

DEC 19 1991

Decision 91-12-039 December 18, 1991

## 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.

And Related Matters.

ORIGINAL

Case 5437, OSH 325

(Filed April 17, 1985)

Case 5437, OSH 323

(Filed October 1, 1984)

Case 5437, Pet. 329

(Filed June 6, 1985)

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)

INTERIM OPINION

By Decision (D.) 89-09-104 dated September 27, 1989 in this consolidated proceeding, the Commission adopted rate deviation procedures applicable in connection with transportation performed under the provisions of Minimum Rate Tariffs (MRT) 7-A, 17-A and 20. In D.91-06-011, the Commission extended the authority granted by D.89-09-104 to December 31, 1991.

On June 4, 1991, California Dump Truck Carriers Association/California Carriers Association (CDTOA/CCA) filed its Petition for Modification of D.89-09-104, requesting consideration of circumstances which had not been initially considered, as well as certain amendments to some of the rules. These amendments concern such topics as the use or non-use of subhaulers, the naming of specific points of destination, calculation of haul distances, etc.

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A duly noticed settlement conference was held on this subject, resulting in an agreement by all parties to certain modifications of the deviation procedures adopted by D.89-09-104. Representatives of the trucking and shipping industries, and the Commission's Division of Ratepayer Advocates participated in the conference. The modifications are included in the Revised Appendixes attached hereto. Other suggested modifications, not agreed to by all parties, will be the subject of evidentiary hearings scheduled in January 1992.

The amendments included in the Revised Appendixes appear reasonable. The authority granted by D.89-09-104 should be continued, and modified to include the items agreed to as a result of the settlement conference. Lapse of the authority would cause confusion in the industry, and would frustrate our desire for greater rate flexibility in our regulation of this industry. It is not necessary that the authority granted here contain an expiration date. The following order should be effective today so that current flexible deviation procedures will not expire.

Findings of Fact

1. By D.89-09-104 and D.91-06-011, we adopted and extended rate deviation procedures applicable in connection with transportation performed under MRTs 7-A, 17-A and 20.
2. The authority granted by D.89-09-104 and 91-06-011 is scheduled to expire on December 31, 1991.
3. A settlement conference has been held in response to the Petition for Modification filed by CDTOA/CCA, the result of which has been the agreement by all parties to certain modifications to the present deviation procedures. These modifications are included in the Revised Appendixes attached hereto.
4. Those suggested modifications not agreed to by all parties, will be considered in evidentiary hearings scheduled for January 1992.

5. The modified deviation procedures included in the Revised Appendixes will be, for the future, just and reasonable, and should supersede those adopted by D.89-09-104.

Conclusions of Law

1. The authority granted by D.89-09-104 should be modified as set forth in the Revised Appendixes attached hereto.

2. In order that current deviation procedures not be allowed to lapse, the effective date of this decision should be today.

INTERIM ORDER

IT IS ORDERED that:

1. The authority granted by Decision 89-09-104 relating to rate deviations performed under Minimum Rate Tariffs 7-A, 17-A, and 20 is superseded by the modified procedures set forth in the Revised Appendixes attached hereto, effective January 1, 1992.

2. The Executive Director shall serve a copy of this decision upon each subscriber to Minimum Rate Tariffs 7-A, 17-A, and 20.

3. Other modifications suggested during the settlement conference, as well as any additional suggested modifications, shall be considered during evidentiary hearing scheduled in January 1992.

This order is effective today.

Dated December 18, 1991, at San Francisco, California.

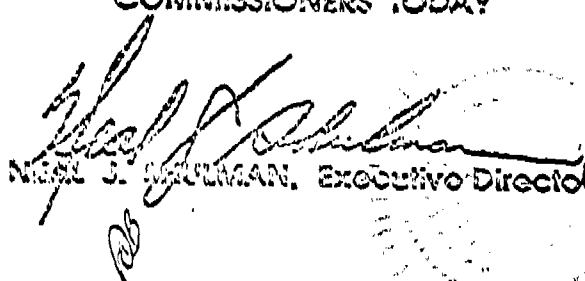
PATRICIA M. ECKERT  
President

JOHN B. OHANIAN

DANIEL Wm. FESSLER

NORMAN D. SHUMWAY  
Commissioners

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

  
NEIL J. HOFFMAN, Executive Director

C. 5437, OSH 325 et al.

R E V I S E D   A P P E N D I X   A

PROCEDURES AND CRITERIA FOR  
FILING DEVIATION APPLICATIONS

THREE-TIER EXPEDITED DUMP TRUCK DEVIATION GUIDELINES AND PROCEDURES

A carrier seeking to assess less than an established minimum rate can select one of the following deviation procedures:

I. SIMPLIFIED RATE DEVIATION APPLICATIONS (for rates that are no less than 90% of the applicable minimum rates)

- a. A Simplified Rate Deviation Procedure will be available only to carriers proposing a rate that is 90% or more of the applicable minimum rate. A proposed rate at that level is presumed to be reasonable and no cost showing is required. Staff will handle these deviation requests as informal matters and those that are not contested will become effective 30 days after calendar notice.
- b. Use of this procedure will require that carriers submit:
  1. A proposed rate that is no less than 90% of the applicable minimum rate.
  2. Their latest available balance sheet and an income statement from the most current fiscal year.
  3. Their identity and the identities, signatures and telephone numbers of the shipper and any subhaulers involved in the transportation.
  4. A written acknowledgement of all of the transportation details signed by each subhauler and sub-subhauler involved in the requested deviated rate transportation.
  5. A description of the Transportation.
  6. The applicable minimum rate and the proposed minimum rate, using the same unit of measurement as that shown in the applicable minimum rate tariff.
  7. A copy of their application for a Biennial Inspection of Terminals (BIT) inspection by the California Highway Patrol along with evidence of payment of the fees for that inspection; their Requestor Code Number assigned by the Department of Motor Vehicles as part of their participation in the DMV's Pull Notice Program; and certification that all subhaulers to be used in performing the deviated transportation have also applied for a BIT inspection and are participating in the Pull Notice Program.
  8. A letter of support from the shipper, signed by a management level employee or corporate officer.
- c. Subhaulers engaged by prime carriers to provide transportation under the deviated rate must be paid not less than 95% of the deviated rate, 75% when they are providing the tractor (pulling services) only.

- d. All subhaulers must sign a written acknowledgement which specifies all of the transportation details of the deviation application prior to performing any service under the application. There shall also not be any use of sub-subhaulers by a subhauler without a written acknowledgement by any such sub-subhauler to the subhauler. The applicant shall send all signed acknowledgements to the Commission and retain a copy in the applicant's file. Therefore, there is no need for a 30-day waiting period to add subhaulers to the Commission approved deviation application.
- e. All applications must be refiled annually. Carriers wishing to continue use of the Simplified Rate Deviation should refile their application at least six weeks in advance of the current deviation's expiration date.

II. FULL COST DEVIATION APPLICATIONS (for rates that are less than 90% of the applicable minimum rate)

- a. Applicants for Full Cost Deviations will adhere to the same requirements as those contained in Resolution TS-682, except that:
1. It will no longer be necessary to show that the transportation in question is performed under favorable operating conditions that differ from those used in establishing minimum rates.
  2. Staff will process these deviation requests, to ensure compliance with these guidelines, as informal matters and, if they are not contested, will become effective 30 days after calendar notice.
  3. All applications must be refiled annually. Carriers wishing to continue a deviation should refile their application at least six weeks prior to the current deviation's expiration date.
  4. They shall declare that subhaulers will not be used to provide more than half of the actual transportation (as evidenced, for example, by the subhaulers providing less than half of the power units to be used), or if subhaulers are to be used on more than half of the transportation, the costs of the subhaulers employed in the transportation shall be included. The costs of subhaulers employed in the transportation shall also be included whenever subhaulers will be paid a lesser rate or charge than that sought by the applicant.
  5. All prime carrier applicants must submit a copy of their applications for a Biennial Inspection of Terminals (BIT) inspection by the California Highway Patrol along with evidence of payment of the fees for that inspection; their Requestor Code Number assigned by the Department of Motor Vehicles as part of their participation in the DMV's Pull Notice Program; and certification that all subhaulers to be used in performing the deviated transportation have also applied for a BIT inspection and are participating in the Pull Notice Program.
- b. Full Cost applications, based on the carrier's actual cost, will continue to require a showing that the proposed rate will cover the applicant's full cost for providing the service and will produce a profit. Where financial information about subhaulers is submitted (either because they will be paid a lesser rate than that sought by the applicant or because they will provide more than half of the transportation), each subhauler must be paid enough to cover its full cost for providing the service and produce a profit as well.



