

Decision 89 06 002 JUN 7 1989**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation)
 for the purposes 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 325
 (Filed April 17, 1985)
 Case 5437, OSH 323
 (Filed October 1, 1984)
 Case 5437, Pet. 329
 (Filed June 6, 1985)

And Related Matters.)

Case 9819, OSH 75
 Case 9820, OSH 25
 (Filed April 17, 1985)
 Case 9819, Pet. 79
 Case 9820, Pet. 29
 Case 5432, Pet. 1060
 (Filed June 6, 1985)

(For appearances see Decisions 86-08-030 and 87-05-036.)

INTERIM OPINIONIntroduction

This consolidated proceeding is being conducted for the purpose of considering methods and procedures through which an effective dump truck ratemaking policy may be established. Thirty-nine days of public hearings have been held before Administrative Law Judge (ALJ) John Lemke since Order Setting Hearing (OSH) 325, et al., were initiated. Several decisions have been issued, notably Decision (D.) 86-08-030, which adopted various cost gathering methodologies, and D.87-05-036, which adopted rules for publication in the three minimum rate tariffs (MRTs) naming rates for commodities transported in dump truck equipment.

After the conclusion of hearings, the ALJ directed that briefs should be filed by January 23, 1989 on the following Phase 1-B issues:

1. Establishment of rating territories for MRT 7-A.
2. Determination of tariff rules not previously decided, i.e.:
 - a. Documentation requirements, including the proposed job confirmation document;
 - b. Rate basis for interterritorial distance rated shipments; and
 - c. Accessorial charges for transportation performed in other than bottom dump truck equipment.
3. Determination of average loads, estimated weights, and minimum loads.
4. Appropriate methods for application and use of present and future labor cost survey data.
5. Use of present evidence and future procedures for updating dump truck costs, other than labor.
6. Suggestions for future use of the California Dump Truck Owners Association/California Carriers Association (CDTOA/CCA) demographic study.

Briefs were filed by the Commission's Transportation Division staff (TD staff), CDTOA/CCA, Yuba Trucking (Yuba), Associated General Contractors of California (AGC), and Californians For Safe & Competitive Dump Truck Transportation and Syar Industries, Inc. (CSCDTT/Syar).

1. Establishment of Rating Territories for MRT 7-A

Presently, MRT 7-A is divided into two territories - Southern and Northern. Southern Territory includes San Luis Obispo, Santa Barbara, Ventura, Los Angeles, Orange, San Diego, Imperial, Riverside, San Bernardino, Kern, Inyo, and Mono Counties. Northern Territory includes all counties not included in Southern

Territory. Differing distance rates are applicable within each territory.

Northern Territory is divided into two regions, the San Francisco Bay Area Region consisting of seven Bay Area counties, and the Northern Region consisting of all Northern Territory counties not included in the San Francisco Bay Area Region. Southern Territory is also divided into two regions, the San Diego Region consisting of San Diego County, and the Southern Region, consisting of all Southern Territory counties except San Diego County. Each region has a separate scale of hourly rates.

Proposals have been received from TD staff, CDTA/CCA, and Yuba to modify the boundary lines of Southern and Northern Territories.

TD Staff

D.86-08-030 directed that the TD staff conduct a survey of dump truck industry labor costs. TD staff distributed labor cost questionnaires to dump truck operators in September 1986. The survey produced data concerning levels of base wages per hour paid employee-drivers, and expenses incurred in providing fringe benefits to those employees, including payments covering vacation, holiday, health and welfare, pension, workers compensation, and payroll taxes.

Based upon this data, TD staff prepared a preliminary county-by-county summary of the industry's weighted average total labor cost per revenue hour. This data was used in order to assist TD staff witness Jerald Kerschman in analyzing a means through which geographical differences in labor cost levels existing throughout the state could be determined and used to find out how the hourly and distance rate territories contained in MRT 7-A should be modified (Exhibit 52). The ALJ in his ruling of January 8, 1988 directed the TD staff to prepare a new exhibit from existing data showing hourly rates for drivers paid solely on an hourly basis, and also directed that TD staff exclude data of

drivers paid on a percentage of revenue basis. The new exhibit (Exhibit 59, Revised) was developed on two bases, one basis excluding zero reporting, and one including zero reporting. TD staff believes the county-by-county labor cost summary including zero reporting more accurately reflects prevailing circumstances. Therefore, the values contained in the exhibit for Equipment Type 503 have been used in the rating territory boundary analysis found in TD staff's Exhibit 52 (Revised), pages 3-10. Based on the new summary, TD staff made the following recommendation:

"Except in the case of the hourly rate region now defined in the San Francisco Bay Area, current MRT 7-A rating territory boundaries should be continued without change. The boundary of San Francisco Bay Area Region should be modified to exclude Sonoma County and include Napa, Santa Cruz and San Benito Counties. A graphic illustration, together with estimated 1986 revenue weighted labor cost values that would result from the implementation of this recommendation are set forth in Appendix E (Exhibit 52 Revised, p. 10)."

By D.88-08-065, dated August 24, 1988 the Commission found that data contained in revised Exhibit 59 (that supplied by Baldwin Construction Company) was inappropriate and significant enough in volume to suggest that resultant summary data could be unduly skewed. TD staff was again directed to revise Exhibit 59. On October 3, 1988 after preparing an amended Revised Exhibit 59 reflecting the exclusion of the Baldwin data, TD staff analyzed the data and concluded that its recommendation made in connection with Exhibit 52 remained valid. Purging the Baldwin data affected Exhibit 59 by lowering the labor cost per revenue hour assessed for the more rural northern California counties of Butte, Colusa, Glenn, Lassen, Nevada, Plumas, Sutter, Tehama, and Trinity.

In Revised Exhibit 52, TD staff stated:

"...although labor costs tend to be higher in major coastal population areas where separate hourly rate territories are already defined in

MRT 7-A (i.e. in the San Francisco and San Diego areas), equally high labor costs also exist in certain less populous counties of the state where no such territories have been defined. These counties tend to constitute 'islands' of high cost surrounded by a 'sea' of contiguous lower cost counties."

TD staff states that the result of purging the Baldwin data from Exhibit 59 has been to eliminate many of these "islands" of high labor costs within the north state "sea" of lower labor costs. This has resulted in lowering the weighted average labor costs prevailing in the existing MRT 7-A Northern Region rating territory, and increased the difference between the average labor costs prevailing in existing Northern Region versus Southern Region territories. It has also provided further support for maintaining the territorial rating division between the north and south as recommended by TD staff in Revised Exhibit 52.

In summary, TD staff urges that since the elimination of the Baldwin data from Exhibit 59 had no impact on the summary labor costs per revenue hour data for the counties included in, and contiguous to, the San Francisco Bay Area Region, its Exhibit 52 recommendation to modify that territory's boundaries remains valid. That recommendation is for the continuation of present MRT 7-A rating territory boundaries except for the San Francisco Bay Area Region, where TD staff recommends the addition of Napa, Santa Cruz, and San Benito Counties and the deletion of Sonoma County.

