

Decision 89 09 068 SEP 27 1989

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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

Case 5437  
Petition for Modification 340  
(Filed May 24, 1989)

OPINION

National Cement Company of California, Inc. (petitioner) is a producer of Portland cement whose manufacturing facility is located at Los Robles (Kern County), California. Petitioner utilizes the services of numerous for-hire carriers to transport its products and raw materials under the provisions of Minimum Rate Tariff 7-A (MRT 7-A).

Petitioner has filed to request that "silica sand used in the manufacture of portland cement" be reclassified from Item 30 to Item 40 in MRT 7-A. The granting of this request would authorize the transportation of silica sand used in portland cement at a lower rate when such hauls are in excess of 5 to 10 miles.

Item 30 commodities include basic construction materials. Item 40 lists cement clinker, gypsum rock, and mill scale, which are used along with silica sand in the manufacture of portland cement. Item 30 materials require considerable off-road transportation, which Item 40 units do not. The silica sand described herein is not an off-road item and is transported in the same way as other Item 40 products. It is noted that silica sand used in the manufacture of Portland cement should be listed in Item 40 of MRT 7-A with other products that perform the same function.

Findings of Fact

1. Silica sand used in the manufacture of Portland cement is rated under Item 30 of Minimum Rate Tariff 7-A.

2. The commodities listed in Item 30 are construction materials which are usually transported to off-road projects and building sites.

3. Silica sand used in the manufacture of Portland cement is not a construction material and is used primarily in the manufacture of cement, along with other ingredients listed in Item 40 of MRT 7-A.

4. The sand referred to herein is used for the same purpose as Item 40 materials and should be reclassified from Item 30 to Item 40 of MRT 7-A.

5. Commodities described in Item 40 move at generally lower distance than commodities described in Item 40.

6. Item 40 rates will reflect more accurately the operational and market economics governing this transportation and will therefore be reasonable.

Conclusions of Law

1. The petition should be granted.
2. A public hearing is not necessary.

ORDER

IT IS ORDERED that:

1. MRT 7-A (Appendix B to D.82061, as amended) is further amended by incorporating Thirteenth Revised Page 8 and Thirteenth Revised Page 9, attached, to become effective November 1, 1989.

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

3. Tariff publications required to be made by common carriers as a result of this order shall be filed not earlier than the effective date of this order and may be made effective not earlier than the effective date of the tariff pages attached.

4. Common carriers, in establishing and maintaining the rates authorized by this order, are authorized to depart from the provisions of Public Utilities Code Section 461.5 to the extent necessary to adjust long- and short-haul departures now maintained under outstanding authorizations; such outstanding authorizations are modified to the extent necessary to comply with this order; and schedules containing the rates published under this authority shall make reference to the prior orders authorizing long- and short-haul departures and to this order.

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

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

This order becomes effective 30 days from today.

Dated SEP 27 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 PUBLIC  
COMMISSIONERS

*Wesley Franklin*

WESLEY FRANKLIN, Acting Executive Director

*pb*

SECTION 1--RULES (Continued)	ITEM
<p style="text-align: center;"><b>APPLICATION OF TARIFF--CARRIERS</b></p> <p>Rates provided in this tariff are minimum rates, established pursuant to the Highway Carriers' Act. They apply for transportation of property and other accessorial or incidental services performed prior to, during, or subsequent to said transportation by carriers, as defined in Item 10, in bulk in dump truck equipment.</p> <p>The rates and rules contained in this tariff shall apply to transportation by underlying carriers (independent-contractor subhaulers) when such transportation is performed for other carriers, as provided in Item 210.</p>	20
<p style="text-align: center;"><b>APPLICATION OF TARIFF--COMMODITIES</b></p> <p>When reference is made to this item, rates apply to the transportation of the following commodities:</p> <p><b>LIST A</b></p> <ul style="list-style-type: none"> <li>Asphaltic or cement concrete, crushed or re-crushed;</li> <li>Base, cement treated (moist mixture of sand, crushed rock and/or gravel and cement);</li> <li>Concrete, mortar or plaster: ingredients of, in batches, in nylon-corded rubberized bags;</li> <li>Containers, empty, used, viz.: empty, used nylon-corded rubberized bags being returned from an outbound trip in which they moved containing batches of the ingredients of concrete, mortar or plaster;</li> <li>(1) Earth, including dirt, loam, silt or soil individually or in any combination. It also includes miscellaneous material such as stone, rock, tree stumps and broken concrete in combination with earth when such material does not exceed 50 percent of the total volume of the shipment.</li> <li>Granite, decomposed;</li> <li>Gravel;</li> <li>Limestone (Subject to Note 2);</li> <li>Ore;</li> <li>Rock (commonly called "cobblestone" or "rip rap");</li> <li>Sand, crushed stone and gravel, mixed dry, with or without cement added;</li> <li>Sand, other than burnt shale;</li> <li>Silica Sand (Subject to Note 2);</li> <li>Slag, other than expanded;</li> <li>Stone, crushed, chips or waste;</li> <li>Stone, natural, blocks, pieces or slabs, rough quarried;</li> <li>Stone, natural, sawed, not further finished.</li> </ul> <p>(1) See Item 290 for shipments subject to Distance Rates of more than 30 miles. See Item 310 for shipments subject to Distance Rates of 30 miles or less.</p> <p><b>LIST B</b></p> <ul style="list-style-type: none"> <li>Asphaltic concrete (commonly called "Hot Stuff");</li> <li>Cold road oil mixture (commonly called "Plant Mix");</li> <li>Asphalt, cold liquid, in containers not exceeding 5 gallons capacity per container (Subject to Note 1).</li> </ul> <p><b>NOTE 1.</b>--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 a part of, a shipment of asphaltic concrete and when the quantity so tendered does not exceed 15 gallons per shipment.</p> <p><b>NOTE 2.</b>--Does not apply on (1) limestone or silica sand processed for use in glass manufacture, (2) silica sand for use in the manufacture of roofing, and (3) portland cement.</p>	30
<p>Change ) Addition ) Decision: <b>89 09 068</b></p>	
<p><b>EFFECTIVE NOV 1 1989</b></p>	
<p>Correction</p>	