III. VARIABLE (MARGINAL) COST DEVIATION APPLICATIONS (for rates that are less than 90% of the applicable minimum rate)

- a. A variable cost procedure, also based on the carrier's actual costs, will only be available to either profitable carriers or those with sufficient working capital. Staff will handle these deviation requests as informal matters and those that are not contested will become effective 30 days after calendar notice.
- b. Use of this procedure will require that carriers submit:
  1. A showing that they are either profitable or have sufficient working capital to cover any loss that could result from using the variable cost rate. More specifically, "sufficient working capital" requires: Cash or other liquid assets sufficient, over the life of the deviation, to cover: (1) the carrier's ordinary working capital requirements; plus (2) the difference between revenues that would be received under (a) the applicable minimum rate excluding the profit factor incorporated into the minimum rate, and (b) the deviated rate requested. (if a carrier wishes, it may substitute for item (2) (a) the fully allocated cost of the particular transportation.) Applicants will submit a balance sheet and income statement from the most current fiscal year. New carriers and applicants who show a loss on their income statements must submit a balance sheet, a working capital worksheet and a projected profit and loss statement. New carriers and applicants who show a loss on their income statement will also be required to sign release forms authorizing the Commission to obtain financial information from the applicant's bank records. These forms are contained in Appendix D.
  2. Their identity and the identity of the shipper and any subhaulers involved in providing the transportation.
  3. A letter of support from the shipper, signed by a management level employee or corporate officer.
  4. A description of the transportation.
  5. The existing rate and the proposed rate, using an appropriate unit of measurement.
  6. A simple cost analysis proving that the proposed rate is at least 105% of the total variable costs and insurance, accompanied by a statement under penalty of perjury confirming the accuracy of this analysis.

7. Either a declaration that subhaulers will not be used to provide more than half of the actual transportation under the proposed rates as evidenced, for example, by the subhaulers providing less than half of the power units to be used), or the inclusion of the costs of the subhaulers employed in the transportation.
  8. A copy of their application for a Biennial Inspection of Terminals (BIT) inspection by the California Highway Patrol along with evidence of payment of the fees for that inspection; their Requestor Code Number assigned by the Department of Motor Vehicles as part of their participation in the DMV's Pull Notice program; and certification that all subhaulers to be used in performing the deviated transportation have also applied for a BIT inspection and are participating in the Pull Notice Program.
- c. Subhaulers engaged by prime carriers to provide transportation under the deviated rate:
1. must, if providing more than half of the transportation under the deviated rate, submit to the prime carrier, for joining with the filing of the application, a simple cost analysis proving that the compensation received from the deviated rate is at least 105% of the total variable costs and insurance to be incurred under the subject transportation. When subhaulers provide more than half of the transportation: each subhauler must make the same showing of profitability or sufficient working capital as the prime carrier; each subhauler must submit a balance sheet and income statement for the most current fiscal year, except that new subhaulers and subhaulers who show a loss on their income statement must submit a balance sheet, working capital worksheet, and projected profit and loss statement; and new subhaulers and subhaulers who show a loss on their income statement will also be required to sign a release form (found in Appendix D) authorizing the Commission to obtain financial information from the subhauler's bank records.
  2. must be paid not less than 95% of the deviated rate, 75% when they are providing the tractor (pulling services) only.
  3. must certify, under penalty of perjury, that the compensation to be received from the deviated rate will cover 105% of the total of their variable costs plus insurance. The verification form is contained in Appendix C.
- d. Carriers filing variable cost deviations must refile the application with new information annually. Carriers wishing to continue use of the variable cost rate should refile at least 6 weeks in advance of the current deviation's expiration date.

FILING THE DUMP TRUCK DEVIATION APPLICATIONS UNDER EXPEDITED PROGRAM

- a. Two copies of all applications to deviate from MRT's 7-A, 17-A and 20, including any supplements or amendments, shall be delivered or mailed to:  
California Public Utilities Commission  
Truck Tariff Section-2nd Floor  
505 Van Ness Avenue  
San Francisco, CA 94102
- b. If a receipt for the filings is desired, the application shall be sent in triplicate with a self-addressed stamped envelope. One copy will be date stamped and returned as a receipt.
- c. A copy of the deviation application shall be delivered or mailed to all known carriers providing the transportation service for which the deviation is requested.
- d. Rejected applications will be returned to the applicant with a written explanation for the rejection.
- e. All applications filed will be available for public inspection at the Commission's office in San Francisco.

PROCEDURES FOR REVIEW OF DEVIATION APPLICATIONS  
UNDER EXPEDITED PROCEDURES

- a. The deviation filing will be noted immediately in the Commission's Transportation Calendar. The deviated rate will become effective 30 days after the calendar notice date, unless rejected or suspended prior to that date by the Commission staff.
- b. The Commission staff will review the proposed deviations for compliance during the 30 day notice period.
- c. Staff may reject a filing within the 30 day notice period. All rejections will be noted in the Daily Transportation Calendar and applicants will be notified by mail of the reasons for rejection.
- d. Staff will reject any application that is incomplete or fails to comply with the requirements the Commission has promulgated, including the following:
  - i. If a simplified rate deviation application, the proposed rate must be no less than 90% of the applicable minimum rate.
  - ii. If a full cost application, the proposed rate must provide an operating ratio of less than 100.
  - iii. If a variable cost application, the proposed rate must cover at least 105% of the total of variable cost and insurance.