CDTOA/CCA

The CDTOA/CCA proposal is contained in Exhibit 77. There, labor cost data contained in Exhibit 59 was used for base hourly wages of drivers reportedly paid on an hourly basis. Those figures were weighted within each proposed rating territory by the number of drivers reported in the survey. The resulting hourly labor costs were then considered, along with a number of other factors, in proposing modifications of the present MRT 7-A rating boundaries. These other factors included geographic differences or

similarities, carrier population, producing plant locations and numbers, economic growth of the area, congestion and general traffic conditions, and traffic flow. CDTOA/CCA recommends simplification of MRT 7-A by establishing three new territories and the elimination of the existing two territories and four regions. The three territories would be as follows:

Southern Territory - San Diego, Imperial, Riverside, Orange, Los Angeles, Ventura, San Bernardino, Inyo, Mono, Santa Barbara, and San Luis Obispo Counties, and a portion of eastern Kern County.

Central Coastal Territory - San Francisco, Alameda, Contra Costa, San Mateo, Santa Clara, Marin, Sonoma (formerly in the San Francisco Bay Area Region), Napa, Solano, Santa Cruz, San Benito, and Monterey (formerly in the Northern Territory).

Northern Territory - The remaining counties in California, including that portion of Kern County excluded from the Southern Territory.

CDTOA/CCA maintain that no reason has been established for continuation of the present complex system of two territories and four regions within those territories. They believe that in determining rating territories, the Commission should review all factors which bear upon the homogeneous nature of service areas; that while correlation in labor rates is a primary factor, it is but one of several which ought to be considered.

The area in which CDTOA/CCA propose major changes is the San Francisco Bay Area Region, presently comprised of seven counties. To those seven counties, CDTOA/CCA would add six more - Napa, Santa Cruz, San Benito, Sonoma, Solano, and Monterey - for the creation of a new Central Coastal Territory. CDTOA/CCA contend that when factors other than revenue weighted labor rates are considered, the latter six counties fit the mold of other counties in the proposed Central Coastal Territory. They point out that TD staff agrees that Napa, Santa Cruz, and San Benito Counties should

be placed in a higher rated region. They also note that Sonoma, Solano, and Monterey Counties are counties with major producing plant locations which ship into the Bay Area counties. They argue that Sonoma County has 25 producing plant locations as compared with two each in Marin and Napa Counties, and assert that traffic from the Sonoma plants serves adjacent Marin and Napa Counties, as well as Sonoma County.

CDTOA/CCA refer us to Exhibit 81, indicating that Sonoma, Solano, and Monterey Counties have populations exceeding 200,000, including cities with populations over 100,000. They note that Solano County is one of the fastest growing counties in California and is bordered on three sides by Contra Costa, Napa, and Marin Counties, which the TD staff proposes be included in the higher rated territory. Sonoma County, CDTOA/CCA emphasize, is the top rated county in the state for business expansion, as shown in Exhibit 82; while Monterey County producers include two of the largest producers of rock, sand or gravel products in northern California - Granite Rock, and Lonestar-Lopis. They contend their proposed Central Coastal Territory is one homogeneous area in terms of geography, traffic flow of dump truck commodities, carrier population, general population trends, producing plant location and number, traffic conditions, and economic growth. They maintain that none of these factors was considered by the TD staff, which relied upon revenue weighted labor cost values only,

CDTOA/CCA also refer us to the testimony of Jim Jenkins in Exhibit 2 where the witness stated that labor weighting by revenue produces inaccurate results when there exist multiple types of equipment and many commodities being transported. Further, they point out that revenue used in the weighting process employed by TD staff was total revenue from all sources, with no specific knowledge of what portion of that revenue was derived from dump truck transportation. They also note that TD staff gave no consideration to insurance costs, traffic conditions, revenue hours

on a county-by-county basis, carrier population, location of producing plants, or county population.

The TD staff proposal would remove Sonoma County from the San Francisco Bay Area Region and place it in the Northern Region. Testimony, CDTOA/CCA assert, indicates that such action would be contrary to a significant portion of TD staff's rationale for territorial boundaries. Sonoma County has 287 dump truck permits outstanding, ninth largest number of dump truck carriers in any county. Two of the three conditions stated by TD staff in Exhibit 52 (Revised) as desirable in modifying territorial boundaries are (1) minimal change from present boundaries to avoid adverse economic impact and (2) to limit the number of territorial boundaries to minimize future competitive problems. (The third condition urged by TD staff is the "Accurate definition of major geographical differences in labor cost levels experienced by carriers.")

CDTOA/CCA observe that the movement of Sonoma County to the Northern Territory would have significant economic impact for both shippers and carriers in Sonoma County and would drastically change the competitive circumstances for shippers in that county and adjacent counties. Carriers would have to operate at a \$2 to \$4 lesser hourly rate. Freight rates for Sonoma County shippers would be reduced, placing them in an advantageous position over Napa and Marin shippers. Exhibit 79, they note, indicates that already 58 of the 92 carriers responding to the demographic survey from Sonoma County are at break-even or unprofitable levels. They also refer us to the testimony of Charles Smithers of AGC in Exhibit 73, where the witness states:

"While we do not feel there is sufficient valid evidence in the record to establish territories based exclusively on labor costs, if we are to proceed, a decision must be made. Other factors, such as other costs, geography, growth areas, production areas, and transportation corridors should be considered."

AGC

AGC recommends retention of the status quo until such time as a more accurate labor cost study is performed. It believes that the labor cost survey which serves as the basis for TD staff's recommendation is not indicative of average costs in numerous counties due to flawed methodology and limited responses. Further, it maintains that since the survey reflects wage levels paid in counties where the selected carriers are domiciled, it is not indicative of average wage costs paid when those carriers are working in other counties.

With respect to the CDTOA/CCA recommendation of establishment of a Central Coastal Territory, AGC observes that averaging labor costs in ten counties would reduce labor costs in the counties of the present Bay Area Region to a more reasonable level, but would increase costs markedly in the contiguous counties added to the new territory, resulting in significant cost increases to the shipping public.

CSCDTT/Syar

CSCDTT/Syar maintain that record evidence does not support TD staff's proposal to include Napa County in the San Francisco Bay Area Region. They note that the unit of equipment used to develop territorial boundaries is that contained in Category 503 (double bottom trailers) of Exhibits 59 and 60, and that the total data in that category for Napa County is based on only one driver. Further, that driver works for a carrier domiciled in Sonoma, rather than Napa County, who is a cement carrier, rather than a dump truck carrier. They refer us to a statement of TD staff in its "Reply to Yuba Trucking, Inc.'s Petitions for Modification of Decisions 86-08-030 and 87-05-036 and its Petition to Set Aside Submission" filed June 29, 1988 as follows:

"We reiterate that the labor cost exhibits were not meant to provide factual information. Rather, they were presented for the limited

purpose of displaying the gathering methodologies."

