

Decision 88 11 033 NOV 9 1988

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
MARCC

In the Matter of the Investigation)
for the purpose of considering and)
determining minimum rates for trans-)
portation of rock, sand, gravel and)
related items in bulk, in dump truck)
equipment in Southern California as)
provided in Minimum Rate Tariff 17-A)
and Southern California Production)
Area and Delivery Zone Directory 1,)
and the revisions or reissues)
thereof.)

NOV 14 1988

Case 9819
Petition for Modification 84
(Filed April 4, 1986)

Ronald D. Johnston, for California Asphalt
Pavement Association, petitioner.
Dwight Beavers, for Industrial Asphalt; James R.
Foote, for Associated Independent Owner
Operators, Inc.; James D. Martens, for
California Dump Truck Owners Association;
Dennie Reed, for California Carriers
Association; and Richard L. Sprinkel, for
Vernon Paving Company; interested parties.
Kenneth Koss, for the Transportation Division.

OPINION

This decision establishes permanent Zone Rates for the transportation of asphaltic concrete in 4- and 5-axle dump truck equipment in Southern California under Minimum Rate Tariff (MRT) 17-A. Such rates are now in effect on an interim, experimental basis. In order to close out the experiment and make the rates permanent, this decision resolves four issues concerning accessorial charges.

Issues Presented

The issues are:

1. Whether to increase the current charge for each 6 minutes of excess delay at destination from \$ 4.32 to \$5.33;
2. Whether to institute a new charge of \$3.50 for 6 minutes of excess delay at origin;
3. How and whether to compensate carriers who are requested to bring trailing equipment to the job, but are instead asked to operate without it. (An "unhooking" charge.)
4. Whether to continue to allow carriers and producers to agree to use hourly rates as an alternative to zone rates ("alternation").

Summary

The permanent rates will include the proposed increase in delay charges. We have also adopted a delay charge at origin. The unhooking charge is adopted, using the language agreed upon by the parties. It will be a flat charge of \$5.43.

The permanent zone rates will not allow alternation with hourly rates.

Background

The existing experimental zone rates were established by Decision (D.) 84-05-095 in Order Setting Hearing (OSH) 319 and OSH 59 in Cases (C.) 5437 and 9819. At the time that OSH was issued, minimum zone rates for transportation of this commodity in 2- and 3-axle dump trucks were provided by Sections 11 through 15 of MRT 17-A. However, transportation of the commodity in 4- and 5-axle equipment or in tractors with trailers was conducted only under hourly rates and rules in MRT 7-A. The use of the larger equipment to transport asphaltic concrete was a relatively recent development.

In D.84-05-095, the Commission stated (mimeo. p. 7):

"The Interim Rates should be at a level which will encourage their use, because the experiment will be unsuccessful if no actual

operating data is obtained which will aid in the development of permanent zone rates. From the evidence in this proceeding it is clear that the only proposal that will accomplish this is the proposal of CDTOA. The proposal of the staff appears to be so low that carriers would not realize a reasonable profit. The proposal of CCA would produce zone rates so high that shippers would choose the present hourly rates rather than use the interim zone rates."

The Commission found (Finding of Fact 5) the rate proposal sponsored by California Dump Truck Owners Association (CDTOA) to be the most reasonable except for its recommendation to impose delay charges at the point of loading. The Commission explained why it decided against an origin delay charge by remarking:

"Few delays occur at origin because of efficient loading procedures at asphalt plants".

The Commission consequently adopted rules which required accessorial charges only for delays at destination.

The provisions for delay at destination allow a carrier to be detained for up to 30 minutes (the so-called "free time") without charge; the carrier will be paid \$4.32 for each additional 6 minutes. At origin, however, there is no delay charge. The absence of a delay charge, in effect, allows the producer unlimited free time.

It should be noted that D.84-04-095 allowed the continued use of hourly rates as an alternative. Such alternation required only that carrier and producer enter into an agreement to use MRT 7-A hourly rates before the transportation was performed.

The decision provided that the interim rates would be effective for a two-year period. This period was chosen to allow a study period of one full hauling season plus an additional period to allow for preparation and presentation of evidence based on that

experience. At the end of the period, it was anticipated that the rates would automatically lapse unless carrier organizations sought and justified an order making them permanent.

On April 4, 1986, California Asphalt Pavement Association (CAPA) filed this petition because the interim rates were close to expiring; both CDTOA and California Carriers Association (CCA) protested, contending that rate levels were too low in general and that carriers were not being adequately compensated for delays.

The Commission extended the cancellation date for 90 days (D.86-05-037).

There was a meeting between CDTOA, CCA, the Association of Independent Owner-Operators (AIOO), and CAPA, which resulted in an agreement. Based on the agreement, the Commission issued a second interim opinion (D.86-08-073) which further extended the life of the interim rates until May 31, 1987. On April 27, 1987, a joint motion to extend time was filed by CDTOA, CCA, and CAPA. On May 29, 1987, the Commission issued another interim opinion (D.87-05-081) further extending the rates.

Characteristics of Zone Rates

Zone rates are useful for contractors.¹ They make it much easier to estimate the costs of moving commodities from producing plant to job sites. This predictability is a significant advantage to contractors who need to bid on jobs. Hourly rates, on the other hand, compensate carriers for delays at origin and destination as well as enroute. Since these delays are unpredictable, hourly rates put contractors at risk unless they make adequate allowance for delays when calculating a bid.

The zone rates now in effect are a compromise. They allow contractors to predict their transportation costs better than

¹ CAPA appears to be aligned with contractor interests.

hourly rates. Delays at origin or en route can be disregarded in calculating bids. While delays at destination still provide an element of unpredictability, only those lasting more than 30 minutes need to be considered.