- iv. Submit a copy of their application for a Biennial Inspection of Terminals (BIT) by the California Highway Patrol along with evidence of payment of the fees for that inspection; their Requestor Code Number assigned by the Department of Motor Vehicles as part of their participation in the DMV's Pull Notice Program; and certification that all subhaulers to be used in performing the deviated transportation have also applied for a BIT inspection and are participating in the Pull Notice Program.
- e. Any party may protest a proposed rate deviation. The protest must be in writing and specifically indicate in what manner the application for a deviated rate is defective. It must be received no later than 10 days before the deviated rate is scheduled to become effective. The protestant shall serve a copy of the protest on the applicant on the same date it is either forwarded or delivered to the Commission. All protests will be noted in the Commission's Transportation Calendar.
- f. Commission staff shall reject the protest if it does not allege a failure to comply with the deviation requirements the Commission has promulgated or if the protest is frivolous. (A "frivolous" protest is one that provides no basis for its objection to the proposed deviation.). Rejected protests shall be returned by the Staff to the protestant with a written explanation for the rejection. Otherwise, staff shall evaluate the substance of the protest based on conformity with the guidelines for filing the application. Based on this review of the protest and application, staff may reject the filing before the effective date of the rate. The staff may also temporarily suspend the rate for a period of time not to exceed 45 days beyond the date of suspension, during which time it will either reject the protest or the rate, or request the Commission to further suspend the rate and set the matter for hearing. Protests may raise questions about the costs (including the underlying performance factors) that a carrier has relied on in its deviation application. Staff may try to get the protestant and applicant to resolve their differences about such costs. However, where a protest raises a non-frivolous question of fact about such costs (that is, where the protest provides some basis for its objection to the costs contained in the application), if Staff is unable to resolve the protest such that the protest is withdrawn, then Staff will suspend the rate, if it has not already been suspended, and request that the Commission docket the matter and set it for hearing. The Commission will further suspend the rate and schedule a hearing if, based on review of the application, the protest, and Staff's recommendation, the Commission concludes that there is material issue of fact bearing on the reasonableness of the deviated rate.

- g. Notice of any rejection or rate suspension, and any vacation of such suspension, will appear in the Commission's Transportation Calendar.
- h. If a protest results in the Commission setting the matter for hearing, the burden of proof rests with the proponent of the deviated rate.
- i. Commission review of any rate which is in effect may be initiated by filing a formal complaint. A formal complaint may also be filed by a protestant whose protest has been rejected, or by a would-be protestant, before the deviated rate goes into effect. The burden of proof in a complaint shall be upon the complainant. The complainant will send a copy of the complaint to the defendant (carrier), shipper and any subhaulers who are parties to the transportation agreement.

C. 5437, OSK 325 et al.

REVISED APPENDIX A-1  
SIMPLIFIED RATE DEVIATION APPLICATION FORM

SIMPLIFIED RATE DEVIATION APPLICATION FORM

## 1. APPLICANT INFORMATION

Application No: (Commission will insert number)

Cal T-No:

Name:

Address:

Telephone:

Person to Contact:

If a corporation, attach articles of incorporation or reference a previous filing that contained the articles.

Signature of owner or officer:

## 2. SAFETY INFORMATION

Attach your copy of your application for a Biennial Inspection of Terminals (BIT) inspection by the California Highway Patrol along with evidence of payment of the fees for that inspection; your Requestor Code Number assigned by the Department of Motor Vehicles as part of participation in the DMV's Pull Notice Program; and certification that all subhaulers to be used in performing the deviated transportation have also applied for a BIT inspection and are participating in the Pull Notice Program.

## 3. FINANCIAL INFORMATION

Attach latest available balance sheet, dated \_\_\_\_\_, 19\_\_\_\_

Attach income statement for the latest fiscal year ending \_\_\_\_\_, 19\_\_\_\_.

## 4. SHIPPER INFORMATION

Attach a letter of support from the shipper, including the shipper's name, address, telephone number, person to contact, and signature a management level employee or corporate officer.

## 5. TRANSPORTATION DETAILS

Job Location:

Point of origin:

Point of destination:

Haul Distance: (see Note 1)

Commodity:

Quantity:

Applicable tariff:

Applicable tariff rate:

Proposed rate :

Effective date of proposed rate:

Termination date of proposed rate (see Note 2):

Note 1: Applications to deviate from distance rates in MRT 7-A or MRT 20, Item 550, must be computed in accordance with mileage not less than the mileage required to be used in MRT 7-A, Item 150.

