

T/RLM/cpb

Decision 90-09-054 September 12, 1990

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. )

And Related Matters )

Case 5437  
Petition for Modification  
348  
(Filed September 6, 1990)

Case 9819  
Petition for Modification  
130  
(Filed September 6, 1990)

Case 9820  
Petition for Modification  
41  
(Filed September 6, 1990)

O P I N I O N

Recent events in the Middle East, including the invasion of Kuwait by Iraq, have sent prices on world oil markets spiraling upwards. Prices have nearly doubled in the past few weeks, rising to levels as high as \$31 per barrel. This has had a serious impact on dump truck transportation.

During our August 29, 1990 meeting, while addressing this issue for other classes of carriers, we indicated our willingness to consider raising Minimum Rate Tariff (MRT) 7-A, 17-A and 20 rates temporarily and solely to enable dump truck carriers to recover the significant fuel cost increases caused by Middle East events. We invited dump truckers to file formal petitions both requesting this action and justifying its need in a timely enough manner to allow us to consider action at our September 12, 1990 meeting.

On September 6, 1990 the California Carriers Association and the California Dump Truck Owners Association (CCA/CDTOA) jointly filed the above captioned petitions in response to our August 29 invitation. By these petitions, CCA/CDTOA seek increases ranging from 8 to 10% in MRTs 7-A, 17-A and 20 for an interim period of at least 30 days. In support of their request, petitioners state their belief that industry-wide diesel costs now exceed \$1.35 per gallon. They have attached copies of fuel invoices to their petitions showing that some late August 1990 fuel purchases have been made between \$1.44 and \$1.55 per gallon; or an average of about \$1.50 per gallon. However, CCA/CDTOA submit no evidence showing how these increased diesel costs result in the need to increase dump truck minimum rates by a magnitude of 8 to 10%. Petitioners make reference to the \$0.86 per gallon diesel fuel cost established in 1987, but it is unclear whether this is used in arriving at its requested increases.

In an attempt to determine the accuracy of petitioners' requests for these substantial rate increases, Transportation Division staff (staff) has performed an analysis of the MRT 7-A, 17-A and 20 fuel-cost related impacts created since early August due to Middle East events. Staff used, as its basic cost models, what may be considered the datum planes of record established in Case (C.) 5437, Petition 328, et al, for MRTs 7-A, 17-A and 20, together with the change in vehicle investment cost allowed for these MRTs in C.5437, Order Setting Hearing 325. These are the same basic datum planes staff used in its Resolution TL-18365 analysis of Proposition 111 related dump truck cost impacts. Staff substituted the \$0.86 per gallon fuel cost value contained in these models with a value of \$1.18, which represents the \$1.23 per gallon

August 1, 1990 diesel fuel price contained in Lundberg's Diesel Retail Prices Report, minus the \$0.05 per gallon fuel tax in effect since August 1 due to passage of Proposition 131. It then increased this value to an adjusted diesel fuel price amount of \$1.45 per gallon (the \$1.50 per gallon average noted above minus \$0.05 per gallon tax = \$1.45 per gallon) to approximate the current retail level claimed by petitioners, and estimated the change this \$0.27 per gallon increase in diesel costs would cause in the total costs upon which the dump truck MRTs are based. The results of staff's analysis for the specific MRTs show that the following average increases in MRT costs have occurred due to Middle East events:

- o For MRT 7-A distance rate hauling, 4.06% on average;
- o For MRT 7-A hourly rate hauling, 3.88% on average;
- o For hauling under MRT 17-A rates, 3.35% on average;
- o For hauling under MRT 20 rates, 3.26% on average.

Given petitioners' claim that prevailing retail diesel fuel prices are at least \$1.35 per gallon, and that some carriers are paying as much as \$1.55 per gallon for fuel, the \$1.50 value staff used as an estimate of current fuel cost in its analysis appears reasonable. Staff's analysis constitutes the best evidence we now have before us concerning the impact events in the Middle East have had on dump truck costs. It shows that if all other costs remain constant, a 4.1% increase in MRT 7-A distance rates, a 3.9% increase in MRT 7-A hourly rates, a 3.4% increase in MRT 17-A rates, and a 3.3% increase in MRT 20 rates will substantially offset fuel cost increases thus far caused by these events.