Interim zone rates may address delays in three different ways:

1. The basic zone rates include allowances for average delays at both origin and destination. For example, the basic zone rates for transporting asphalt in 4- and 5-axle equipment are now set to compensate carriers for average loading times of 17 minutes for bottom dump equipment and 22 minutes for transfer equipment. A similar allowance is made for average delays at destination. Because of these allowances, a carrier experiencing shorter-than-average delay on a particular shipment would enjoy a windfall, unless it is offset by longer-than-average delays on other shipments.
2. The tariff may contain a "free time" provision, usually longer than the average delay. For example, the interim zone rates for transporting asphalt in 4- and 5-axle equipment allow the carrier to be delayed at destination for 30 minutes without charge; however, if such delay lasts longer, the carrier may collect \$4.32 for each 6 minutes of additional delay. If a particular delay is longer-than-average but less than 30 minutes, the carrier absorbs the added costs.
3. Where a delay charge is provided, it shifts the economic burden of delays that exceed the "free time" back to the shipper. MRT 17-A now provides such a charge at destination only. Since the interim zone rates do not provide a delay charge at origin, carriers now absorb all excess costs of longer-than-average loading delays, except to the extent that they are offset by windfalls from shorter-than-average loading delays at origin. Thus, the effect of omitting a delay charge at origin is the same as providing an unlimited amount of free time.

Position of the Parties

Petitioner CAPA wishes to have the experimental rates made permanent. It is willing to accept the rate increase, and the proposal for an unhooking charge. It is opposed to the proposal to institute delay charges at origin. It recommends that MRT 7-A hourly rates remain available as an alternative to zone rates.

The witness for Vernon Paving Company (Vernon) also opposed charges for delays at origin. He testified in favor of continuation of the hourly rate alternative.

CCA supports the proposals to increase rates and to require a flat payment for unhooking. CCA is strongly opposed to the continuation of hourly rates as an alternative to zone rates. CCA does not support CDTOA's proposal for delay charges at origin.

CDTOA is the proponent of delay charges at origin. It proposes to allow free time of 60 minutes; after that there would be a charge of \$3.50 for each 6 minutes of additional delay. It is also the proponent of the rate increase for delays at destination. (The current charge is \$4.32 for each 1/10th of an hour; the new charge would be \$5.33.) It supports the request for the unhooking charge. CDTOA argues that the alternation provisions should be allowed to lapse.

Hearing

Evidentiary hearings in this matter were held in Los Angeles on May 3, 1988 before Administrative Law Judge Gilman. During the hearing there was testimony by a witness for CAPA, one for Vernon, one for CCA, and one for CDTOA. The matter was taken under submission June 17, 1988 with a filing of a late-filed exhibit and briefs by CAPA, CDTOA, and CCA. The late-filed exhibit was the product of a workshop on tariff wording conducted by Staff at the request of the ALJ.

Discussion

Delay Charges at Destination

The current \$4.32 delay charge is based on the MRT 7-A hourly rate for transporting asphaltic concrete, less an amount for fuel costs. The existing delay charge does not allow for fuel on the assumption that little or no fuel will be consumed while vehicles are waiting to be unloaded.

CDTOA's proposed charge would recover 1/10 of the full MRT 7-A hourly charge for each six minutes of waiting. In effect, this increase would add an allowance for fuel cost to the current rates.

The record includes evidence that carriers may be required to move asphaltic concrete within a job site during a delay period. This evidence tends to refute the assumption that no significant amount of fuel will be consumed during delays at destination.

We find that the proposed rate gives due consideration to the real costs of delay, including fuel cost. (Public Utilities Code § 3662.) In addition, none of the parties oppose the increase. We therefore find that the proposed increase is just, reasonable, and non-discriminatory. We conclude that the rate increase should be granted.

Delay Charges at Origin

CDTOA contends that zone rates for this commodity and this class of vehicle are inherently unfair to truckers unless there is adequate compensation for delays, including delays at origin.

CAPA argues that some delays are unavoidable. It asserts that the tariff does not compensate producers or contractors for truck-related delays. It concludes it would be inequitable to compensate truckers for lost time when similar compensation is not available to those who pay for transportation. CAPA, supported by Vernon, also argues that a charge for loading delays would impose

extra record-keeping obligations on the producer. It further argues that there would be many situations where producers, contractors, and truckers would argue over who was responsible for chargeable time. As an alternative, CAPA suggests that CDTOA's concerns should be met by raising the basic rate to provide compensation for long delays. Finally, it suggests adopting this proposal would weaken the longstanding, mutually beneficial relationship between producers and carriers.

CCA does not wish carriers to charge for delay time at origin. It relies on CAPA's enforcement and its relationship arguments.

We adopt CDTOA's proposal partly because it allows 60 minutes of "free" delay at origin. Because the free period is so long, carriers will continue to absorb much of economic impact of longer-than-average delays at origin. Moreover, this feature of the proposal would minimize the number of incidents where producers might feel impelled to keep records. (We note that the tariff does not require producers to prepare or retain any records; under the tariff rules, they may if they wish rely solely on carrier records.) It should also minimize the number of disputes.

There is evidence that contractors and producers may collaborate to evade charges for destination delays. The technique is simple--if there is a difficulty at the job site, the contractor simply calls the producer and asks him to hold all trucks until he is ready to proceed. This evidence indicates that some form of origin delay charge is needed to deter evasion of destination delay charges.

CAPA and Vernon assert that any deficiency in carrier compensation for origin delays should be dealt with by raising the allowance for normal delays built into the current basic rate. This would, in effect, continue the present rate structure under which carriers are automatically compensated for the first few

minutes of delay but must bear all of the economic burden for extraordinary delays.

We disagree. Any rule that allows unlimited free time is prima facie unreasonable. Shippers should not be able to escape all responsibility for long lasting delays.

Raising the basic zone rate will compel all shippers to share the burden of very long delays. We prefer not to increase rates for all jobs to accommodate delays which are, almost by definition, atypical. We therefore, find that the basic level of rates should not be set high enough to compensate carriers for extraordinary delays at origin.

CAPA argues that the proposed rule would provide no protection against carrier-caused delay. As proposed by CDTOA, the new charge would not apply in the case of producing plant breakdown. No other exceptions are provided. This contrasts with the provision for destination delay charges which apply only to delays occurring "through no fault of the carrier..." (Item 180, MRT 17-A.)

There is some merit to CAPA's argument; we will, consequently, make the origin charge inapplicable to carrier-caused delays. We will use the wording quoted above; it has not, to our knowledge, produced a significant number of disputes about destination delays. We expect that it will minimize disputes over responsibility for delays at origin.

