

Decision 91-02-021

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 348
(Filed September 6, 1990)

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

And Related Matters.

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

Case 5433
Petition for Modification 81
(Filed September 6, 1990)

Case 5330
Petition for Modification 123
(Filed September 7, 1990)

ORDER EXTENDING FUEL SURCHARGES

This decision extends until February 22, 1991, the fuel surcharges authorized by D.90-10-066. This decision also orders further surveys of fuel costs to be filed with the Docket Office on or before February 14, 1991. Any such surveys should also be provided to the Transportation Division Director no later than February 14, 1991.

Notice of this matter did not appear on the Commission's public agenda; however, an emergency exists in that the continuing high fuel costs caused by the continuing crisis in the Middle East, coupled with the expiration of fuel surcharges instituted in

response to the Middle East crisis, justifies our action today under Public Utilities Code Section 306(b).

Background

Iraq's invasion of Kuwait and the resulting events in the Middle East caused fuel costs for trucking companies to increase significantly. In response to this emergency situation, the Commission authorized temporary surcharges to the rates contained in Minimum Rate Tariffs (MRTs) in D.90-09-052, D.90-09-053, and D.90-09-054, in order to reflect these sharply higher fuel costs. The temporary fuel surcharges were later revised and extended by D.90-10-066 and D.90-12-085 (as modified by D.90-12-124).

The temporary fuel surcharges expired on February 6, 1991. To extend the surcharges, the California Dump Truck Owners Association (CDTOA), the California Moving and Storage Association (CMSA), and the California Carriers Association (CCA) jointly filed a petition to modify D.90-12-124 on January 4, 1991. Their petition requested D.90-12-124 be modified so as to extend through the Commission conference date of May 8, 1991, the temporary fuel surcharges for MRTs 4-C, 7-A, 17-A, and 20. The basis the petitioners gave for extending the fuel surcharges was the continuing high level of fuel costs due to the Middle East crisis. The petitioners also stated their intent to undertake a survey of fuel costs in early January in order to ascertain whether the current surcharges should be continued, or further adjusted upward or downward.

A joinder to this petition to modify was filed on January 10, 1991, by the Bay Counties Dump Truck Association.

A second petition to modify D.90-12-124 was filed by the California Trucking Association (CTA) on January 15, 1991. In its petition, CTA asked that the temporary fuel surcharge for MRT 3-A be extended for 90 days beyond its expiration date of February 6, 1991.

On January 15, 1991, CDTOA, CMSA, and CCA filed a supplement to their joint petition to modify D.90-12-124. The supplement included the results of their fuel surveys conducted in early January, 1991. The surveys showed a decline in fuel costs from the level of \$1.50 per gallon that was the basis of the fuel surcharges established in D.90-10-066 and later extended until February 6, 1991. The CDTOA/CCA survey also showed that despite the decline in fuel costs from \$1.50 per gallon to \$1.32 per gallon (excluding the effects of new state and federal fuel taxes), fuel costs still remained well above the level of \$1.04 per gallon that prevailed just prior to the Middle East crisis. On the basis of the continuing high level of fuel costs, the petitioners asked that the temporary fuel surcharge be extended, but at a lower level. The supplement also indicated that another survey of fuel costs was planned for late January, 1991.

A protest to the CDTOA/CMSA/CCA petition was filed by the Associated General Contractors of California (AGCC) on January 28, 1991. AGCC cited portions of D.90-12-124 and D.90-12-085 to show that the petitioners were requesting an extension of fuel surcharges "in a proceeding which has been terminated," and argued that this precluded the use of petitions to modify as a vehicle to extend the temporary fuel surcharges. With the proceeding "closed," AGCC asked that the Petition for Modification dated January 4, 1991, and the related Supplement dated January 15, 1991, be made the subject of a new proceeding with hearings. Foremost among the matters AGCC wanted heard in a new proceeding was the necessity of extending the fuel surcharges, the appropriate level of fuel surcharges, and the use of Lundberg's Diesel Retail Prices Report as the basis for computing fuel surcharges instead of the fuel cost surveys conducted by the petitioners.

On February 1, 1991, DRA filed a protest to the petitions of CDTOA/CMSA/CCA and CTA. DRA's protest cited evidence of declining fuel prices, and recommended that, depending on the MRT,

current fuel surcharges be extended at a reduced level or eliminated altogether. DRA also recommended the use of "unbiased" fuel price information in setting fuel surcharges, such as Lundberg's Diesel Retail Prices Report.

Discussion

Our reasons for authorizing the temporary fuel surcharges for MRTs remain. The crisis in the Middle East has exploded into war, and fuel costs remain well above where they were prior to Iraq's invasion of Kuwait.

However, we also recognize that fuel costs have declined since D.90-10-066. In the past, we relied on the CDTOA/CCA survey in establishing the surcharges. The most recent CDTOA/CCA survey available to us was conducted in early January, 1991. That survey showed fuel costs to have declined below the level used to establish the current surcharges. However, since the time the CDTOA/CCA survey was conducted in early January, war has broken out, and fuel costs appear to have declined further. The survey CDTOA/CCA planned for late January, 1991, should provide the Commission with more current fuel cost information. Other parties may also wish to submit fuel cost information. All such information should be filed with the Docket Office on or before February 14, 1991. In addition, copies of all such filings should be provided no later than February 14, 1991, to the Transportation Division Director.