Yuba

Yuba's recommendations, contained in Exhibit 66, are as follows:

1. Establish a Northern Metro Territory, consisting of Contra Costa, Alameda, Santa Clara, San Mateo, and San Francisco Counties (the present San Francisco Bay Area Region with the exception of Marin and Sonoma Counties).
2. Establish a Southern Metro Territory, consisting of Ventura, Los Angeles, Orange, and San Diego Counties (the present Southern Territory with the exception of Inyo, Kern, Mono, San Luis Obispo, Santa Barbara, San Bernardino, Riverside, and Imperial Counties).
3. Establish a Non-Metro Territory, consisting of the other 49 counties (the present 40 Northern Region counties plus Sonoma, Marin, Inyo, Kern, Mono, San Luis Obispo, Santa Barbara, San Bernardino, Riverside, and Imperial Counties).

Yuba's proposal also suggests the possible inclusion of Marin and Sonoma Counties in the North Metro, and Santa Barbara, Riverside, and Imperial Counties in the South Metro territories until additional cost information is available.

The Yuba proposal contemplates adoption of separate labor and insurance costs, speed curves, revenue hours, load weights, terminal end times, and possibly fuel and indirect costs for each territory, and the adoption of separate distance and hourly rates for each territory.

Discussion

After consideration, we believe the recommendation of AGC not to adopt new territorial descriptions at this time is the wise course to follow for the present. Differing costs are the principal reason for the establishment of different rating territories. And while labor expense constitutes the single most

important element of total costs, other costs, collectively, comprise approximately the same amount as labor. These other costs include insurance premiums, indirect expenses, maintenance and repair, equipment, and fuel costs. This is not to ignore the other factors mentioned by CDTOA/CCA, such as carrier and county populations, locations of producing plants, and, most particularly, revenue hours for labor and equipment. All are important elements in the determination of total carrier costs.

While we have issued D.86-08-030, setting forth the methodologies to be followed in collecting the various costs to be used in establishing the several rate scales to be published in the tariff(s), none of the actual gathering of those costs has yet been undertaken. Yet there is sufficient information contained in this record to indicate that there may be more than negligible differences in the costs not only of labor, but fuel and insurance. There is a fairly large range of experience found in the cost of insurance. We referred to this condition in D.86-08-030, where we cited Exhibit 14 of witness Ronald Broberg. The exhibit portrayed the insurance costs during 1984 of approximately 40 large dump truck carriers. The average insurance cost of these representative carriers, compared with total operating expenses less purchased transportation, was 2.9%. However, the range of these costs was from .3% to 8.2%, variations too great to be meaningful for purposes of determining average carrier costs.

Other costs, such as those for terminal end activity, when combined with the above, may well produce total costs which ought to be considered when determining boundaries for rating territories. Furthermore, in the next series of hearings in this proceeding we will be considering procedures for development and application of costs and rates for "efficient dump truck carriers." It is quite possible that this determination will affect our ultimate decision setting boundaries for rating territories. For these reasons, we will defer establishment of new rating

territories until total cost data is gathered and analyzed. We will point out that by D.88-09-069 we affirmed our earlier decision to allow use of TD staff's labor cost survey for purposes of setting territorial descriptions. Some of the parties continue to express their disagreement with this decision. We can only comment that the TD staff labor cost survey will be but one tool to be used in determining territorial boundaries, along with the other items discussed above.

2. Determination of Tariff Rules Not
Previously Decided by the Commission

While D.87-05-036 established policy for modifying most rules in the dump truck MRTs, the following rules were omitted from the decision:

- a. Documentation requirements; issuance of shipping order/freight bill;
- b. Application of rates for interterritorial movements, hourly rates, interregional movements, and zone rates; and
- c. Application of Section 2 distance rates for use in connection with equipment other than tractor with bottom dump doubles in train.

TD Staff

TD staff's recommendations are contained in Exhibit 53. It recommends that both prime and underlying carriers be required to issue shipping order/freight bills in a format set forth in Exhibit 53, Appendix A. The consolidated document, which would require all pertinent information relating to transportation services, was considered by various Ad Hoc Committee members without objection. TD staff determined that a job confirmation document, previously proposed in Exhibits 18 and 18a, was unnecessary. It believes that significant auditing information is already included in the revised combination shipping order/freight bill proposed by TD staff. Further, TD staff emphasizes that its

proposed shipping order/freight bill will require issuance of a freight bill that will provide much of the information sought in the job confirmation document, which TD staff now considers unreasonably burdensome.

CDTOA/CCA

CDTOA/CCA urge adoption of the rule and form contained in their Exhibit 71, Appendixes G-1 and G-2. They believe that both their and TD staff's proposals contain appropriate rules and format for the combined shipping order/freight bill, but that theirs incorporates all necessary information in a preprinted document providing better spacing of entries, and would be easier to complete correctly. They also urge adoption of the job confirmation document as a must for proper enforcement. This document would require issuance by the prime carrier prior to providing service to shipper, if transportation charges for the job will exceed \$5,000 within a 12-month period. There are major shipper complaints, it is alleged, when carriers quote incorrect low rates and then seek collection of correct higher rates. They believe such document will deter "conversion" and other schemes of carriers and shippers seeking to evade minimum rates, provide the TD staff with more specific information for enforcement purposes, and act to minimize incorrect carrier quotes for transportation services. ("Conversion" is a scheme used for many years in the industry in the following manner: Carrier agrees to assess a shipper on a tonnage basis, but at a rate lower than the minimum tonnage rate contained in MRT 7-A. The resultant tonnage charge is divided by the correct hourly rate to arrive at a fictitious number of total hours; then the fictitious hours are assessed at the correct hourly rate, and this is the amount billed to shipper, rather than the correct tonnage rate.)

CDTOA/CCA's proposed job confirmation document would create a better "paper trail" for enforcement purposes, they assert. The forms recommended for use by CDTOA/CCA and TD staff as

combined shipping order/freight bill documents are not identical. TD staff has incorporated additional elements in its proposed combined document which approximate those set forth in CDTOA/CCA's proposed job confirmation document, but which are not limited in their application to any particular threshold amount of hauling.

AGC opposes use of the job confirmation document.

Yuba makes some significant observations and raises several important questions in connection with the use of the job confirmation Document: The normal "telephone handshake" way of doing business would be affected; an avalanche of paperwork would be required; small jobs would be exempt, which could lead to a practice of creating "paper" exemptions; and carriers and shippers could be penalized for failing to carry out the letter of the law. What if: the job (unexpectedly) exceeded \$5,000? the contractor's license was not shown? mileages and routes were not entirely accurate? applicable tariff items were not shown? Yuba opposes adoption of the job confirmation document, but comments that it is not entirely without merit and suggests that it may be appropriate to reconsider its use after the questions noted above are addressed, and a well-balanced regulatory system ordered, implemented, and maintained.