Because the 60 minutes of free time will make the charge applicable only in extraordinary circumstances, and because of the need to deter contractor/producer collusion to evade destination delay charges, we will adopt a new tariff item imposing a minimum charge for delays at origin not caused by plant breakdown or carrier acts or omissions.

The Unhooking Charge

All parties agree that a carrier who is called into service with trailing equipment is entitled to compensation if the producer or contractor decides to use the truck alone.

The charge will be a flat amount (\$5.43); it was derived from the difference between the hourly rate for a truck plus trailer or pup and the rate for a conventional 10-wheeler. It is intended to compensate the carriers only for the capital costs of the additional piece of equipment which has been called into service by the consignor.

Since the new charge is supported by all parties, and since it does not appear to be excessive in amount, it will be adopted.

Alternate Application - Zone and Hourly Rates

As noted above, the experimental rates allowed a carrier and a producer to agree to use hourly rather than zone rates for a specific job. D.84-05-095 anticipated that this alternative application provision would lapse, once the experiment was completed. However, CAPA, supported by Vernon, now seeks to have such a provision incorporated into the permanent zone rate structure.

CAPA, supported by Vernon, argues that there are some situations where hourly rates are better suited to the needs of both consignee and carrier. CAPA argues that the ability to use hourly rates should be built into the tariff rather than requiring the parties to file an application for a deviation. CAPA contends that using the deviation procedure to obtain special authority to use hourly rates is too cumbersome.²

² The Commission is currently considering a proposal to speed up and simplify deviation procedures in Case 5437, OSH 325 et al.

There are three arguments against alternation of hourly and zone rates. First, alternation is not available for other dump truck commodities. Second, in D.84-05-095 the Commission decided that alternation would be a permanent feature of zone rates. Third, alternation will generate enforcement problems. We agree in general with these arguments.

The evidence also indicates that only a small amount of traffic moves under the current alternation provisions. We therefore anticipate that ending alternation will affect only a few jobs. This prediction, by itself, indicates that the unusual jobs could most effectively be dealt with by individual deviation applications.

The witness for Vernon was asked to identify the characteristics of jobs which would merit a shift from zone to hourly rates. He responded that the answer to the question would depend on the location of the production facility in relation to the job site, traffic conditions and whether the job is done during the day or at night. None of the other parties offered evidence sufficient to identify the class of projects which need hourly rates.

Since the record does not enable us to identify the job characteristics which justify use of hourly rates, we can only defer such identification to individual deviation proceedings. Applicants for deviations will be expected to specify those characteristics of each particular project which allegedly call for the application of hourly rates.

Based on the above considerations, we determine that the permanent rates will not include alternative application of hourly rates.

The Transportation Division representative filed timely comments on the ALJ's Proposed Decision. It suggested text changes to clarify the intent of the decision, all of which have been adopted in our decision.

The Division comments also pointed out that the accessorial charges set forth in this decision for delays at origin and destination (proposed Items 170 and 180) and the trailer unhooking charge (proposed Item 120) are derived from the hourly rates now in place in Minimum Rate Tariff (MRT) 7-A. Should the rates in MRT 7-A be increased or decreased, the accessorial rates and charges named in this decision may also require adjustment. The relationship of these items to hourly rates is as follows:

MRT 17-A, Item 170 - Delays at origin beyond allowable time computed at \$3.50/one-tenth hour. This charge was determined by using the labor element now included in MRT 7-A and a cost developed for standing equipment.

MRT 17-A, Item 180 - Delays at destination beyond allowable time computed at one-tenth of the hourly rate named in MRT 7-A, Item 390 for each one-tenth hour.

MRT 17-A, Item 120 - Trailer unhook charge of \$5.43 determined by subtracting the MRT 7-A, Item 390 hourly 3-axle rate from the 5-axle rate.

CDTOA's comments recommended similar text changes.

Findings of Fact

1. Zone rates in MRT 17-A for transportation of asphaltic concrete in vehicle combinations having 4 or more axles should be made permanent, subject to the changes adopted in the following order.

2. The proposal for delay charges with 60 minutes of free time at origin would require carriers to continue to assume the economic burden of most delays.

3. Producers will not need to keep records, except when delays greatly exceed average delays.

3. Producers will not need to keep records, except when delays greatly exceed average delays.

4. Unless there is a charge for delay at origin, contractors and producers may be motivated to evade delay charges at destination.

5. Basic zone rates should not be increased to allow for extraordinary delays at origin.

6. A rate structure which allows unlimited free time for delays is prima facie unreasonable; carriers should not be required to assume all the economic burden of extraordinary delays.

7. A charge for origin delays should not apply to carrier-caused delays. The language used for this purpose should be the same as the parallel provision for delays at destination.

8. The proposed charge for delay at origin gives due consideration to the cost of an accessorial service.

9. An origin delay charge with a 60-minute free time allowance and no-carrier-fault clause is just reasonable and non-discriminatory.

10. The unhooking charge is non-controversial and is just reasonable, and nondiscriminatory.

11. Carriers may be required to move loaded vehicles at the job site. The accessorial charge for delays at destination should include an allowance for fuel.

12. The proposed increase in charges for delays at destination gives due consideration to the cost of an accessorial service and is just, reasonable, and non-discriminatory.

13. The record will not support a finding identifying the operating conditions which would justify application of hourly rates.

14. Abolishing alternative application of hourly rates impact only a few jobs and therefore will generate only a few deviation requests.

Conclusions of Law

1. The proposed increase in delay charges should be authorized.
2. The proposed new charge for delays at destination should be adopted.
3. A charge for unhooking should be adopted.
4. Alternation of zone and hourly rates should not become a feature of the permanent rates.

ORDER

IT IS ORDERED that:

1. Minimum Rate Tariff 17-A (MRT 17-A) (Appendix C to Decision 80578, as amended) is further amended by incorporating the attached revised tariff pages listed in Appendix A, to become effective on the first day of the first month following the effective date of this order.
2. In all other respects D.80578, as amended, shall remain in full force and effect.
3. The petition is granted as set forth above.
4. The Executive Director shall serve a copy of the tariff amendments on each subscriber to MRT 17-A.