In order to take into account this information about fuel price movements since the war, we need before us the filings due February 14, 1991. Once we have the filings, we will revise the surcharge level as appropriate. Until then, the current fuel surcharges will be temporarily extended.

AGCC's protest is incorrect in its assumption that petitions for modification of a Commission decision cannot be filed or acted upon due to a proceeding being "closed." We are not always required to open a new proceeding in order to modify our

past decisions. In the instant case, the petitions to modify, properly filed by CDTOA/CMSA/CCA and CTA in accordance with our Rules of Practice and Procedure, provide us with an appropriate vehicle for extending the temporary fuel surcharges.

DRA's protest asks us to immediately lower the existing surcharges based on the data it presents. Most of its data is still for periods prior to the outbreak of war. In any event, we want to have the opportunity to review current data from the CDTOA/CCA survey we previously relied on, before revising the surcharges. We believe that a brief delay in revising the surcharges is preferable to having to revise them several times in rapid succession because we did not have sufficient data available the first time.

We agree with AGCC and DRA, however, that additional sources of information besides the fuel cost surveys conducted by the petitioners might be useful for determining the appropriate level of fuel surcharges. For example, AGCC cites our use of Lundberg's Diesel Retail Prices Report to set fuel surcharges in D.90-09-054. In our next decision in this matter, we intend to consider the usefulness of Lundberg's Diesel Retail Prices Report and other indices and surveys in setting fuel surcharges.

Notice of this matter did not appear on the Commission's public agenda; however, an emergency exists in that the continuing high fuel costs caused by the continuing crisis in the Middle East, coupled with the expiration of fuel surcharges instituted in response to the Middle East crisis, justifies our action today under Public Utilities Code Section 306(b).

Findings of Fact

1. The invasion of Kuwait by Iraq and the resulting events in the Middle East have resulted in higher fuel costs for trucking companies.

2. On January 4, 1991, CDTOA, CCA, and CMSA filed a petition to modify D.90-12-124. A joinder to this petition was filed on January 10, 1991, by the Bay Counties Dump Truck Association.

3. A second petition to modify D.90-12-124 was filed by CTAA on January 15, 1991.

4. Protests to the CDTOA/CMSA/CCA petition were filed by the AGCC on January 28, 1991, and DRA on February 1, 1991.

5. The surcharges authorized by D.90-10-066, D.90-12-085 and D.90-12-124 expired on February 6, 1991.

6. A survey conducted by CDTOA/CCA in early January, 1991, shows that fuel costs have declined since D.90-10-066, but remain well above pre-invasion levels.

7. CDTOA/CCA planned to conduct a fuel survey in the latter part of January, 1991.

8. Information about fuel price movements since the outbreak of war will enable current fuel surcharges to be revised as appropriate.

9. Most of DRA's information on fuel costs is for periods prior to the outbreak of war.

10. Requiring surcharges to terminate on a date certain will ensure close Commission review of fuel price fluctuations and their impact on permitted carriers.

11. Decision 90-09-054 relied on Lundberg's Diesel Retailing Prices Report for determining fuel surcharges. Conclusions of Law

1. The fuel surcharges for MRTs 3-A, 4-C, 7-A, 17-A, and 20 should be extended through February 22, 1991.

2. Petitions to modify D.90-12-124 may be filed even though the related proceeding had been closed.

3. Notice of this matter did not appear on the Commission's public agenda; however, an emergency exists in that the continuing high fuel costs caused by the continuing crisis in the Middle East, coupled with the expiration of fuel surcharges instituted in

response to the Middle East crisis, justifies our action today under Public Utilities Code Section 306(b).

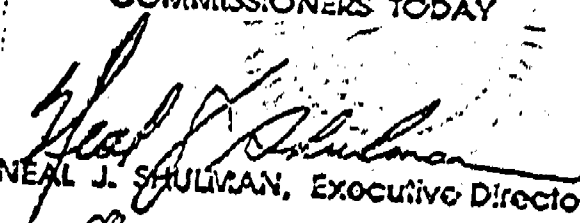
IT IS ORDERED that:

1. Fuel surcharges for MRTs 3-A, 4-C, 7-A, 17-A, and 20, authorized by D.90-12-124, are extended through February 22, 1991.
 2. No later than February 14, 1991, parties shall file new information on fuel costs with the Docket Office and also provide a copy of their filing to the Transportation Division Director by the same date.
 3. MRT 3-A (Appendix A to D.55587, as amended) is further amended by incorporating Supplement 31 included in Appendix A.
 4. MRT 4-C (Appendix D to D.87-01-066, as amended) is further amended by incorporating the attached Supplement 4 included in Appendix A.
 5. MRT 7-A (Appendix B to D.82061, as amended) is further amended by incorporating Supplement 51 included in Appendix A.
 6. MRT 17-A (Appendix C to D.80578, as amended) is further amended by incorporating Supplement 51 included in Appendix A.
 7. MRT 20 (Appendix A to D.81799, as amended) is further amended by incorporating Supplement 35 included in Appendix A.
 8. These supplements shall remain effective until February 22, 1991.
 9. The Executive Director shall serve a copy of this decision on each subscriber to MRTs 3-A, 4-C, 7-A, 17-A, and 20.
- This order is effective today.

