

ORIGINAL

Decision 84 12 059 DEC 19 1984

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation)
for the purpose of considering and)
determining minimum rates for)
transportation of sand, rock,)
gravel, and related items in bulk,)
in dump truck equipment between)
points in California as provided in)
Minimum Rate Tariff 7-A and the)
revisions or reissues thereof.)

Case 5437, OSH 213

And Related Matters.

Case 9819, Pet. 71

Case 9820, Pet. 23

SUPPLEMENTAL OPINION

Governor Deukmejian signed into law Senate Bill (SB) 2082 (Lockyer) on September 26, 1984. This bill adds Section 7103.6 to the Business and Professions Code relating to contractors. The new law, effective January 1, 1985, addresses payment of transportation charges by licensed contractors to dump truck carriers.

The present rules in Minimum Rate Tariffs (MRTs) 7-A, 17-A and 20 relating to collection of charges by carriers extends credit to debtors for a period not to exceed the fifteenth day following the last day of the calendar month in which the transportation was performed, subject to the carriers submitting freight

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bills to the debtors within 5 days (4 days in MRT 17-A) after the last day of the calendar month in which the transportation was performed. MRT 17-A excludes Sundays and legal holidays other than Saturday half-holidays.

The existing rules in the tariffs conflict with the new law which states that licensed contractors are required to pay transportation charges, submitted by dump truck carriers who performed transportation relating to all private works of improvement and to all public works of improvement, by the twentieth day following the last day of the calendar month in which the transportation was performed. Also, dump truck carriers must submit their charges, including all necessary documentation, by the fifth day following the last day of the calendar month in which the transportation was performed and payment shall be made in the described manner unless otherwise agreed to in writing by the parties and subject to the approval of the Public Utilities Commission.

The conflict between the present tariff rules and the new law will be resolved by incorporating the provisions of SB 2082 in the rules for collection of charges in MRTs 7-A, 17-A and 20.

Findings of Fact

1. The present credit rules in MRTs 7-A, 17-A and 20 require payment by debtors to carriers within fifteen days following the last day of the calendar month in which the transportation was performed.

2. The new law enacted under SB 2082 requires payment by licensed contractors to dump truck carriers within twenty days following the last day of the month in which the transportation was performed, when the transportation relates to private works of improvement and public works of improvement.

3. Amendments to the rules for collection of charges in MRTs 7-A, 17-A and 20 are required to implement the provisions of SB 2082, effective January 1, 1985.

Conclusions of Law

1. MRTs 7-A, 17-A and 20 should be amended to conform to the requirements of SB 2082.

2. Tariff pages reflecting necessary changes should be made effective January 1, 1985.

3. MRTs 17-A and 20 should be amended by separate orders to avoid duplication of tariff distribution.

SUPPLEMENTAL ORDER

IT IS ORDERED that:

1. MRT 7-A (Appendix B to Decision (D.) 82061, as amended) is further amended by incorporating Third Revised Page 14 and Third Revised Page 15, attached, to become effective January 1, 1985.

2. Common carriers subject to the Public Utilities Act, to the extent that they are subject also to D.82061, as amended, are directed to establish in their tariffs the necessary changes to conform with the further adjustments ordered by this decision.

3. Tariff publications required to be made by common carriers as a result of this order shall be filed not earlier than the effective date of this order and may be made effective not earlier than January 1, 1985, on not less than 5 days' notice to the Commission and to the public.

4. In all other respects, D.82061, as amended, shall remain in full force and effect.

5. The Executive Director shall serve a copy of this decision on every common carrier, or such carriers' authorized tariff publishing agents, performing transportation services subject to MRT 7-A.

6. The Executive Director shall serve a copy of the tariff amendments on each subscriber to MRT 7-A.

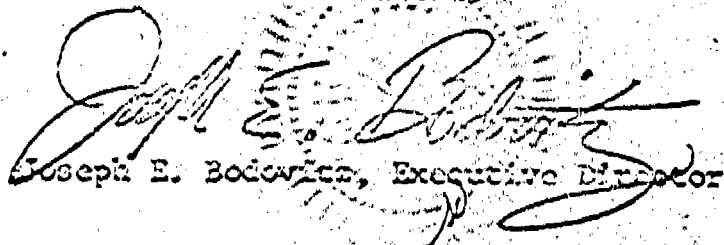
7. MRT 7-A (Appendix B to D.82061, as amended) is further amended as set forth above.

This order is effective today.

Dated DEC 19 1984, at San Francisco, California.

DONALD VIAL
President
VICTOR CALVO
PRISCILLA C. GREW
WILLIAM T. BAGLEY
FREDERICK R. DUDA
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.