This order becomes effective 30 days from today.

Dated NOV 9 1988, at San Francisco, California.

STANLEY W. HULETT
President

DONALD VIAL
FREDERICK R. DUDA
G. MITCHELL WILK
JOHN B. OHANIAN
Commissioners

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


Victor Weisser, Executive Director

APPENDIX A

LIST OF SUPPLEMENT AND ORIGINAL AND REVISED PAGES
TO MINIMUM RATE TARIFF 17-A

SUPPLEMENT 43
NINTH REVISED PAGE iii
ELEVENTH REVISED PAGE 1-4
EIGHTEENTH REVISED PAGE 1-5
ORIGINAL PAGE 1-5-A
SEVENTH REVISED PAGE 1-6-A
SEVENTH REVISED PAGE 1-8-A
TWELFTH REVISED PAGE 1-17
TWELFTH REVISED PAGE 1-18
FOURTH REVISED PAGE 15.1
FOURTH REVISED PAGE 15.2
FOURTH REVISED PAGE 15.3
FOURTH REVISED PAGE 15.4
FOURTH REVISED PAGE 15.5

(END OF APPENDIX A)

SUPPLEMENT 43

(Cancels Supplement 42)

(Supplements 6, 13, 27, 29 and 43 Contain All Changes)

TO

MINIMUM RATE TARIFF 17-A

NAMING

MINIMUM RATES AND RULES

FOR THE

TRANSPORTATION OF PROPERTY

IN DUMP TRUCK EQUIPMENT FROM

DEFINED PRODUCTION AREAS TO DESIGNATED DELIVERY ZONES

AND POINTS IN SOUTHERN CALIFORNIA

BY

HIGHWAY CONTRACT CARRIERS

AND

DUMP TRUCK CARRIERS

Decision

88 11 033

EFFECTIVE

APPLICATION OF SURCHARGE

Except as otherwise provided, compute the amount of charges in accordance with the rates and rules of this tariff and increase the amount so computed by two and two-tenths (2.2) percent. (See Exception)

**

For purposes of disposing of fractions under provisions hereof, fractions of less than one-half (1/2) cent shall be dropped and fractions of one-half (1/2) cent or greater shall be increased to the next higher whole cent.

EXCEPTION: The surcharge herein shall not apply to:

- *1. Paragraphs (b) and (c) in Item 120 - Application of Tariff--Rates;
- *2. Item 170 - Accessorial Charges (At Origin);
- *3. The additional charge in Item 180 when transportation is performed in 4- and 5-axle equipment - Accessorial Charges (At Destination);
4. Items 200 and 220 (Railhead-to-railhead charges only); and
5. Item 280 - Collect on Delivery (C.O.D.) Shipment.

THE END

* Change)
 * Addition)
 ** Expiration date for rates in)
 Sections 15.1, 15.2, 15.3,)
 15.4 and 15.5 eliminated)

Decision 88 11 033

TABLE OF CONTENTS (Concluded)	ITEM
<p> RULES (Continued) *Accessorial Charges (At Origin)----- Accessorial Charges (At Destination)----- Additional Charge for Service Performed on Saturdays, Sundays and Holidays----- Alternative Application of Common Carrier Rates----- Alternative Application of Combinations with Common Carrier Rates----- Application of Area-to-Point Rates----- Application of Other Minimum Rate Tariffs----- Application of Tariff--Carriers----- Application of Tariff--Commodities (Rock, Sand and Gravel)----- Application of Tariff--Commodities (Asphaltic Concrete, Cold Road Oil Mixture)----- Application of Tariff--Commodities (Decomposed Granite)----- Application of Tariff--Commodities (Slag)----- Application of Tariff--Exception Rates----- Application of Tariff--General----- Application of Tariff--Pages----- Application of Tariff--Rates----- Application of Tariff--Rates--San Diego County Origins----- Application of Tariff--Territories----- Area-to-Point Rates----- Bond Requirement----- Charge for Tractor and Driver without Trailing Equipment----- Charge for Tractor and Driver without Trailing Equipment (By Overlying Carrier)----- Collection of Charges----- Collect on Delivery (C.O.D.) Shipments----- Computation of Charges--Returned or Diverted shipments----- Computation of Charges for Shipments to Delivery Zones for Which Specific Zone Rates Are Not Provided----- Computation of Charges for Shipments to Destinations Outside of a System of Delivery Zones----- Computation of Distances----- Debris Cleanup----- Disposition of Fractions----- Issuance of Shipping Document----- Loss or Damage, Handling of Claims for----- Method of Determining Weight of Shipment----- Minimum Charge----- Payments to Underlying Carriers----- Rates for Dry Mixtures of Rock, Sand and Gravel (with or without Cement), in Batches----- References to Items and Other Tariffs----- Repairs or Replacements to Trailing Equipment----- Shipments, Mixed----- Shipments Transported in Multiple Lots----- Units of Measurement To Be Observed----- Unloading and Spreading Service----- TECHNICAL TERMS, Definition of----- </p>	<p> 170 180 210 200 220 3000 160 40 60 65 70 75 130 80 125 100 120 140 3020 240 250 255 260 280 300 320 340 360 390 390 400 190 420 440 460 480 500 515 518 520 540 560 20 </p>
<p> * Change) * Addition) Decision </p>	<p>88 11 033</p>
	EFFECTIVE
ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.	
Correction	