Dated February 6, 1991, at San Francisco, California.

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

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


NEAL J. SULLIVAN, Executive Director

APPENDIX A
EMERGENCY FUEL SURCHARGE SUPPLEMENT

EMERGENCY FUEL SURCHARGE SUPPLEMENT

§(E) SUPPLEMENT 31

(Cancels Supplement 30)

(Supplements 27 and 31 Contain All Changes)

TO

MINIMUM RATE TARIFF 3-A

NAMING

MINIMUM RATES AND RULES

FOR THE

TRANSPORTATION OF LIVESTOCK OVER THE

PUBLIC HIGHWAYS WITHIN THE

STATE OF CALIFORNIA

BY

HIGHWAY COMMON CARRIERS

HIGHWAY CONTRACT CARRIERS

AND

LIVESTOCK CARRIERS

§(E) APPLICATION OF SURCHARGE

Except as otherwise provided, compute the amount of charges in accordance with the rates and rules in this tariff, and increase the amount so computed by seven (7.0) percent. (SEE EXCEPTION)

In computing the amount of the charges, 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. Item 110 - Accessorial Charges;
2. Items 170 and 180 - Split Pickup and Split Delivery;
3. Item 200 - Stopping in Transit; and
4. Item 210 (Railhead-to-railhead Charges Only).

§(E) Expires February 22, 1991

§ Change, Decision

01 02 021

EFFECTIVE FEBRUARY 6, 1991

Issued by the
PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
Governor Edmund G. "Pat" Brown Building
505 Van Ness Avenue
San Francisco, California 94102

EMERGENCY FUEL SURCHARGE SUPPLEMENT

§(E) SUPPLEMENT 4

(Cancels Supplement 3)

(Supplement 4 Contains All Changes)

TO

MINIMUM RATE TARIFF 4-C

NAMING

MINIMUM RATES AND RULES

FOR THE

TRANSPORTATION OF USED PROPERTY, NAMELY:

HOUSEHOLD GOODS, PERSONAL EFFECTS AND

OFFICE, STORE AND INSTITUTIONAL FURNITURE,

FIXTURES AND EQUIPMENT OVER THE

PUBLIC HIGHWAYS WITHIN THE

STATE OF CALIFORNIA

BY

HOUSEHOLD GOODS CARRIERS

§(E) APPLICATION OF SURCHARGE

Except as otherwise provided, compute the amount of charges in accordance with the rates and rules in this tariff, and increase the resulting total as follows:

1. By one and five-tenths (1.5) percent on charges computed at rates set forth in Item 320; and
2. By three (3) percent on charges computed at rates set forth in Items 300, 310, 330, 380 and 390.

The surcharge authorized herein shall be computed to the nearest five (5) cents. In computing the surcharge, two and one-half (2-1/2) cents shall be considered as being nearer to the next five cents.

§(E) Expires February 22, 1991

§ Change, Decision

01 02 021

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EMERGENCY FUEL SURCHARGE SUPPLEMENT

¶(E) SUPPLEMENT 38

(Cancels Supplement 37)

(Supplements 9, 33, 35, 36 and 38 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 seven (7) percent on charges computed at rates provided in Items 290, 300, 310, 320, 325, 330, 340, 490 and 510.
2. By six (6) 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 February 22, 1991

¶ Change, Decision

01 02 021

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EMERGENCY FUEL SURCHARGE SUPPLEMENT

⌘(E)SUPPLEMENT 51

(Cancels Supplement 50)

(Supplements 6, 13, 27, 29, 46, 48, 49 and 51 Contain All Changes)

TO

MINIMUM RATE TARIFF 17-A

NAMING

MINIMUM RATES AND RULES

FOR THE

TRANSPORTATION OF PROPERTY

IN DUMP TRUCK EQUIPMENT FROM

DEFINED PRODUCTION AREAS TO DESIGNATED DELIVERY ZONES

AND POINTS IN SOUTHERN CALIFORNIA

BY

HIGHWAY CONTRACT CARRIERS

AND

DUMP TRUCK CARRIERS

⌘(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 six (6) 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 February 22, 1991

⌘ Change, Decision

01 02 021

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San Francisco, California 94102

EMERGENCY FUEL SURCHARGE SUPPLEMENT

§(E) SUPPLEMENT 35

(Cancels Supplement 34)

(Supplements 2, 7, 30, 32, 33 and 35 Contain All Changes)

TO

MINIMUM RATE TARIFF 20

NAMING

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) 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 six (6) 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 (Railhead-to-railhead charges only); and
4. Item 280 - Collect on-Delivery (C.O.D.) Shipment.

§(E) Expires February 22, 1991

§ Change, Decision

01 02 021

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