Joseph E. Bodowick, Executive Director

SECTION 1--RULES (Continued)	ITEM
<p>CHARGE FOR TRACTOR AND DRIVER WITHOUT TRAILING EQUIPMENT (By Overlying Carrier)</p> <p>Except as provided in Note 1, charges to be paid by an overlying carrier to an underlying carrier furnishing a tractor and driver without trailing equipment, but towing trailing equipment furnished by the overlying carrier, shall be not less than 30 percent of the charges applicable under the minimum rates prescribed in this tariff. In assessing charges under the tonnage rates contained in Sections 2 and 3 of this tariff, the carrier furnishing the tractor and driver need not assess a charge for the amount of unladen weight of the trailing equipment when under load, nor assess a charge for the empty return movement.</p> <p>NOTE 1.--The overlying carrier shall be entitled to deduct from the charges to be paid under this item any amount that the overlying carrier is entitled to retain under the application of Item 210.</p> <p>NOTE 2.--An overlying carrier shall not require that an underlying carrier use trailers owned or controlled by the overlying carrier as a condition precedent to the engagement of the underlying carrier's service.</p>	<p>126</p>
<p>COLLECTION OF CHARGES**</p> <p>(For other provisions concerning payments of overlying carrier to underlying carriers, see also Item 210.)</p> <p>(a) Except as otherwise provided in this item, transportation and accessorial charges shall be collected by the carriers prior to relinquishing possession of property entrusted to them for transportation; said charges shall be collected in cash or in the form of valid checks, drafts or money orders.</p> <p>(b) Upon taking precautions deemed by them to be sufficient to assure payment of charges within the credit period herein specified, carriers may relinquish possession of the freight in advance of payment of the charges thereon and may extend credit in the amount of such charges to debtors for a period not to exceed the 15th day following the last day of the calendar month in which the transportation was performed, except as otherwise provided in this item.</p> <p>(c) Licensed contractors are required to pay transportation charges submitted by dump truck carriers who performed transportation relating to all private works of improvement and to all public works of improvement by the 20th day following the last day of the calendar month in which the transportation was performed, subject to paragraph (e), unless otherwise agreed to in writing by the parties and approved by the Commission.</p> <p>(d) Where the carrier has relinquished possession of freight and collected the amount of charges represented in a freight bill presented by it as the total amount of such charges, and another freight bill for additional charges is thereafter presented to the debtor, the carrier may extend credit in the amount of such additional charges for a period of 30 calendar days to be computed from the first 12 o'clock midnight following the presentation of the subsequently presented freight bill.</p> <p>(e) Freight bills for all transportation and accessorial charges shall be presented to the debtors within 5 days after the last calendar day of the month in which transportation was performed.</p> <p>(f) Debtors may elect to have their freight bills presented by means of the United States mail, and when the mail service is so used the time of mailing by the carrier, as evidenced by the postmark, shall be deemed to be the time of presentation of the freight bills.</p> <p>(g) The mailing by the debtor of valid checks, drafts, or money orders, which are satisfactory to the carrier, in payment of freight charges within the credit period allowed such debtor may be deemed to be the collection of the charges within the credit period for the purpose of these rules. In case of dispute as to the time of mailing, the postmark shall be accepted as showing such time.</p> <p>(h) This item is not applicable to charges for transportation performed for the United States, state, county or municipal governments.</p>	<p>2130</p>
<p>**</p> <p>Change } Addition } Decision No. 84 12 059 Eliminated }</p>	
<p>EFFECTIVE JANUARY 1, 1985</p>	
<p>ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.</p>	
<p>Correction</p>	

ITEM	SECTION 1--RULES (Continued)
140	<p style="text-align: center;">COLLECT ON DELIVERY (C.O.D.) SHIPMENTS</p> <p>1. A collect on delivery shipment, hereinafter referred to as a C.O.D. shipment, means a shipment upon which the consignor has attached, as a condition of delivery, the collection of a specific sum or sums of moneys by the carrier making delivery thereon and the return of said moneys to the consignor or other payee designated by the consignor.</p> <p>2. Every carrier handling C.O.D. shipments shall:</p> <ul style="list-style-type: none">(a) Establish and maintain a separate bank account or accounts wherein all moneys (other than checks or drafts payable to consignor or payee designated by consignor) collected on C.O.D. shipments will be held in trust until remitted to payee, except C.O.D. moneys which are remitted within five days after delivery.(b) Establish and maintain a record or records of all C.O.D. shipments in such manner and form as will plainly and readily show the following information with respect to each shipment:<ul style="list-style-type: none">(1) Number and date of freight bill.(2) Name and address of consignor or other person designated as payee.(3) Name and address of consignee.(4) Date shipment delivered.(5) Amount of C.O.D. moneys collected.(6) Date C.O.D. moneys remitted.(7) Check number or other identification of remittance to payee.(c) Collect the full amount of the C.O.D. moneys at the time C.O.D. shipments are delivered to the consignee and remit all such collections to consignor, or to other persons designated by the consignor on such shipments, promptly and in no event later than 10 days after delivery to the consignee, unless consignor instructs otherwise in writing. All remittances for C.O.D. shipments shall refer to or otherwise identify the C.O.D. shipment or shipments covered by the remittance.(d) Not accept checks or drafts (other than certified checks, cashier's checks, or money orders) in payment of C.O.D. charges unless authority has been received from the consignor.(e) Notify the consignor immediately if a C.O.D. shipment is refused or cannot be delivered because of circumstances beyond the carrier's control. In the event of such nondelivery, and pursuant to the consignor's instructions, the shipment shall either be returned to the consignor subject to double the outbound freight charges for the round-trip movement, or delivered to another consignee subject to the applicable distance rate, in addition to the original rate, from the point of nondelivery to the new destination. (See Note) <p>NOTE.--If hourly rates are applicable on deliveries involving C.O.D. shipments, such hourly rates shall supersede the rate otherwise provided for in this subparagraph.</p> <p>3. The bond prescribed in General Order No. 84-B shall not be required of carriers while engaged as independent-contractor subhaulers; carriers while engaged in transporting property for which rates are provided in Minimum Rate Tariff 7-A; carriers operating within lawfully established pickup and delivery limits as agents of a common carrier in the performance for such common carrier of transfer, pickup or delivery services provided for in the lawfully published tariffs of such common carrier.</p>
	<p>No change on this page. Decision No. 84 12 059</p>
	<p style="text-align: right;">EFFECTIVE JANUARY 1, 1985</p>
Correction	<p style="text-align: center;">ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.</p>

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Decision S4 12 059

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