Note 2: All rate deviations must be refiled after one year. To continue the deviation, the applicant should refile the application at least six weeks prior to expiration.

6. SUBHAULER INFORMATION

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Attach separate pages with information on items 1 and 2 (on page A-1-1), including signed acknowledgments of all of the details of the deviated rate transportation for each subhauler or sub-subhauler participating in the deviated rate transportation requested by this application.

1. Subhauler Information  
2. Sub-subhauler Information

1. Subhauler Information

1. Subhauler Information  
2. Sub-subhauler Information

2. Sub-subhauler Information

2. Sub-subhauler Information

3. Sub-subhauler Information

3. Sub-subhauler Information

4. Sub-subhauler Information

4. Sub-subhauler Information

4. Sub-subhauler Information



CARRIER VERIFICATION

I am the applicant in the above-entitled matter; the statements in the foregoing document are true of my own knowledge, except as to matters which are therein stated on information or belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_ at \_\_\_\_\_, California.  
(Date) (Name of City)

\_\_\_\_\_  
(Applicant)

CARRIER VERIFICATION

(Where Applicant Is a Corporation)

I am an officer of the applicant corporation herein, and am authorized to make this verification on its behalf. The statements in the foregoing document are true of my own knowledge except as to the matters which are therein stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_ at \_\_\_\_\_, California.  
(Date) (Name of City)

\_\_\_\_\_  
(Signature and Title of Corporate Officer)

C. 5437, OSH 325 et al.

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing application has been served by (specify method of service) upon each of the following:

(List names and addresses of parties served.)

Dated at \_\_\_\_\_, California, this \_\_\_\_\_  
(Name of City) (Day)  
or \_\_\_\_\_, 19\_\_.  
(Month)

(Signature of Person Responsible for Service

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REVISED APPENDIX B  
FULL COST DEVIATION APPLICATION FORM

APPLICATION TO DEVIATE FROM THE MINIMUM RATES FOR  
TRANSPORTATION OF COMMODITIES IN DUMP TRUCK EQUIPMENT  
FULL COST DEVIATION APPLICATION

Full Cost deviation application #                      (Commission will insert number)

Name of Carrier                                      (Exact Legal Name)

Cal T-No. of carrier                                     

Principal Place of business                                      (Street Address and City)

If applicant is a corporation, attach articles of incorporation or make reference to a previous filing that contained the articles.

Carrier is authorized to transport                                      (Show Operating Authority)

Contact person regarding this application:                                      (name, Title, Address and Telephone Number)

Commodity description and form                                     

Deviation from Minimum Rate Tariff                                      (Tariff Number)

Origin                                     

Destination                                     

Shipper                                     

Present Rate (express in unit of measure) min. wt., unless hourly                                     

Proposed Rate (express in unit of measure) min. wt., unless hourly                                     

1. Describe the transportation to be performed. (The description should cover all particulars of the transportation to include but not be limited to: Loading and unloading, load weights and anticipated volume per day or other time period, an allowance for non-revenue miles, if any, and whether the transportation is part of a backhaul or fronthaul.)
2. Show the estimated cost of performing the transportation under the proposed rate. Include the development of labor costs, vehicle fixed costs and mileage costs, other direct costs and allocation of administrative and other indirect costs. Overall cost should be expressed in terms of cost per 100 pounds, cost per load, or other appropriate unit of measure.

3. Show expected revenue from the transportation under the proposed rate in terms of revenue per 100 pounds, revenue per load, or other appropriate unit of measure that will permit evaluation of the profitability of the service at the proposed rates. Explain the methods used in developing the revenue figures.
4. Attach a letter of support from the shipper signed by a management level employee or corporate officer.
5. Identify any carrier(s) presently providing the specific service sought by the applicant.
6. Attach Applicants latest available balance sheet, dated \_\_\_\_\_, 19\_\_\_\_, and an income statement for the latest fiscal year ending \_\_\_\_\_, 19\_\_\_\_.
7. Subhaulers will be used to perform less than half \_\_\_\_\_, more than half \_\_\_\_\_, or none \_\_\_\_\_ of the transportation.
8. If subhaulers are engaged to perform the service, they must either be paid the full proposed rate or, if the subhaulers will be paid a lesser rate or charge than that sought by the applicant, or if in any case more than half of the transportation under the deviated rate is to be provided by subhaulers, the following facts and statements must be submitted and joined with the filing of the application:

- A. Name of Subhauler  
Permit Number  
Current Address

**LIST SUBHAULERS BELOW:**

- |   |   |
|---|---|
| <ol style="list-style-type: none"> <li>1. _____</li> <li>_____</li> <li>_____</li> <li>_____</li> </ol> | <ol style="list-style-type: none"> <li>2. _____</li> <li>_____</li> <li>_____</li> <li>_____</li> </ol> |
| <ol style="list-style-type: none"> <li>3. _____</li> <li>_____</li> <li>_____</li> <li>_____</li> </ol> | <ol style="list-style-type: none"> <li>4. _____</li> <li>_____</li> <li>_____</li> <li>_____</li> </ol> |

- B. A profit and loss (income) statement and a balance sheet.
- C. A detailed financial statement from each subhauler showing its total revenues and expenses in performing the transportation for the prime carrier for the last fiscal year and the subhauler's projected revenues and expenses for the specific transportation sought under this application.

- Where financial information about subhaulers is submitted (either because they will be paid a lesser rate than that sought by the applicant or because they will provide more than half of the transportation), each subhauler must be paid enough to cover its full cost for providing the service and produce a profit as well.
9. Other facts relied upon to support the reasonableness of the proposed rate.
  10. Attach a copy of your application for a Biennial Inspection of Terminals (BIT) inspection by the California Highway Patrol along with evidence of payment of the fees for that inspection; your Requestor Code Number assigned by the Department of Motor Vehicles as part of participation in the DMV's Pull Notice Program; and certification that all subhaulers to be used in performing the deviated transportation have also applied for a BIT inspection and are participating in the Pull Notice Program.
  11. This rate shall become effective 30 days after the date that notice of the filing appears in the Commission's Transportation Calendar.
  12. This rate shall expire \_\_\_\_\_ (show date) \_\_\_\_\_ (no later than one year from the effective date).
  13. In all other respects the rates and rules in MRT \_\_\_\_ shall apply.
  14. Applicant will serve a copy of this application upon all known carriers providing the transportation service for which the deviation is requested. Additionally, the applicant will furnish a copy of the application to any other interested party either upon their written request or that of the Commission.

Dated at \_\_\_\_\_, California, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

Signature: \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_

C. 5437, OSZ 325 et al.

CARRIER VERIFICATION

I am the applicant in the above-entitled matter; the statements in the foregoing document are true of my own knowledge, except as to matters which are therein stated on information or belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_ at \_\_\_\_\_, California.  
(Date) (Name of City)

(Applicant)



CARRIER VERIFICATION

(Where Applicant Is a Corporation)

I am an officer of the applicant corporation herein, and am authorized to make this verification on its behalf. The statements in the foregoing document are true of my own knowledge except as to the matters which are therein stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_ at \_\_\_\_\_, California.  
(Date) (Name of City)

\_\_\_\_\_  
(Signature and Title of Corporate Officer)

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing application has been served by (specify method of service) upon each of the following:

(List names and addresses of parties served.)

Dated at \_\_\_\_\_, California, this \_\_\_\_\_  
(Name of City) (Day)

of \_\_\_\_\_, 19\_\_\_\_.  
(Month)

\_\_\_\_\_  
(Signature of Person Responsible for Service)

C. 5437, OSH 325 et al.

REVISED APPENDIX C  
VARIABLE COST DEVIATION APPLICATION FORM

APPLICATION TO DEVIATE FROM THE MINIMUM RATES FOR TRANSPORTATION  
OF COMMODITIES IN DUMP TRUCK EQUIPMENT

VARIABLE COST DEVIATION APPLICATION

Carrier applicant qualifies to file a deviation under the variable cost deviation procedure by demonstrating profitability or working capital availability. A showing of sufficient working capital requires a showing of cash or other liquid assets sufficient, over the life of the deviation, to cover: (1) the carrier's ordinary working capital requirements; plus (2) the difference between revenues that would be received under (a) the applicable minimum rate excluding the profit factor incorporated into the minimum rate, and (b) the deviated rate requested. (If a carrier wishes, it may substitute for item (2) (a) the fully allocated cost of the particular transportation.)

Applicants will submit a balance sheet and income statement from the most current fiscal year. New dump truck carriers and those applicants who show a loss on their income statements must submit a balance sheet, a working capital worksheet, and a projected profit and loss statement. New carriers and those applicants who show a loss on their profit and loss (income) statement will also be required to sign a release form (Appendix D) authorizing the Commission to obtain financial information from the applicant's bank records.