Adequate documentation is one of the cornerstones of effective rate regulation. It appears that the combined shipping order/freight bill recommended by the TD staff will create the desired paper trail necessary for proper enforcement of rates, without being overly burdensome. We are not anxious to create the avalanche of paperwork Yuba suggests would ensue if CDTOA/CCA's recommendation were adopted, without overwhelming evidence of its need. We are not persuaded on this record of that need, and are concerned about answers to some of the questions Yuba raises. We will adopt the TD staff recommendation on this issue for the present; and if further evidence suggests a need for a stronger

documentation requirement, we will give further consideration to this issue at that time.

3. Rate Basis for Interterritorial
Distance Rated Shipments

Interterritorial movements currently are rated at the rate applicable at origin point. TD staff recommends continuation of the point of origin rule in connection with distance rates, and observes that this is the rule applicable in connection with hourly rated shipments. TD staff feels it would be inconsistent to adopt a prorating methodology for rating distance rated shipments. TD staff concedes, however, that when a carrier domiciled in a lower rating territory hauls an interterritorial shipment from a higher rating territory, the rate to be assessed might be higher than is needed to cover costs and return a reasonable profit. It expects that the soon-to-be adopted, liberalized deviation procedure will do much to minimize these undesirable situations.

CDTOA/CCA, Yuba, and AGC recommend adoption of a rule for shipments originating in one territory and terminating in another, whereby the transportation charges are prorated according to the distance rates and mileages applicable in each territory. Yuba urges that the mileages under this methodology be calculated as already provided in MRT 7-A, Item 150, i.e. along the shortest usable route that may be lawfully used by dump truck equipment in conformity with governmental regulations pertaining to the use of public streets and highways. CDTOA/CCA recommend that mileages be calculated "via the route of travel."

Adoption of the prorating proposal would not eliminate the undesirable results occurring in those situations mentioned by TD staff involving low cost carriers hauling from points located in high cost territories, and thus receiving compensation in excess of that found to be necessary. Under this somewhat complex methodology, a shipment from a point in Northern Territory moving 300 miles to a point in Southern Territory, with the first 100

miles being traveled in Northern Territory, would be rated as follows: Northern Territory rate of 2494 cents per ton times .333% (the percentage of total route mileage taking place in Northern Territory) times 25 tons; Southern Territory rate of 2811 cents times .667% (the percentage of total route mileage taking place in Southern Territory) times 25 tons. The total of the two calculations supposedly results in a proration of shipment charges giving effect to the cost circumstances experienced within each territory.

However, this complicated methodology will afford only slight remedy to the situations where a lower cost carrier, domiciled in Northern Territory, transports a shipment from deep in Southern Territory to a Northern Territory destination, with only a very small portion of the total mileage taking place in the lower rated territory. In that circumstance, the lower cost carrier will be receiving revenue based predominately on costs measured in the higher rated Southern Territory, even though his labor, insurance, indirect, and perhaps other costs actually experienced are lower than those experienced by carriers domiciled in Southern Territory. In that case, the result is only slightly better than experienced at present under the "point of origin" rule, where the total charge is based upon the rate applicable within the higher cost Southern Territory; and this at the expense of a burdensome, complicated rating procedure which takes time and expense for a perhaps unsophisticated owner-operator to calculate. After consideration, we believe the "point of origin" rule recommended by the TD staff, and applicable in connection with hourly rated shipments, will be the better method of rating distance rated shipments. This method will not involve the complex calculations associated with the proration of mileages, and will generally allow the assessment by carriers of rates based upon correct costs.

It is also our decision to retain the present provision relating to calculation of mileages, which requires that distances

be computed along the shortest legally usable route. This current provision not only takes into consideration real world circumstances, but provides a better auditing and enforcement tool for use by the TD staff. Furthermore, it would be inappropriate for this Commission to authorize computations of distances which may not be via legally usable routes.

4. Accessorial Charges for
Transportation Performed in Other
Than Bottom Dump Truck Equipment

Rates for bottom dump doubles in train are developed under ratemaking formulas including all cost and performance factors. This particular unit of equipment has for decades been considered the ratemaking unit of equipment in connection with the three dump truck MRTs. The cost and performance factors measured include labor, insurance, depreciation, repairs and maintenance, indirect expenses, profit, terminal end times, weight per load, and revenue and nonrevenue hours. These costs are converted to a cost per load, and divided by tons per load to arrive at a cost per ton. However, distance rates for transportation performed other than in bottom dump truck equipment have not been traditionally developed on the same basis. Rather, they have been calculated under formulas used for adding the costs of such equipment to bottom dump truck rates.

TD staff recommends that Items 270 and 280 of MRT 7-A, along with Item 120 of MRT 17-A and Item 140 of MRT 20, be consolidated into two items in the consolidated tariff. These rules set forth accessorial charges on specified commodities and certain types of dump truck equipment that must be applied when using the distance or zone rates now published in the MRTs. At present, cost differential additives between bottom dump and other types of 5-axle equipment increase with length of haul. TD staff contemplates a future cost study for the determination of additive rates; however, no such particular study is currently underway. TD

staff's proposal essentially is to maintain the present tariff format in publishing rates for these cost differentials. The present additions are conditioned upon the service performed in other than bottom dump truck equipment being requested, or required. TD staff's proposal is to have the additives apply whenever transportation is actually performed in other than bottom dump truck equipment, regardless of whether requested or required.

CDTOA/CCA have developed in Exhibit 71, Appendix D, a modified differential, the effect of which is to substantially reduce existing rate differentials and lower the rates presently applicable to hauls using equipment other than double bottoms in train. The additives would apply to all transportation where equipment other than bottom dump truck equipment is used, regardless of whether required, or requested by shipper, and is similar to TD staff's recommendation in this respect.

AGC does not want to see a basic change which is unjustified; therefore it supports the TD staff proposal, even though it recommends ultimately a separate rate development for other than bottom dump truck equipment transportation.

Yuba stresses that these additives are no less important than the costs underlying the use of bottom dump truck equipment, and insists that they be based upon accurate cost data. Yuba suggests that action on this subject be deferred to the ratemaking phase of this proceeding.

We concur that the development of rates for these added costs must be deferred. However, now is the time for deciding the format for developing and assessing applicable costs and rates. The CDTOA/CCA proposal appears to provide the simplest and best format for publication of these additives. Their proposal sets forth separate rates for rock, sand and gravel, on the one hand, and asphaltic concrete, on the other hand. The proposal names rates for five different mileage brackets, in which the rates, stated in cents per ton, are combined with the bottom dump truck

equipment rates, and apply between all points and places within California, when rated on a tonnage basis, other than in connection with zone rates, regardless of whether hauls are within or between territories. We will adopt the CDTOA/CCA basic format, as shown in Appendix D to Exhibit 71. Rates for these different services will be developed in the ratemaking phase of this proceeding.