SECTION 1--RULES (Continued)	ITEM
<p align="center">APPLICATION OF TARIFF--CARRIERS</p> <p>Rates provided in this tariff are minimum rates, established pursuant to the Highway Carriers' Act. They apply for transportation of property by highway contract carriers and dump truck carriers, as defined in said Highway Carriers' Act, in bulk in dump truck equipment.</p>	40
<p align="center">APPLICATION OF TARIFF--COMMODITIES</p> <p>Rates in this tariff making specific reference to this item apply for the transportation of the following commodities:</p> <p>Asphaltic or cement concrete, crushed or recrushed;</p> <p>Rock, natural, crushed, chips, waste or dust (Subject to Notes 1 and 2);</p> <p>Sand;</p> <p>Gravel;</p> <p>Cement, in dry mixtures with the above commodities, in batches (Subject to Note 3).</p> <p>NOTE 1.--The term "rock", as used herein, includes stone.</p> <p>NOTE 2.--The term "rock", as used herein, does not include any rock or rocks, having a combined length and girth in excess of 65 inches per single rock.</p> <p>NOTE 3.--Rates in this tariff apply for the transportation of cement only when the volume of the cement does not exceed one-third of the volume of the shipment.</p>	60
<p align="center">APPLICATION OF TARIFF--COMMODITIES</p> <p>Rates in this tariff making specific reference to this item apply for the transportation of the following commodities (Subject to Notes 2 and 3):</p> <p>Asphaltic concrete;</p> <p>Cold road oil mixture;</p> <p>Cold liquid asphalt in containers not exceeding 5 gallons capacity per container (Subject to Note 1).</p> <p>NOTE 1.--Cold liquid asphalt will be transported under the provisions of this tariff, at rates which apply for the transportation of asphaltic concrete, when tendered for transportation with, and as part of, a shipment of asphaltic concrete, and when the quantity so tendered does not exceed 15 gallons per shipment.</p> <p>NOTE 2.--When these commodities are transported in trucks without trailing equipment, the rates in Sections 11, 12, 13, 14 and 15 will apply.</p> <p>NOTE 3.--When these commodities are transported in trucks with trailing equipment or tractors with trailers, the rates in Sections 15.1, 15.2, 15.3, 15.4 and 15.5 will apply.</p>	665
<p>Change) ** Expiration date and alternation) with hourly rates in Minimum) Rate Tariff 7-A eliminated)</p> <p align="right">Decision 88 11 033</p>	
EFFECTIVE	
<p>Correction ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.</p>	

SECTION 1--RULES (Continued)	ITEM
<p align="center">APPLICATION OF TARIFF--COMMODITIES</p> <p>Rates in this tariff making specific reference to this item apply for the transportation of the following commodity:</p> <p align="center">Decomposed Granite</p>	70
<p align="center">APPLICATION OF TARIFF--COMMODITIES</p> <p>Rates in this tariff making specific reference to this item apply for the transportation of:</p> <p align="center">SLAG, Blast Furnace and Open Hearth, air cooled (not expanded)</p>	75
<p align="center">APPLICATION OF TARIFF--GENERAL</p> <p>Rates in this tariff do not apply to the transportation of:</p> <ul style="list-style-type: none"> (a) Disaster Supplies, i.e., those commodities which are allocated to provide relief during a state of extreme emergency or state of disaster; and those commodities which are transported for a civil defense or disaster organization established and functioning in accordance with the California Disaster Act to ultimate point of storage or use prior to or during a state of disaster or state of extreme emergency. (b) Property of the United States or property transported under an agreement whereby the United States contracted for the carrier's service. (c) Property transported for a displaced person when the cost thereof is borne by a public entity as provided in Section 7262 of the Government Code. 	80
<p align="center">APPLICATION OF TARIFF--RATES</p> <p>Except as otherwise provided, the rates in this tariff are zone rates and area-to-point rates. The rates apply from all points of origin within the designated production areas to all points of destination within the designated delivery zones, and to specifically named delivery points.</p> <p>If any portion of a shipment is physically delivered into or beyond more than one delivery zone, the minimum rate for the entire shipment shall be that rate from point of origin to the highest rated point where physical delivery is made.</p> <p>EXCEPTION.--When any portion of a shipment is delivered into more than one zone, and when no portion of such shipment is physically delivered beyond the boundaries of streets which are the boundaries between the zones involved, the minimum rate for the entire shipment shall be the lower or the lowest of the applicable rates between point of origin and the zones into which delivery is made.</p>	100
<p align="center">APPLICATION OF TARIFF--RATES</p> <p>(a) When the transportation service is performed by 2-axle or 3-axle trucks with transfer type pull trailer or by 2-axle or 3-axle trucks with pup type trailing equipment and when in the course of accomplishing the delivery the operator disconnects and separates the trailer from the truck, the rate shall be thirty (30) cents per ton in addition to those rates provided for when transportation is performed at the rates in Sections 4, 5, 6, 7, 8, 9, 9.1, 9.2 and 10 in this tariff or at rates which are combined with such section rates.</p> <p>*** (b) When the transportation service is performed by dump trucks with transfer type pull trailers or with pup type trailing equipment and when in the course of accomplishing the delivery the operator disconnects and separates the trailer from the truck, the rate shall be sixty-eight (68) cents per ton in addition to those rates provided when transportation is performed at the rates in Sections 15.1, 15.2, 15.3, 15.4 and 15.5 of this tariff.</p> <p align="center">(Continued)</p>	120
<p>of Change ** Expiration date eliminated) Decision</p>	88 11 033
EFFECTIVE	
ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.	
Correction	

SECTION 1--RULES (Continued)	ITEM
<p data-bbox="527 283 1047 325">APPLICATION OF TARIFF--RATES (Concluded)</p> <p data-bbox="365 325 1112 546">*(c) When transportation by a truck with transfer trailer or pup trailer in combination has been ordered into service under rates in Sections 15.1, 15.2, 15.3, 15.4 and 15.5, and carrier is subsequently requested to unhook the truck from the trailer and work as a truck without trailing equipment under Sections 11, 12, 13, 14 and 15, a charge of \$5.43 per shipment shall be assessed as a compensation for the standing trailer unit.</p>	<p data-bbox="1356 388 1421 430">0120</p>
<p data-bbox="251 598 527 651">* Change) Decision * Addition)</p> <p data-bbox="592 577 803 630">88 11 033</p>	
<p data-bbox="1047 1785 1177 1816">EFFECTIVE</p>	
<p data-bbox="527 1837 1437 1890">ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.</p> <p data-bbox="194 1890 332 1921">Correction</p>	