We recognize that fuel cost is but one element of total dump truck operating cost and, to the extent that the other elements of operating cost being experienced by dump truckers could be declining, the impact of increasing fuel cost may be mitigated to some extent.

We will grant interim MRT 7-A, 17-A and 20 increases of the magnitudes estimated by staff only because events in the Middle East have created the need for us to act quickly on the basis of the best cost information presently available. We will implement these interim increases through the issuance of tariff surcharge supplements, to expire November 9, 1990, unless cancelled prior to that date by further order.

We intend to schedule and conduct hearings prior to November 9, 1990, to further consider these petitions and allow parties of interest in these matters opportunity to present any evidence they believe may more accurately identify the actual cost increases carriers subject to MRTs 7-A, 17-A and 20 are experiencing due to events in the Middle East.

Parties should not interpret this action we take today as an indicator of how we will treat rate increase matters of a more routine nature in the future. We take this action only because of this crisis situation which caused unforeseen and significant increases in fuel costs.

Petitioner's have requested ex parte consideration in their filing. Notice of the filing of the petition appeared in the Commission's Daily Transportation Calendar of September 11, 1990. No protest to the granting of the petition has been received, however, on September 10, Associated General Contractors of California (AGCC) submitted a response to the petition of CCA/CDTOA in which AGCC does not object to a surcharge of as high as 6.6% on rates. AGCC suggested several possible changes dealing with deviations and division of revenue. These are more complex

proposals which require a more thorough consideration than we are able to give them on such short notice. We do not wish to delay the temporary emergency relief we are now granting petitioners. Therefore we will not grant these proposals at this time, but AGCC is free to propose them in further proceedings on these petitions.

We will likewise defer any decision on CCA/CDTOA's less specific proposal to deal with deviations. Petitioners asked for a change in already granted deviations because such deviations may be in some way based on lower fuel costs. Petitioners have not clearly identified the specific effect of changes in fuel price on the variety of already filed deviations nor have they proposed a specific change which they desire to make in these deviations. Therefore we will deny this request for changing already granted deviated rates, without prejudice, although petitioners may make a more detailed presentation if they wish at a later time.

Findings of Fact

1. Recent events in the Middle East have resulted in precipitous and unforeseeable fuel price increases associated with abnormal market conditions.
2. Some dump truck carriers have reported that they are already paying significantly higher fuel prices.
3. Dump truck minimum rate tariffs do not currently reflect the precipitous cost increases caused by this emergency.
4. Using datum planes of record established in C.5437, Petition 328, et al, together with the change in vehicle investment cost allowed in C.5437, OSH 325, Transportation Division staff has calculated that the approximately \$0.27 per gallon diesel fuel cost increase related to the Middle East crisis has an approximately 4.1% impact on MRT 7-A distance rates, an approximately 3.9% impact on MRT 7-A hourly rates, an approximately 3.4% impact on MRT 17-A rates, and an approximately 3.3% impact on MRT 20 rates.

Conclusions of Law

1. Dump truck carriers should be permitted to recover the increase in fuel costs experienced after August 1, 1990, due to the emergency in the Middle East by means of minimum rate tariff surcharge supplements.

2. The fuel surcharge supplements described in Conclusion of Law 1 above should expire November 9, 1990, or such earlier date that the Commission sets in the event that fuel prices decline to levels more nearly comparable to those existing before the fuel crisis.

3. The fuel surcharge supplements authorized by this order are justified only because of the current Middle East crisis.

4. It is appropriate to increase the rates in MRT 7-A, MRT 17-A and MRT 20 on a temporary basis due to the unforeseen crisis in the Middle East.

5. The emergency situation and the precipitous rise in fuel prices since the beginning of August require us to make these increases effective September 16, 1990.

O R D E R

IT IS ORDERED that:

1. Minimum Rate Tariff (MRT) 7-A (Appendix B to Decision (D.) 82061, as amended) is further amended by incorporating the attached Supplement 32, effective September 16, 1990.

2. MRT 17-A (Appendix C to D.80578, as amended) is further amended by incorporating Supplement 45, effective September 16, 1990.

3. MRT 20 (Appendix A to D.81799, as amended) is further amended by incorporating Supplement 29, effective September 16, 1990.