If subhaulers are to be used, the cost justification shall either contain a declaration that subhaulers will not provide more than half of the actual transportation under the proposed rates (as evidenced, for example, by the subhaulers providing less than half of the power units), or include the costs of the subhaulers. When subhaulers provide more than half of the transportation: each subhauler must make the same showing of profitability or sufficient working capital as the prime carrier; each subhauler must submit a balance sheet and income statement for the most current fiscal year, except that new subhaulers and subhaulers who show a loss on their income statement must submit a balance sheet, working capital worksheet, and projected profit and loss statement; and new subhaulers and subhaulers who show a loss on their income statement will also be required to sign a release form (Appendix D) authorizing the Commission to obtain financial information from the subhauler's bank records.

Variable cost deviation application # \_\_\_\_\_ (Commission will insert number)

Name of Carrier \_\_\_\_\_ (Exact Legal Name)

Cal T-No. of carrier \_\_\_\_\_

Principal Place of business \_\_\_\_\_ (Street Address and City)

If applicant is a corporation, attach articles of incorporation or make reference to a previous filing that contained the articles.

Carrier is authorized to transport \_\_\_\_\_ (Show Operating Authority)

Contact person regarding this application \_\_\_\_\_ (Name, Title, Address and Telephone Number)

Description of Commodity \_\_\_\_\_

Deviation from Minimum Rate Tariff \_\_\_\_\_ (Tariff Number)

Origin \_\_\_\_\_

Destination \_\_\_\_\_

Shipper \_\_\_\_\_

Present Rate (express in unit of measure) min. wt. unless hourly \_\_\_\_\_

Proposed Rate (express in unit of measure) min. wt. unless hourly \_\_\_\_\_

1. Describe the transportation to be performed. (The description should cover all particulars of the transportation to include but not be limited to: Loading and unloading, loadweights and anticipated volume per day or other time period, an allowance for non-revenue miles, if any, and whether the transportation is part of a backhaul or fronthaul.)
2. In the event that subhaulers are engaged to perform this transportation, they shall be paid no less than 95% of the revenue earned from the deviated rate. If the subhaulers are only providing "pulling" services (tractor and driver only) they shall be paid no less than 75% of the revenue earned from the deviated rate. The difference between the deviated rate and the amount paid to the subhauler will cover any brokerage fee normally paid to the prime carrier.
3. Subhaulers will be used to perform less than half \_\_\_\_\_, more than half \_\_\_\_\_, or none \_\_\_\_\_ of the transportation.

4. If authority is sought utilizing subhaulers, submit the following:

Name of Subhauler  
Permit Number  
Current Address

1. JAMES J. JONES

2. JAMES J. JONES

LIST SUBHAULERS BELOW:

3. JAMES J. JONES

1. _____	2. _____
_____	_____
_____	_____
_____	_____
_____	_____
3. _____	4. _____
_____	_____
_____	_____
_____	_____
_____	_____

5. Attach a copy of your application for a Biennial Inspection of Terminals (BIT) inspection by the California Highway Patrol along with evidence of payment of the fees for that inspection; your Requestor Code Number assigned by the Department of Motor Vehicles as part of participation in the DMV's Pull Notice Program; and certification that all subhaulers to be used in performing the deviated transportation have also applied for a BIT inspection and are participating in the Pull Notice Program.
6. Revenue/Cost Comparisons-The rate/cost information can be stated per trip, per mile, per ton, per hour or other appropriate unit of measure. Please be consistent throughout your presentation. If the proposal contains different origin/destination combinations or different weights, please give appropriate examples. (Additional sheets may be used for subhauler data). ALL CARRIERS (and subhaulers, if subhaulers are providing more than 50% of the transportation) MUST SUBMIT REVENUE/COST COMPARISON STATEMENTS. The format on the next page can be followed or can serve as a guide:

PROPOSED RATE: \_\_\_\_\_

INSURANCE COSTS: \_\_\_\_\_

VARIABLE COSTS: \_\_\_\_\_

Driver Labor \_\_\_\_\_

Fuel/Oil \_\_\_\_\_

Tires \_\_\_\_\_

Maintenance  
and Repair \_\_\_\_\_Gross Revenue  
Expenses \_\_\_\_\_Other Variable costs  
(Please specify. If none  
write "none")\* \_\_\_\_\_

TOTAL VARIABLE COST \_\_\_\_\_

INSURANCE PLUS  
VARIABLE COSTS \_\_\_\_\_

DIFFERENCE \_\_\_\_\_

\*If an input is used specifically for the job in question, and would not be used or paid for other wise, the input is variable.

7. Submit a letter of support from the shipper, signed by a management level employee or corporate officer.
8. Attached are the carrier verification and the subhauler verification forms. ALL VARIABLE COST DEVIATION PROPOSALS MUST INCLUDE THE CARRIER VERIFICATION FORM. If subhaulers will be performing transportation the SUBHAULER VERIFICATION form must be submitted as well.
9. This rate shall become effective 30 days after the date that notice of the filing appears in the Commission's Transportation Calendar.
10. This rate shall expire \_\_\_\_\_ (show date) (no later than one year from effective date).
11. In all respects the rates and rules in MRT \_\_\_\_\_ shall apply.