5. Determination of Average Loads,
Estimated Weights, and Minimum Loads

TD staff's recommendations pertaining to average loads, estimated weights, and minimum loads are contained in Chapter 5 of Exhibit 54. They are based upon the directive contained in D.86-08-030 that TD staff would develop maximum allowable loads based upon its study of freight bill data and vehicle code restrictions, etc. This information provides the principal basis for establishing minimum weights in the MRTs. Table 5.1 contains TD staff's calculations and recommendations, and is set forth as follows:

TABLE 5.1

Average Loads
(In Tons)

Line: No.:	Item	TRUCKS	SEMI- TRAILER UNITS		FULL TRAILER		DOUBLE TRAILER
			2-Axle: End Dump	3-Axle: End Dump	4-Axle: End Dump	5-Axle: Semi- Trlr	5-Axle: Truck Transfer
		(1)	(2)	(3)	(4)	(5)	(6)
							(7)

A AVERAGE LOAD

1	Rock, Sand & Gravel	10.0	15.0	19.5	21.5	24.5	26.0
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B ESTIMATED WEIGHTS

2	Rock, Sand & Gravel	10	15	19	21	24	25
3	Light Weight Aggr.	9	12.5	16	18	20	20

C MINIMUM LOADS

4	Rock, Sand & Gravel	8	12	15	17	20	20
5	Light Weight Aggr.	6.5	10	12.5	14	18	18
6	Asphaltic Concrete	8	12	18	18	22	22

The (maximum) average loads are those allowed under Department of Motor Vehicles (DMV) regulations, using average tare weights for each vehicle. The estimated weights were included to demonstrate the maximum allowable weights, assuming each load is within 500 pounds of the maximum allowance. CDTOA/CCA accept the average loads as contained in the above table, since they are based upon extensive study. However, they recommend deletion of the 4-axle column as an unnecessary, superfluous column of rates; and they also recommend increases in the minimum loads.

CDTOA/CCA believe the minimum loads, i.e. minimum weights developed by the TD staff, would result in noncompensatory transportation. They note that the proposed minimum loads are substantially below the indicated average loads and estimated weights, and also below the present minimum weights contained in the current MRTs. For instance, the TD staff developed average weight for rock, sand and gravel moving in 5-axle bottom dump truck equipment is 26 tons; but its proposed minimum load is only 20 tons and the present MRT 7-A provision is 24 tons. CDTOA/CCA recommend that this particular minimum load figure be increased to 25 tons.

Yuba concurs with the TD staff recommendations. AGC also agrees with TD staff, and observes that if a carrier were hauling only 22 tons, under the TD staff proposal the carrier would be paid for that amount, while under the CDTOA/CCA proposal it would be paid for 25 tons.

Minimum load factors are used principally to insure that equipment is operated efficiently. There is no record evidence indicating that loads of rock, sand or gravel weighing only 20 tons and moving in 5-axle bottom equipment are transported. TD staff has recommended that minimum loads for lightweight aggregates moving in this same equipment be 18 tons, the same as at present. The present minimum weight for asphaltic concrete is 24 tons; TD staff recommends a reduction to 22 tons. Yet TD staff's recommendation, without explanation, regarding rock, sand and

gravel is a reduction of four tons - from 24 to 20. It would not be efficient for a unit of equipment with a 26-ton or greater capacity to transport only 20 tons, and in practice such is seldom the case. It may happen occasionally when a carrier transports a last, or "cleanup" load to a job. Establishment of a higher minimum weight will prevent the tendering of smaller shipments. It would be unreasonable to expect a carrier to regularly transport 20-ton loads in 26-ton capacity equipment, and be paid for only 20 tons. On the other hand, it would be equally unreasonable to require a shipper to pay on the basis of 25 or 26 tons when tendering only 20 tons.

There is little evidence suggesting that the present minimum weights are not reasonable. Furthermore, the present minimum weights are reasonably close to the average weights developed in Exhibit 54. Shippers and carriers are thoroughly acquainted with the present provisions and accustomed to tendering and billing shipments based upon those provisions. We are aware of no significant changes in DMV weight rules since the present minimum weights were established. In view of this, it is our decision to retain the current minimum weights contained in the three MRTs. This will insure the more efficient use of equipment than would be achieved by adopting the TD staff recommendations.

With respect to CDTOA/CCA's recommendation to eliminate the 4-axle end dump truck rate category, this proposal is based upon testimony that little, if any, such equipment is presently operated. Yet, the information in Table 5.1 is based upon an admittedly comprehensive study, and the study developed data showing an average load of 19.5 tons for this 4-axle equipment. Based upon the study, the CDTOA/CCA recommendation will be denied.

6. Appropriate Methods for Application and Use
of Present and Future Labor Cost Survey Data

CDTOA/CCA note that since the ALJ's ruling including this matter as an issue for Phase 1-B briefs, use of the present labor

cost survey has been decided by the Commission. D.88-08-065, dated August 24, 1988, determined that the present labor cost survey is relevant and reliable only for the limited purpose of establishing territorial boundaries in MRT 7-A. CDTOA/CCA insist that future labor cost surveys should be used in the development of the labor cost component of total costs for ratemaking purposes, and should be commenced immediately, being long overdue.

TD staff, too, continues to characterize the labor cost survey as preliminary, other than for determining territorial boundaries. TD staff anticipates preparing a completed cost report with updated data in the future, after an efficient dump truck carrier costing model has been established through future hearings. TD staff makes this same observation under the issue "Use of Present Evidence and Future Procedures for Updating Dump Truck Costs, Other Than Labor."

AGC continues to maintain that the labor cost survey data is inadequate to provide the basis for rates or offsets. It asserts: "...unless the TD staff follows the specified methodology, any future Labor Cost Survey Data will be suspect." D.88-08-065, supra, has answered AGC's objection concerning use of the labor cost survey employed by the TD staff. Furthermore, D.88-09-069 denied Yuba's petitions for modification of cost gathering methodologies adopted in D.86-08-030; and D.88-12-053 denied Yuba's application for rehearing of D.88-09-069.

In its brief Yuba has given extensive comment to this subject, addressing the validity of the adopted labor cost gathering methodology, the proposed use of data already gathered by the TD staff, more appropriate methods for gathering future labor costs, and more appropriate methods for using that data in the future.

We will again refer to the final decision of the Commission on the validity and limited use of the labor cost survey, supra (D.88-09-069). The labor cost survey conducted thus

far by the TD staff has been, as the TD staff has repeatedly stated, for the purpose of establishing territorial descriptions. It is expected that the TD staff, when conducting its survey of labor costs for other than that limited purpose, will do so in accordance with the directives contained in D.86-08-030.

