 2 for each individual shipment. Some of the hauls are for 410 miles.

It is apparent that petitioner believed that the Wilmington-Fontana haul is the only transportation of petcoke subject to rates provided in the minimum rate tariffs and based its case for the reasonableness of the distance rates and hourly rates in MRT 7 to the transportation of petcoke upon the circumstances of that haul. The basic assumptions of petitioner have been shown not to be correct. It may be that the tonnage rate provided in MRT 7 for transportation of sand in dump truck equipment for distances over 60 miles, but not over 65 miles, is reasonable for the hauling of petcoke from Continental to Kaiser; however, that is not the issue here and a finding to that effect would require a showing in that regard.

We find that:

1. Petcoke is a product of the refining of petroleum and is not in the category of mining, building, paving, or construction material.
2. Except as to cement clinker, cullet, fodder, and mill scale, the minimum rates in MRT 7 apply only to the transportation of mining, building, paving, and construction materials in bulk in dump truck equipment.
3. The inclusion of cullet, fodder, and mill scale as commodities subject to the minimum rates in MRT 7 resulted from unusual and singular circumstances involving the transportation of those commodities and a determination by the Commission that such action would not have any effect upon other transportation; and the circumstances and conditions of the transportation of cement clinker, cullet, fodder, and mill scale have not influenced the level of the rates in MRT 7 governing the transportation of mining, building, paving, and construction materials.

4. The transportation of commodities in bulk in dump truck equipment, other than those stated above which are subject to the provisions of MRT 7, is subject to the provisions of other minimum rate tariffs, including, but not limited to: MRT 10 (Cement), MRT 14 (Grain), MRT 15 (Vehicle Unit Rates), and MRT 2 (All other commodities, including petcoke, salt, and chemicals).

5. The transportation of mining, building, paving, and construction materials, except cement or liquids, in bulk in dump truck equipment is a specialized type of transportation with particular circumstances of operation, carrier competition and market competition, which circumstances are reflected in the rates and rules in MRT 7.

6. Calcined petcoke has transportation characteristics distinguishing it from raw petcoke in that it must be protected from moisture and against blowing and spillage during loading, unloading, and while in transit. This protection is more stringent than that needed for commodities moving under MRT 7. The circumstances and conditions of the transportation of calcined petcoke are different from, and not at all similar to, the transportation of mining, building, paving, and construction materials, except cement, in bulk in dump trucks.

7. Raw petcoke has weight densities and values approximating some of the commodities listed in MRT 7 under the category of light-weight aggregates.

8. The circumstances of loading raw petcoke, particularly the requirements necessary to prevent pollution, are different from the typical circumstances involving the loading of mining, building, paving, and construction materials, except cement, in bulk in dump trucks.



9. The construction and appurtenances of the vehicles, other than tractors, necessary for the safe and efficient transportation of raw petcoke are different from those typically used, and typically required, for the transportation of commodities for which rates are prescribed in MRT 7; and vehicles used in the transportation of raw petcoke may not be used in the transportation of other commodities without thorough cleansing nor may they be utilized at any time for transportation of any mining, building, paving, or construction materials that could damage the seals and other appurtenances necessary for the safe transportation of raw petcoke.

10. Raw petcoke does move in California intrastate commerce at the minimum rates prescribed in MRT 2 over a wide range of distances and the transportation is performed over the streets and highways of this State. Transportation of petcoke is not performed on haul roads at mining, building, paving, or construction sites.

11. The transportation of petcoke over the public highways of this State is performed typically and usually by highway carriers that own and operate several units of equipment and not by individual carriers owning and operating one unit of equipment.

12. It has not been shown that the special circumstances of operation, including operating costs, carrier competition, and market competition, involved in the transportation of mining, building, paving, and construction materials for which minimum rates are prescribed in MRT 7 obtain in connection with the transportation of petcoke in bulk in dump truck equipment.

13. The general application of the rates provided in MRT 7 to shipments of petcoke would result in substantial reductions in the minimum rates prescribed for intrastate transportation of that commodity and would have an adverse effect upon the carriers engaged in the transportation of petcoke.

14. It has not been shown that the distance rates and hourly rates provided in MRT 7 are, or would be, the just, reasonable, and nondiscriminatory minimum rates for the transportation of petcoke, in bulk, in dump truck equipment between points in this State.

We conclude that the petition should be denied.

O R D E R

IT IS ORDERED that Petition for Modification No. 243 is denied.

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

Dated at San Francisco, California, this 30th day of APRIL, 1974.

William J. Sturgeon President  
[Signature]  
[Signature]  
[Signature] Commissioners

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