12-10-68 1030 1030 10

12-10-68 1030 1030 10

12. Applicant will furnish a copy of this application to all known carriers providing the transportation service for which the deviation is requested. Additionally, the applicant will furnish a copy of the application to any other interested party upon either their written request or that of the Commission.

Dated at \_\_\_\_\_, California, this \_\_\_\_\_  
day of \_\_\_\_\_, 19\_\_\_\_.

Signature: \_\_\_\_\_ Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_



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CARRIER VERIFICATION

I am the applicant in the above-entitled matter; the statements in the foregoing document are true of my own knowledge, except as to matters which are therein stated on information or belief, and as to those matters I believe them to be true.

I certify that the rates contained in Variable Cost Deviation Application # (Commission will insert number) will cover 105% of the total of all variable costs and insurance incurred in providing the transportation.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_ at \_\_\_\_\_ California  
(Date) (Name of City)

\_\_\_\_\_  
Carrier Applicant

CARRIER VERIFICATION

(Where Applicant is a Corporation)

I am an officer of the applicant corporation herein, and am authorized to make this verification on its behalf. The statements in the foregoing document are true of my own knowledge except as to the matters which are therein stated on information and belief, and as to those matters I believe them to be true.

I certify that the rates contained in the Variable Cost Deviation Application # (Commission will insert number) will cover 105% of the total of all variable costs and insurance incurred in providing the transportation.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_ at \_\_\_\_\_, California.  
(Date) (Name of City)

\_\_\_\_\_  
(Signature and Title of Corporate Officer)

SUBHAULER VERIFICATION

I am the subhauler applicant in the above-entitled matter; the statements in the foregoing document concerning this subhauler applicant are true of my own knowledge, except as to matters which are therein stated on information or belief, and as to those matters I believe them to be true.

I certify that 95%\* of the rate contained in Variable Cost Deviation Application # \_\_\_\_\_ will cover 105% of the total of all variable costs and insurance incurred by this subhauler applicant in providing the transportation.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_ at \_\_\_\_\_, California.  
(Date) (Name of City)

\_\_\_\_\_  
(Subhauler Applicant)

\*75% for "pullers" furnishing a driver and tractor only.

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing application has been served by (specify method of service) upon each of the following:

(List names and addresses of parties served.)

Dated at \_\_\_\_\_, California, this \_\_\_\_\_  
(Name of City) (Day)  
of \_\_\_\_\_, 19\_\_\_\_.  
(Month)

\_\_\_\_\_  
(Signature of Person Responsible for Service)

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(End of Revised Appendix C)

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REVISED APPENDIX D  
RELEASE OF INFORMATION FORMS REFERRED TO IN APPENDIX C

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA  
RELEASE OF INFORMATION AUTHORIZATION

The undersigned authorizes the California Public Utilities Commission to obtain such verification or further information as it may require concerning information on financial condition set forth in the application for deviation authority, as submitted by the undersigned.

Regarding the verification of bank records, such verification shall be limited to the particular accounts and/or items listed below by the applicant and shall be limited to a period of time commencing on the date of the signing of the application and ending on the date of the granting or rejection of the application; but in no event shall the period for the verification of bank records extend beyond the date of the final disposition of the application.

The applicant has the right to revoke this authorization at any time, and agrees that any documents submitted for the purpose of demonstrating financial condition shall remain with the Commission.

Date \_\_\_\_\_

Signature of Applicant(s) \_\_\_\_\_

BANK RECORDS:

NAME AND LOCATION OF BANK TYPE OF ACCOUNT ACCT. NO. AMOUNT

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA  
 CONSENT TO OBTAIN INFORMATION

(To be signed by non-applicant spouse of married applicant)

I authorize the California Public Utilities Commission to obtain whatever information about my financial condition it considers necessary and appropriate for the purposes of evaluating the financial condition of my spouse as an applicant for deviation authority.

Regarding the verification of bank records, my authorization is limited to the accounts and/or items listed below and is limited to a period of time commencing on the date of the signing of the application and ending on the date of the granting or rejection of the application; but in no event shall the period for the verification of bank records extend beyond the date of the final disposition of the application.

I understand that I have the right to revoke this authorization at any time.

Date \_\_\_\_\_  
 Signature of Spouse \_\_\_\_\_

BANK RECORDS:

NAME AND LOCATION OF BANK	TYPE OF ACCOUNT	ACCT. NO.	AMOUNT
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____