7. Use of Present Evidence and Future Procedures for Updating Dump Truck Costs, Other Than Labor Costs

During a Prehearing Conference conducted September 17, 1987, TD staff advised the ALJ that it would be ready to address various issues at further evidentiary hearings. Among these was a proposal regarding preliminary dump truck fixed and running costs developed by TD staff. Current exhibits are based on the cost information available at the time they were developed. TD staff expects to develop updated costs when its full cost development proposals are completed at a later date. TD staff believes its full cost development cannot be gathered and presented until the issue of how to insure that costs gathered are those of efficient carriers has been resolved, and an efficient dump truck carrier costing model established. We concur with TD staff and note here that hearings on the issue of "efficient dump truck carrier" are scheduled during June 1989.

AGC maintains that the present evidence concerning dump truck costs, other than labor costs, was developed only to illustrate the results of the adopted methodologies of cost gathering, and to demonstrate the resultant rates using the existing ratemaking methodology. It suggests that once ratemaking methodologies are adopted and set forth in a Commission decision, it will then be appropriate to produce additional evidence in a rate setting proceeding.

COTOA/CCA points out that the evidence on costs, other than labor costs, is contained in Exhibits 54, 55, 56, 57, and 92, and a comparison of the level of current costs with those presently

premising dump truck carrier minimum rates is shown in Exhibits 94, 95, and 96. Those costs are the basis for CDTOA/CCA's motion for an interim rate increase. They further note that the procedures for gathering and updating dump truck costs were decided in D.86-08-030 and D.87-05-036, and the major methodologies to be employed affirmed in D.88-09-069, as further affirmed by denial of Application For Rehearing in D.88-12-053, dated December 9, 1988. CDTOA/CCA maintain that TD staff should be ordered in this decision to update dump truck carrier costs, including labor, commencing immediately, so that dump truck carrier rates can be further adjusted to reflect current circumstances and conditions.

As noted above, it would be premature to direct TD staff to commence gathering updated costs until the issue of "efficient dump truck carrier" is resolved. Immediately upon, and concurrent with that determination, TD staff will be directed to commence gathering all updated costs in accordance with the applicable decisions.

Yuba has again addressed the use of present evidence and future procedures for updating dump truck fuel costs, insurance costs, repair and maintenance and tire costs, and truck depreciation and tax and license costs. D.88-09-069, as affirmed by D.88-12-053, has denied Yuba's request for modification of D.86-08-030. The methodologies adopted by D.86-08-030 have been ratified and affirmed, and must be considered final, notwithstanding Yuba's continued dissatisfaction with them. The methodology relating to the gathering of fixed costs was also established pursuant to D.86-08-030. Appropriate consideration will be given to these topics in the upcoming hearings and decision on "efficient dump truck carrier."

8. Future Use of the CDTOA/CCA
Demographic Study

Among other things, this study asked carriers whether their current operations were at a profit, loss, or break-even

level. A large portion responded that their operations were unprofitable.

TD staff believes these responses constitute and reflect an overly self-serving position carriers would like to have perceived in order to secure greater profits.

AGC urges that no weight be given to the CDTOA/CCA demographic study in this or future proceedings; that while well intended, it is not a valid survey or study. AGC's comments on this issue address principally the merits of the study as it relates to profitability and its use to support the CDTOA/CCA motion for an interim increase.

Yuba offered no meaningful comment on this issue.

CDTOA/CCA observe that their study was a joint effort by them and the TD staff. Its object, they contend, is to obtain a demographic profile of the dump truck carrier industry. They point to the verification of the study, contained in Appendix 4 of Exhibit 78, and note that the study data base includes 2,397 carriers, or about 29.4% of all California dump truck carriers. They assert that while TD staff collaborated with CDTOA/CCA in the preparation of the survey, sent the survey to carriers, and accepted the returns, TD staff did nothing with the data collected. They contend that the information contained in the survey represents perhaps the best and most complete profile of the dump truck carrier industry ever collected, and believe its potential for future use to be significant.

They state that one of the criticisms of minimum rate systems has been that some of the cost development is based upon statewide, average costs; and they argue that some of this criticism can be minimized or avoided by use of the survey data. Example: In MRT 17-A, the survey data indicates 311 carriers who reported earning 100% of their dump truck revenue from that tariff. They urge that rather than using a hit-or-miss system of selecting carriers for cost development, a study group of all or some portion

of these 311 carriers who derive all of their dump truck revenue from MRT 17-A would provide more reliable and geographically localized information. CDTOA/CCA believe the data can be further segregated to isolate carriers by description of commodities hauled, type of equipment operated, locality of transportation performed, carrier revenue reported, whether employees are used, and many other categories which could be useful in the development of costs and productivity factors.

CDTOA/CCA suggest that the demographic survey data can be helpful in identifying a "reasonably efficient carrier" for ratemaking purposes. They urge that the decision in this Phase 1-B portion of the proceeding direct the TD staff and other parties wishing to participate, to use the study data in selecting carriers for the development of further cost and performance factor studies, and/or in identifying the "reasonably efficient carrier" for cost and ratemaking purposes.

The information in the demographic study contains a great deal of useful, pertinent data which can undoubtedly be used by CDTOA/CCA, and by other parties, in the selection of study carriers, average revenues earned, commodities transported, vehicles owned or leased, days worked, etc. Furthermore, the objective data is statistically creditable. For example, when the questionnaires were mailed there were 8,141 dump truck permits outstanding. TD staff furnished CDTOA/CCA with responses from 3,839 carriers, 2,397 of which were usable. The usable responses constitute 29.4% of the total permits outstanding. Appendix 4 of Exhibit 78 lists the number of dump truck permits outstanding in each county as of January 1988, according to Commission records. There were 394 permits in Alameda County, 4.84% of the outstanding permits in the state. The demographic study includes responses from 118 dump truck permittees domiciled in Alameda County, or 4.92% of the 2,397 usable responses, which closely corresponds with the statewide representation for that county. The deviation

calculated for the information set forth in the exhibit is a safe minus .02% with only one county - Orange - showing a questionable deviation of minus 2.04%.

However, while the study is a statistically creditable one, some of the questions posed therein are not sufficiently objective to provide a basis for proper statistical analysis. For instance, the question was asked in the questionnaire used in the survey: "5.9 After paying all expenses of operation (including a reasonable salary for the owner), is your present dump truck business very profitable (), profitable (), break-even (), or unprofitable ()?" Without objective definitions for these terms, it is not likely that information based thereon will be usable in this phase of the proceeding. Nevertheless, we concur with CDTOA/CCA that much of the information taken from the responses to the questionnaires can provide meaningful data to the Commission for basing its decision(s) in this proceeding.