SECTION 1--RULES (Continued)	ITEM
<p align="center">APPLICATION OF TARIFF--TERRITORIES</p> <p>Rates in this tariff apply for transportation from all points within the production areas to all points within the delivery zones described in Southern California Production Area and Delivery Zone Directory 1, and to specifically named delivery points as provided in Section 3 of this tariff. They apply also, to the extent specified elsewhere herein, for transportation from all points within said production areas to points outside of said delivery zones.</p>	140
<p align="center">APPLICATION OF OTHER MINIMUM RATE TARIFFS</p> <p>Except as otherwise provided, the rates in this tariff supersede, and apply to the exclusion of, rates applicable to the same transportation under other minimum rate tariffs of the Commission.</p> <p align="center">**</p> <p>For rates for the transportation of commodities in dump truck equipment, other than as provided in this tariff, see Minimum Rate Tariff 7-A or other tariffs, as the case may be.</p>	6160
<p align="center">ACCESSORIAL CHARGES (At Origin)</p> <p>In addition to the charges provided by Sections 15.1 through 15.5, when through no fault of the carrier the loading and release of carrier's equipment is delayed for more than 60 minutes, an accessorial charge of \$3.50 for each additional six (6) minutes (one-tenth of an hour) of delay shall be assessed. Delays shall be computed from required time of arrival or actual time of arrival, whichever is later. This charge shall not apply in the event of a breakdown of the producer plant.</p>	*170
<p align="center">ACCESSORIAL CHARGES (At Destination)</p> <p>In addition to the charges provided under Sections 11, 12, 13, 14, 15 and when, through no fault of the carrier, the unloading and release of the carrier's equipment after arrival at destination is delayed beyond the time allowance shown herein, a charge shown herein shall be assessed by the carrier for each six (6) minutes (one-tenth of an hour) or fraction thereof:</p> <p>Additional charges to the above sections shall be assessed for 2- and 3-axle equipment as provided in Item 90 of Minimum Rate Tariff 7-A (\$2.51, as amended).</p> <p>When transportation is performed by 2- and 3-axle dump truck equipment -- 30 minutes.</p> <p>*In addition to the charges provided under Sections **15.1, **15.2, **15.3, **15.4 and **15.5, and when, through no fault of the carrier, the unloading and release of the carrier's equipment, after the arrival at destination is delayed beyond the time allowance shown herein, a charge equal to one-tenth of the applicable hourly rate shown in Column M of Item 390, Minimum Rate Tariff 7-A, per unit of carrier's equipment (4- and 5-axle) shall be assessed for each six (6) minutes (one-tenth of an hour) or fraction thereof:</p> <p>When transportation is performed by dump truck and transfer trailer combination equipment -- 30 minutes.</p> <p>When transportation is performed by other than a dump truck and transfer trailer combination equipment -- 15 minutes.</p> <p align="center">(Continued)</p>	6180
<div style="display: flex; justify-content: space-between;"> <div> <p> 6 Change 0 Increase 0 Reduction ** Exception in Item 160 and expiration date in Item 180 eliminated </p> </div> <div> <p>Decision</p> </div> <div> <p>88 11 033</p> </div> </div>	
EFFECTIVE	
<p align="center">ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.</p> <p>Correction</p>	

SECTION 1--RULES (Continued)	ITEM
<p style="text-align: center;">CHARGE FOR TRACTOR AND DRIVER WITHOUT TRAILING EQUIPMENT</p> <p>Charges to be paid by a consignor, consignee or other person responsible for payment of freight charges (except an overlying carrier) to a carrier furnishing a tractor and driver without trailing equipment, but towing trailing equipment furnished by the debtor, consignee or consignor, shall be not less than 85 percent of the otherwise applicable charge. In assessing charges under the tonnage (zone) rates contained in Sections 3, 4, 5, 6, 7, 8, 9, 9.1, 9.2, 10, **15.1, **15.2, **15.3, **15.4, **15.5 and 16 of this tariff, the carrier furnishing the tractor and driver need not assess a charge for the amount of the unladen weight of the trailing equipment when under load, nor assess a charge for the empty return movement. (See Exception)</p> <p>EXCEPTION.--The provisions of this item shall not apply when trailing equipment is furnished by any party other than the debtor, consignee or consignor, of the specific transportation charges involved. (See Item 460)</p>	6250
<p style="text-align: center;">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 80 percent of the charges applicable under the minimum rates prescribed in this tariff. In assessing charges under the tonnage (zone) rates contained in Sections 3, 4, 5, 6, 7, 8, 9, 9.1, 9.2, 10 and 16 of this tariff, the carrier furnishing the tractor and driver need not assess a charge for the amount of the 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 460.</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>	255
<p>Change) Decision 88 11 033 ** Expiration date eliminated)</p>	
EFFECTIVE	
ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.	

Correction

SECTION 1--RULES (Continued)	ITEM
<p style="text-align: center;">METHOD OF DETERMINING WEIGHT OF SHIPMENT</p> <p>Actual weight of the shipment shall be used when furnished by the shipper or when obtained by the carrier at the shipper's direction and expense.</p> <p>Otherwise, charges for commodities listed in:</p> <p>a. Items 60, 70 and 75 shall be computed upon the basis of 2,800 pounds per cubic yard when loaded in dump truck equipment.</p> <p>b. Item 65 shall be computed on the basis of 3,200 pounds per cubic yard when loaded in dump truck equipment.</p> <p>EXCEPTION.--When rail rates are used under the provisions of Items 200 and 220 of this tariff, actual, estimated or agreed weights shall be used to compute charges in accordance with the provisions of the governing rail tariff.</p>	420
<p style="text-align: center;">MINIMUM CHARGE</p> <p>The minimum charge per shipment shall be the charge for:</p> <p>a. 14 tons at the applicable rate for commodities described in Item 60.</p> <p>b.1. 12 tons at the applicable rate for commodities described in Note 2 of Item 65 and Item 70. (See Exception)</p> <p>6**2. 26 tons for five-axle bottom dump equipment and 25 tons for all other 4- and 5-axle equipment for commodities described in Item 65.</p> <p>c. 13 tons at the applicable rate for commodities described in Item 75.</p> <p>EXCEPTION.--When a shipment of asphaltic concrete or cold road oil mixture (also cold liquid asphalt in containers) is transported in a two-axle dump truck, and when the freight bill is so noted and the truck is identified on the freight bill, the minimum charge for the transportation of the shipment shall be the charge for transporting 10 tons at the applicable rate.</p>	6440
<p>Change ** Expiration date eliminated) Decision 88 11 033</p>	
EFFECTIVE	
<p style="text-align: center;">ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.</p> <p>Correction</p>	