SECTION 1--RULES (Continued)

ITEM	SECTION 1--RULES (Continued)				
40	APPLICATION OF TARIFF--COMMODITIES				
	<p>When reference is made to this item, rates apply to the transportation of the following commodities:</p> <table border="0" style="width: 100%;"> <tr> <td style="vertical-align: top; width: 33%;">                     Barium, clay or silicate mud compounds, dry, oilwell drilling;                      Cement clinker;                      Clay, other than burnt or calcined;                      Dolomite, dead-burned;                      Dolomite rock, crushed;                      Gypsum rock, crude, not further processed than broken or crushed;                      Limestone, processed for use in glass manufacture;                      Mill scale;                      Mud, dry, oilwell drilling;                 </td> <td style="vertical-align: top; width: 33%;">                     Perlite rock, crude, not expanded, not further processed than broken, crushed or ground;                      Pyrite cinders;                      Pyrophyllite, crude, in blocks, pieces or slabs, rough quarried;                      Rock, powdered, for use in the manufacture of roofing;                      Roofing granules, colored or not colored, for use in the manufacture of roofing;                      Shale, other than burnt, calcined or expanded;                 </td> <td style="vertical-align: top; width: 33%;">                     Silica sand, processed for use in glass manufacture, or for use in the manufacture of roofing,                      * or for use in the manufacture of portland cement;                      Soapstone, crude, in blocks, pieces or slabs, rough quarried or not further finished than sawed or chipped on four sides;                      Talc, crude, in blocks, pieces or slabs, rough quarried or not further finished than sawed or chipped on four sides;                      Trona, crude.                 </td> </tr> </table>			Barium, clay or silicate mud compounds, dry, oilwell drilling; Cement clinker; Clay, other than burnt or calcined; Dolomite, dead-burned; Dolomite rock, crushed; Gypsum rock, crude, not further processed than broken or crushed; Limestone, processed for use in glass manufacture; Mill scale; Mud, dry, oilwell drilling;	Perlite rock, crude, not expanded, not further processed than broken, crushed or ground; Pyrite cinders; Pyrophyllite, crude, in blocks, pieces or slabs, rough quarried; Rock, powdered, for use in the manufacture of roofing; Roofing granules, colored or not colored, for use in the manufacture of roofing; Shale, other than burnt, calcined or expanded;
Barium, clay or silicate mud compounds, dry, oilwell drilling; Cement clinker; Clay, other than burnt or calcined; Dolomite, dead-burned; Dolomite rock, crushed; Gypsum rock, crude, not further processed than broken or crushed; Limestone, processed for use in glass manufacture; Mill scale; Mud, dry, oilwell drilling;	Perlite rock, crude, not expanded, not further processed than broken, crushed or ground; Pyrite cinders; Pyrophyllite, crude, in blocks, pieces or slabs, rough quarried; Rock, powdered, for use in the manufacture of roofing; Roofing granules, colored or not colored, for use in the manufacture of roofing; Shale, other than burnt, calcined or expanded;	Silica sand, processed for use in glass manufacture, or for use in the manufacture of roofing, * or for use in the manufacture of portland cement; Soapstone, crude, in blocks, pieces or slabs, rough quarried or not further finished than sawed or chipped on four sides; Talc, crude, in blocks, pieces or slabs, rough quarried or not further finished than sawed or chipped on four sides; Trona, crude.			

50	APPLICATION OF TARIFF--COMMODITIES				
	<p>When reference is made to this item, rates apply to the transportation of the following commodities:</p> <p>Lightweight Aggregates, viz.:</p> <table border="0" style="width: 100%;"> <tr> <td style="vertical-align: top; width: 33%;">                     Ash, volcanic;                      Cinders;                      Clay, burnt or calcined;                      Perlite, expanded;                 </td> <td style="vertical-align: top; width: 33%;">                     Pumice;                      Sand, burnt shale;                      Scorfa, volcanic;                 </td> <td style="vertical-align: top; width: 33%;">                     Shale, burnt or calcined;                      Shale, expanded;                      Slag, expanded.                 </td> </tr> </table>			Ash, volcanic; Cinders; Clay, burnt or calcined; Perlite, expanded;	Pumice; Sand, burnt shale; Scorfa, volcanic;
Ash, volcanic; Cinders; Clay, burnt or calcined; Perlite, expanded;	Pumice; Sand, burnt shale; Scorfa, volcanic;	Shale, burnt or calcined; Shale, expanded; Slag, expanded.			

/ Change )  
 \* Addition )  
 ◊ Increase ) Decision  
 & Reduction )

89 09 068

EFFECTIVE NOV 1 1989

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

Correction