We urge CDTOA/CCA to continue to use this data, and will give due consideration to any reliable information produced through its use. CDTOA/CCA's suggestion that the study may be used in identifying or defining "reasonably efficient carrier" appears to have particular merit. We expect they will use the data during their presentation in the upcoming hearings on that subject, as may other parties. However, we believe it would be unwise at this time to do other than take note of its statistical validity and encourage its use. To require the use of this data may detract from other methodologies which parties are contemplating and which may have equal, or even greater usefulness in establishing parameters for "efficient dump truck carriers." Furthermore, it appears that this decision will not be issued, or final, before the hearings are completed on the issue of "efficient dump truck carrier." In summary, we believe it will be adequate to encourage, without mandating, use by all parties of the demographic study format and usable objective data.

In accordance with Public Utilities Code Section 311, the ALJ's proposed decision was mailed to appearances on April 24, 1989. Comments were received from AGC and from Yuba.

AGC iterates its opposition to use of the CDTOA/CCA demographic study. We call AGC's attention to the statement on page 28 of the proposed decision on this point, i.e. that we are encouraging use by the parties only of usable, objective data contained in the demographic study.

Yuba proposes the use of language on several issues which it believes more accurately states the factual situations, e.g. cost factors included in developing expenses upon which to base rates, the method utilized to develop rates for nonbottom dump equipment, and use of the CDTOA/CCA demographic study. In the first instance, the recitation on page 17 referred to by Yuba of the factors included in developing costs for bottom dump double trailer transportation is not intended to be exhaustive; rather, it is merely prefatory to the discussions following, and of itself does not influence our Finding of Fact 5 on this issue.

In the second instance, Yuba objects to the use of the word "formulas" on page 17 of the proposed decision: "However, distance rates for transportation performed other than in bottom dump truck equipment have not been traditionally developed on the same basis. Rather, they have been calculated under formulas used for adding the costs of such equipment to bottom dump truck rates." (Emphasis added.) We will refer Yuba to Webster's New Collegiate Dictionary, where one definition of "formula" is: "A prescribed or set form or method." Such a definition certainly describes with sufficient accuracy the procedure used by the Commission for many years in establishing rates for this transportation.

Yuba expresses great concern over the recommended limited use in the proposed decision of the CDTOA/CCA demographic study. As stated in the decision, and repeated in connection with AGC's comments (*supra*) on this point, some of the information contained

in the study contains meaningful, useful data which the Commission may wish to consider in resolving certain issues in this proceeding. It is only that usable, objective data which will be used in resolving those issues.

In the circumstances, none of the comments persuade us that the proposed decision should be amended.

Findings of Fact

1. Territorial descriptions in MRT 7-A have historically been set based upon differences in various factors. The principal factor has been differing labor costs, which constitute approximately one-half of total carrier costs in providing dump truck service.
2. Labor costs have been gathered by the TD staff and used in its recommendation concerning the establishment of rating territories. Labor cost data should not be used until combined and presented as a portion of total costs.
3. TD staff's recommended shipping order/freight bill, contained in Exhibit 53, will require shippers and carriers to record information necessary for normal shipper/carrier purposes, and will also provide adequate information for Commission auditing and enforcement purposes. Use of the job confirmation document recommended by CDTOA/CCA would be unreasonably burdensome.
4. The continued use of the "point of origin" rule in connection with MRT 7-A distance rates will provide the least complicated and most workable method for rating distance rated shipments. The prorating method suggested by some of the parties will offer only slight remedy to the problems experienced when lower cost carriers transport shipments originating in and moving extensively through high cost territories.
5. CDTOA/CCA's proposal concerning accessorial charges for shipments transported in other than bottom dump truck equipment provides the simplest and most easily used format for rating such shipments.

6. Retention of the minimum weight provisions presently contained in the MRTs will provide for the more efficient use of dump truck equipment than would adoption of the reduced minimum weights recommended by the TD staff.

7. The labor cost gathering methodology, as well as the cost gathering methodologies relating to other than labor costs, directed by D.86-08-030 have been ratified and affirmed by D.88-09-069 and D.88-12-053. It will be appropriate to update these costs as soon as the issue of "efficient dump truck carrier" is completed and a decision issued thereon.

8. The CDTOA/CCA demographic study represented in Exhibit 79 contains statistically valid, usable information which may be employed by the parties in gathering data for future use in this proceeding.

Conclusions of Law

1. Rating territories should not be established in MRT 7-A until total costs, including labor, fixed vehicle expenses, running expenses, and indirect expenses are gathered and analyzed.

2. TD staff's recommended shipping order/freight bill, contained in Exhibit 53, should be adopted for use in the dump truck MRTs.

3. The present "point of origin" rule, including the requirement that distances be computed along the shortest legally usable route, is reasonable and should be retained in MRT 7-A in connection with the rating of shipments moving under distance rates.

4. The CDTOA/CCA recommendation concerning application of accessorial charges in connection with shipments moving in other than bottom dump truck equipment is reasonable, and should be adopted.

5. The present minimum weight provisions applicable in connection with the three dump truck MRTs are reasonable, and should be retained.

6. Parties should be allowed to use information contained in the CDTOA/CCA demographic study represented in Exhibit 79, for whatever purposes deemed useful during the conduct of this proceeding.

INTERIM ORDER

IT IS ORDERED that:

1. The Transportation Division staff recommendation relating to shipping order/freight bill, contained in Exhibit 53, is adopted for use in this proceeding.

2. The present point of origin rule, including the requirement that distances be computed along the shortest legally usable routes, is retained and adopted for use in connection with the calculation of distance rates.

3. The California Dump Truck Owners Association/California Carriers Association (CDTOA/CCA) recommended format concerning application of accessorial charges set forth in Exhibit 71 is adopted for use in connection with shipments moving in other than bottom dump truck equipment.

4. The present minimum weight provisions applicable in connection with the three minimum rate tariffs shall be retained and published in the tariff(s) adopted pursuant to a final decision in this proceeding.

5. Parties may use the information contained in the CDTOA/CCA demographic study represented in Exhibit 79, for whatever purposes deemed useful during the conduct of this proceeding.

This order becomes effective 30 days from today.

Dated JUN - 7 1989, at San Francisco, California.

G. MITCHELL WILK
President
STANLEY W. HULETT
JOHN B. OHANIAN
PATRICIA M. ECKERT
Commissioners

Commissioner Frederick R. Duda,
being necessarily absent, did
not participate.

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

Victor Weiss
Victor Weiss, Executive Director

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
the City of Riverbank for authority)
to construct an at-grade crossing)
over the tracks of The Atchison,)
Topeka and Santa Fe Railway Company)
at 8th Street in the City of)
Riverbank, County of Stanislaus,)
State of California.)

Application 88-09-004
(Filed September 2, 1988)

Felix J. Reichmuth, for the City of Riverbank,
applicant.

R. Curtis Ballantyne, Attorney at Law, for
The Atchison, Topeka and Santa Fe Railway
Company, protestant.

Edward P. Thurban, for the Transportation
Division.