ITEM	SECTION 1--RULES (Continued)
460	<p style="text-align: center;">PAYMENTS TO UNDERLYING CARRIERS</p> <p>Except as provided in Item 255 of this section, charges paid by any overlying carrier to an underlying carrier and collected by the latter carrier from the former for the service of said underlying carrier shall be not less than 95 percent of the charges applicable under the minimum rates prescribed in this tariff, less the gross revenue tax applicable and required to be paid by the overlying carrier (See Notes 1 and 2). The underlying carrier may extend credit to the overlying carrier for a period not to exceed 25 days following the last day of the calendar month in which the transportation was performed, and payment to the underlying carrier must be made within that time. Freight bills shall be presented by the underlying carrier to the overlying carrier within seven calendar days of the date transportation was performed, except that they shall be presented not later than three days after the last calendar day of the month in which the transportation was performed. All payments to the underlying carrier by the overlying carrier shall specifically identify the freight bill(s) of the underlying carrier being paid by the overlying carrier.</p> <p>Overlying carriers 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 underlying carrier, as evidenced by the postmark, shall be deemed to be the time of presentation of the freight bills.</p> <p>NOTE 1.--As used in this item the term "gross revenue tax" means the fees payable to the California Public Utilities Commission under the Transportation Rate Fund Act.</p> <p>NOTE 2.--Nothing herein contained shall prevent an overlying carrier, in paying such charges, from deducting therefrom such liquidated amounts as may be due from the underlying carrier to the overlying carrier, providing such deductions have been authorized in writing by the underlying carrier. Any overlying carrier electing to employ this procedure shall itemize such amounts and maintain for the Commission's inspection all documents involved in the transaction. The term "liquidated amounts" as used in this item, shall not include, when the underlying carrier provides a tractor and driver without trailing equipment, charges pertaining to the operation and maintenance of trailing equipment such as: tires, tubes, parts, repairs, maintenance, painting and cleaning.</p>
480	<p style="text-align: center;">RATES FOR DRY MIXTURES OF ROCK, SAND AND GRAVEL (WITH OR WITHOUT CEMENT) IN BATCHES</p> <p>Rates for the transportation of dry mixtures of two or more of the commodities listed in Item 60, in batches, shall be 17 cents per ton more than the rates otherwise provided in this tariff for the transportation of rock, sand and gravel between the same points.</p>
500	<p style="text-align: center;">REFERENCES TO ITEMS, OTHER TARIFFS AND GENERAL ORDERS</p> <p>Unless otherwise provided, references herein to item numbers in this or other tariffs include references to such numbers with letter suffix, and references to other tariffs or publications include references to amendments and successive issues of such other tariffs or publications and references to general orders include references to amendments or successive issues of such general orders.</p>
<p>No change on this page, Decision 88 11 033</p>	
EFFECTIVE	
Correction	ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.

§**SECTION 15.1

ZONE RATES
FOR THE
TRANSPORTATION OF ASPHALTIC CONCRETE
AND

COLD ROAD OIL MIXTURE

By Dump Trucks With
Trailing Equipment (4- and 5-Axle) or
Tractors With Trailers (4- and 5-Axle)

From

Production Areas Located Within
LOS ANGELES COUNTY
(except Antelope Valley/Mojave Desert portion thereof)

To

Delivery Zones Located Within

Los Angeles County

Orange County

and

San Bernardino County

§ Change
** Expiration date eliminated) Decision **88 11 033**

EFFECTIVE

ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA,
SAN FRANCISCO, CALIFORNIA.

Correction

§**SECTION 15.2

ZONE RATES

FOR THE

TRANSPORTATION OF ASPHALTIC CONCRETE

AND

COLD ROAD OIL MIXTURE

By Dump Trucks With
Trailing Equipment (4- and 5-Axle) or
Tractors With Trailers (4- and 5-Axle)

From

Production Areas Located Within

ORANGE COUNTY

To

Delivery Zones Located Within

Los Angeles County

Orange County

Riverside County

and

San Bernardino County

§ Change
** Expiration date eliminated) Decision

88 11 033

EFFECTIVE

ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA,
SAN FRANCISCO, CALIFORNIA.

Correction

§**SECTION 15.3

ZONE RATES

FOR THE

TRANSPORTATION OF ASPHALTIC CONCRETE

AND

COLD ROAD OIL MIXTURE

By Dump Trucks With

Trailing Equipment (4- and 5-Axle) or

Tractors with Trailers (4- and 5-Axle)

From

Production Areas Located Within

RIVERSIDE COUNTY

To

Delivery Zones Located Within

Los Angeles County

Orange County

Riverside County

and

San Bernardino County

§ Change
** Expiration date eliminated) Decision 88 11 033

EFFECTIVE

ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA,
SAN FRANCISCO, CALIFORNIA.

Correction

§**SECTION 15.4

ZONE RATES

FOR THE

TRANSPORTATION OF ASPHALTIC CONCRETE

AND

COLD ROAD OIL MIXTURE

By Dump Trucks With

Trailing Equipment (4- and 5-Axle) or

Tractors With Trailers (4- and 5-Axle)

From

Production Areas Located Within

SAN BERNARDINO COUNTY

(except Antelope Valley/Mojave Desert portion thereof)

To

Delivery Zones Located Within

Los Angeles County

Orange County

Riverside County

and

San Bernardino County

§ Change
** Expiration date eliminated) Decision

88 11 033

EFFECTIVE

Correction

ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA,
SAN FRANCISCO, CALIFORNIA.