4. These supplements shall expire on November 9, 1990 or such earlier date that the Commission sets in the event that fuel prices decline to levels more nearly comparable to those existing before the fuel crisis.

5. A public hearing in this matter shall be held before an Administrative Law Judge of the Commission at a time and place to be determined, at which time and place all interested parties may appear and be heard.

6. The Executive Director shall serve a copy of this decision on each subscriber to MRT 7-A, 17-A and 20.

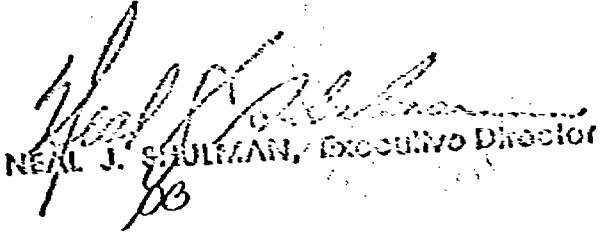
This order is effective today.

Dated September 12, 1990, at San Francisco, California.

G. MITCHELL WILK  
President  
FREDERICK R. DUDA  
STANLEY W. HULETT  
PATRICIA M. ECKERT  
Commissioners

Commissioner John B. Ohanian  
being necessarily absent, did  
not participate.

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

  
NEAL J. SULLIVAN, Executive Director

**SURCHARGE SUPPLEMENT**

**(E) SUPPLEMENT 32**

**(Supplements 9, 29, 31 and 32 Contain All Changes)**

**TO**

**MINIMUM RATE TARIFF 7-A**

**NAMING**

**MINIMUM RATES AND RULES**

**FOR THE**

**TRANSPORTATION OF PROPERTY IN DUMP TRUCK**

**EQUIPMENT BETWEEN POINTS IN CALIFORNIA**

**BY**

**HIGHWAY CONTRACT CARRIERS**

**AGRICULTURAL CARRIERS**

**AND**

**DUMP TRUCK CARRIERS**

**(E) ◇ 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 as follows:

1. By four and one-tenth (4.1) percent on charges computed at rates provided in Items 270, 280, 290, 300, 310, 320, 325, 330, 340 and 350, 480, 490, 510, 530, 540, 550 and 560.
2. By three and nine-tenths (3.9) percent on charges computed at rates provided in Items 390 and 400.

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.

**(E) Expires no later than November 9, 1990**

**EFFECTIVE SEPTEMBER 16, 1990**

**◇ Increase, Decision 90-09-054**

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**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**  
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505 Van Ness Avenue  
San Francisco, California 94102



SURCHARGE SUPPLEMENT

(E) SUPPLEMENT 45

(Supplements 6, 13, 27, 29, 43, 44 and 45 Contain All Changes)

TO

MINIMUM RATE TARIFF 17-A

NAMING

MINIMUM ZONE 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

(E) ◇ 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 three and four-tenths (3.4) 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. Item 180 - Accessorial Charges (At Destination);
4. Items 200 and 220 (Railhead-to-railhead charges only);
5. Item 280 - Collect on Delivery (C.O.D.) Shipment; and
6. Item 570 - Tarp Labor Charge.

(E) Expires no later than November 9, 1990

◇ Decision 90-09-054

EFFECTIVE SEPTEMBER 16, 1990

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SURCHARGE SUPPLEMENT

(E) SUPPLEMENT 29

(Supplements 2, 7, 27, 28 and 29 Contain All Changes)

TO

MINIMUM RATE TARIFF 20

HANING

MINIMUM ZONE RATES AND RULES

FOR THE

TRANSPORTATION OF ROCK, SAND AND GRAVEL

IN FOUR- AND FIVE-AXLE DUMP TRUCK EQUIPMENT FROM

DEFINED PRODUCTION AREAS TO DESIGNATED DELIVERY ZONES

AND DISTANCE RATES

IN NORTHERN CALIFORNIA

BY

DUMP TRUCK CARRIERS

(E)  $\diamond$  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 three and three-tenths (3.3) 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. Items 180 and 190 - Accessorial charges;
2. Item 195 - Tarp Labor Charge;
3. Items 200 and 220 (Railroad-to-railhead charges only); and
4. Item 280 - Collect on Delivery (C.O.D.) Shipment.

(E) Expires no later than November 9, 1990

$\diamond$  Increase, Decision 90-09-054

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