OPINION

In this application the City of Riverbank (applicant) requests authority to construct an at-grade crossing over a lead track of The Atchison, Topeka and Santa Fe Railway Company (Santa Fe) in Riverbank, Stanislaus County. The proposed crossing would be created by the southerly extension of Eighth Street from Kentucky Avenue to Townsend Avenue, a distance of approximately 700 feet. Applicant asserts that the need for the crossing is due to increased subdivision build-out planned near the southerly city limits. Santa Fe protested the application, alleging that there is insufficient need for the crossing, and that the proximity of nearby Townsend Avenue would cause traffic to stop on its tracks.

A duly noticed public hearing was held before Administrative Law Judge John Lemke on March 8, 1989. The matter was submitted with the close of hearing.

because the Negative Declaration offered during the hearing (Exhibit 3) does not include, in its Circulation Element Update, specific reference to the proposed crossing. The Initial Study, filed in September 1987, states that the project will not require the approval of any other agency. As construction of the proposed crossing requires approval of this Commission, it appears that the crossing was not considered in formulating applicant's general plan. Nevertheless, we will grant the application based upon the evidence demonstrating the need for the crossing, the minimal impact upon the environment associated with the construction of the crossing, and our agreement with applicant's determination of negative impact in connection therewith.

The Traffic Engineering Section of the Commission's Safety Division took a neutral position on the question whether to grant the application. However, it stated in its Advice of Participation that an at-grade crossing would be safe, provided automatic gate type warning devices are installed.

Findings of Fact

1. Applicant requests authority under Public Utilities Code §§ 1201 et seq. to construct an at-grade crossing over the tracks of Santa Fe in the City of Riverbank.

2. Construction of the proposed crossing will be necessary in order to provide adequate vehicular traffic circulation in the area when the planned development involving the construction of approximately 230 new homes, and a new city park, is completed.

3. Construction of the proposed crossing will have no significant impact on the environment.

Conclusion of Law

The application should be granted as set forth in the following order.

ORDER

IT IS ORDERED that:

1. The City of Riverbank (applicant) is authorized to construct an at-grade crossing over the tracks of The Atchison, Topeka and Santa Fe Railway Company at the location and substantially as shown in the application and this order.

2. Construction of the crossing shall be in accordance with the provisions of General Order (GO) 72-B. Clearances shall conform with the provisions of GO 26-D. Walkways shall conform with GO 118.

3. Protection at the Eighth Street crossing shall be two Standard No. 8-A automatic flashing light signals with cantilevers, in accordance with GO 75-C.

4. Construction expense of the crossing, and installation and maintenance costs of the automatic protection shall be borne by applicant.

5. Maintenance of the crossing shall conform with the provisions of GO 72-B.

6. Applicant shall place two stop signs on Townsend Avenue at the intersection of Eighth Street.

7. Within 30 days after completion of the work authorized by this order, applicant shall advise the Commission in writing that the authorized work has been completed.

8. The authority granted by this decision shall expire if not exercised within two years of the effective date of this order, unless time is extended or if the above conditions are not complied with. Authorization may be revoked or modified if public convenience, necessity, or safety so require.

Findings of Fact

1. Territorial descriptions in MRT 7-A have historically been set based upon differences in various factors. The principal factor has been differing labor costs, which constitute approximately one-half of total carrier costs in providing dump truck service.

2. Labor costs have been gathered by the TD staff and used in its recommendation concerning the establishment of rating territories. Labor cost data should not be used until combined and presented as a portion of total costs.

3. TD staff's recommended shipping order/freight bill, contained in Exhibit 53, will require shippers and carriers to record information necessary for normal shipper/carrier purposes, and will also provide adequate information for Commission auditing and enforcement purposes. Use of the job confirmation document recommended by CDTOA/CCA would be unreasonably burdensome.

4. The continued use of the "point of origin" rule in connection with MRT 7-A distance rates will provide the least complicated and most workable method for rating distance rated shipments. The prorating method suggested by some of the parties will offer only slight remedy to the problems experienced when lower cost carriers transport shipments originating in and moving extensively through high cost territories.

5. CDTOA/CCA's proposal concerning accessorial charges for shipments transported in other than bottom dump truck equipment provides the simplest and most easily used format for rating such shipments.

6. Retention of the minimum weight provisions presently contained in the MRTs will provide for the more efficient use of dump truck equipment than would adoption of the reduced minimum weights recommended by the TD staff.

7. The labor cost gathering methodology, as well as the cost gathering methodologies relating to other than labor costs,

directed by D.86-08-030 have been ratified and affirmed by D.88-09-069 and D.88-12-053. It will be appropriate to update these costs as soon as the issue of "efficient dump truck carrier" is completed and a decision issued thereon.

8. The CDTOA/CCA demographic study represented in Exhibit 79 contains statistically valid, usable information which may be employed by the parties in gathering data for future use in this proceeding.

Conclusions of Law

1. Rating territories should not be established in MRT 7-A until total costs, including labor, fixed vehicle expenses, running expenses, and indirect expenses are gathered and analyzed.

2. TD staff's recommended shipping order/freight bill, contained in Exhibit 53, should be adopted for use in the dump truck MRTs.

3. The present "point of origin" rule, including the requirement that distances be computed along the shortest legally usable route, is reasonable and should be retained in MRT 7-A in connection with the rating of shipments moving under distance rates.

4. The CDTOA/CCA recommendation concerning application of accessorial charges in connection with shipments moving in other than bottom dump truck equipment is reasonable, and should be adopted.

5. The present minimum weight provisions applicable in connection with the three dump truck MRTs are reasonable, and should be retained.

6. Parties should be allowed to use information contained in the CDTOA/CCA demographic study represented in Exhibit 79, for whatever purposes deemed useful during the conduct of this proceeding.

INTERIM ORDER

IT IS ORDERED that:

1. The Transportation Division staff recommendation relating to shipping order/freight bill, contained in Exhibit 53, is adopted for use in this proceeding.

2. The present point of origin rule, including the requirement that distances be computed along the shortest legally usable routes, is retained and adopted for use in connection with the calculation of distance rates.

3. The California Dump Truck Owners Association/California Carriers Association (CDTOA/CCA) recommended format concerning application of accessorial charges set forth in Exhibit 71 is adopted for use in connection with shipments moving in other than bottom dump truck equipment.

4. The present minimum weight provisions applicable in connection with the three minimum rate tariffs shall be retained and published in the tariff(s) adopted pursuant to a final decision in this proceeding.

5. Parties may use the information contained in the CDTOA/CCA demographic study represented in Exhibit 79, for whatever purposes deemed useful during the conduct of this proceeding.

This order becomes effective 30 days from today.

Dated JUN - 7 1989, at San Francisco, California.

G. MITCHELL WILK
President
STANLEY W. HULETT
JOHN B. OHANIAN
PATRICIA M. ECKERT
Commissioners

Commissioner Frederick R. Duda,
being necessarily absent, did
not participate.

INTERIM ORDER

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1. The Transportation Division staff recommendation relating to shipping order/freight bill, contained in Exhibit 53, is adopted for use in this proceeding.

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