§**SECTION 15.5

ZONE RATES

FOR THE

TRANSPORTATION OF ASPHALTIC CONCRETE

AND

COLD ROAD OIL MIXTURE

By Dump Trucks With

Trailing Equipment (4- and 5-Axle) or

Tractors with Trailers (4- and 5-Axle)

From

Production Areas Located Within

VENTURA COUNTY

To

Delivery Zones Located Within

Santa Barbara County

and

Ventura County

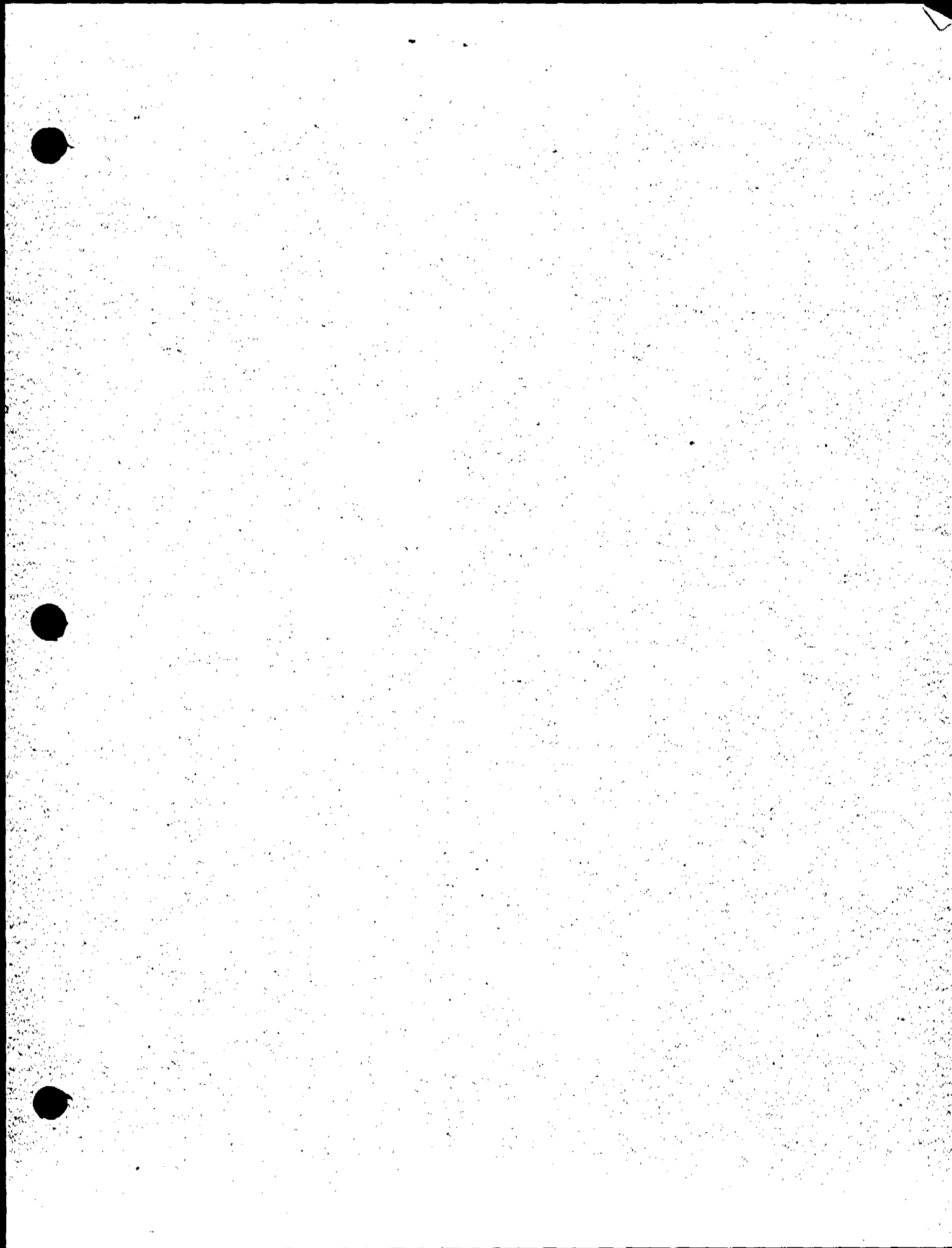
§ Change
** Expiration date eliminated) Decision

88 11 033

EFFECTIVE

ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA,
SAN FRANCISCO, CALIFORNIA.

Correction



Findings of Fact

1. Zone rates in MRT 17-A for transportation of asphaltic concrete in vehicle combinations having 4 or more axles should be made permanent, subject to the changes adopted in the following order.

2. The proposal for delay charges with 60 minutes of free time at origin would require carriers to continue to assume the economic burden of most delays.

3. Producers will not need to keep records, except when delays greatly exceed average delays.

4. Unless there is a charge for delay at origin, contractors and producers may be motivated to evade delay charges at destination.

5. Basic zone rates should not be increased to allow for extraordinary delays at origin.

6. A rate structure which allows unlimited free time for delays is prima facie unreasonable; carriers should not be required to assume all the economic burden of extraordinary delays.

7. A charge for origin delays should not apply to carrier-caused delays. The language used for this purpose should be the same as the parallel provision for delays at destination.

8. The proposed charge for delay at origin gives due consideration to the cost of an accessorial service.

9. An origin delay charge with a 60-minute free time allowance and no-carrier-fault clause is just reasonable and non-discriminatory.

10. The unhooking charge is non-controversial and is just reasonable, and nondiscriminatory.

11. Carriers may be required to move loaded vehicles at the job site. The accessorial charge for delays at destination should include an allowance for fuel.

12. The proposed increase in charges for delays at destination gives due consideration to the cost of an accessorial service and is just, reasonable, and non-discriminatory.

13. The record will not support a finding identifying the operating conditions which would justify application of hourly rates.

14. Abolishing alternative application of hourly rates impact only a few jobs and therefore will generate only a few deviation requests.

Conclusions of Law

1. The proposed increase in delay charges should be authorized.

2. The proposed new charge for delays at destination should be adopted.

3. A charge for unhooking should be adopted.

4. Alternation of zone and hourly rates should not become a feature of the permanent rates.

ORDER

IT IS ORDERED that:

1. Minimum Rate Tariff 17-A (MRT 17-A) (Appendix C to Decision 80578, as amended) is further amended by incorporating the attached revised tariff pages listed in Appendix A, to become effective on the first day of the first month following the effective date of this order.

2. In all other respects D.80578, as amended, shall remain in full force and effect.

3. The petition is granted as set forth above.

4. The Executive Director shall serve a copy of the tariff amendments on each subscriber to MRT 17-A.

This order becomes effective 30 days from today.

Dated _____, at San Francisco, California.