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Decision 92-03-024 March 11, 1992

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.)

ORIGINAL

Case 5437
Petition for Modification 349
(Filed November 7, 1991)

O P I N I O N

By this petition Asbury System, Inc. (Asbury), a highway contract and dump truck carrier, requests that Minimum Rate Tariff (MRT) 7-A be modified by providing that petroleum coke, when moving in dump truck equipment, be exempted from application of the tariff under certain circumstances.

MRT 7-A names minimum rates for the transportation of certain commodities when moving in dump truck equipment. Item 70(b) of the tariff exempts therefrom shipments of petroleum coke, for export, when transported from certain industrial plants located within the Los Angeles Harbor Commercial Zone. The Commission has previously granted similar requests for exemption from MRT 7-A rates. The exemptions we have granted in connection with these movements of petroleum coke have been because of unique characteristics surrounding the transportation, including automatic, rapid transloading devices, favorable traffic conditions, continuous year-round movements, constant rapid trip-cycle times, and high equipment use factors. Rate exemptions have been deemed preferable to requiring individual carriers to obtain rate deviations.

Asbury asks that three additional sites be added to the list of points named in Item 70(b). These are:

Ultramar, Inc. Refinery, Wilmington

Long Beach, Pier "A," Berths 210 and 211

Koch Carbon, Inc. Storage Facilities, Terminal Island

Asbury's petition also requests that contemporaneously with the sought modification of MRT 7-A, the document entitled Commodities and Geographic Areas Exempt from Rate Regulation (Exempt List) be amended to reflect this same exemption.

Asbury's petition contains the following information which it relies upon in support of its request:

1. Koch Carbon, Inc. is the buyer/exporter of the Ultramar, Inc. petroleum coke. For the past several months Asbury has provided exclusively the transportation of coke from the refinery of Ultramar, Inc. at Wilmington to Koch at Pier "A," storage barns at Pier "G," or Terminal Island.
2. Pier "G" is already an exempt site named in Item 70(b) and in the Exempt List. Thus, adding Ultramar, Inc. and Koch Carbon, Inc. to these exemptions will allow these companies to be on an equal competitive basis with similar refineries and export facilities located in the Los Angeles Harbor Commercial Zone.
3. There are eight sites in the Los Angeles Harbor Commercial Zone from which the movement of petroleum coke is exempt from MRT 7-A rate regulation. The circumstances justifying these previous exemptions are also present in the movements from the three sites involved in this petition. In general those circumstances involve high speed loading and unloading facilities, favorable traffic conditions, continuous year-round movements, rapid trip cycle times, and high use factors.

Because of the similarity between the circumstances covered by this petition and the numerous earlier proceedings which

involved the exemption from minimum rates of petroleum coke for export within the Los Angeles Harbor Commercial Zone, Asbury believes the processing of this petition can be handled by ex parte action.

The Transportation Division recommends that in the absence of protest, the petition be granted by ex parte order. The petition appeared in the Commission's Daily Transportation Calendar. No protest to the petition has been received. In the circumstances, the petition should be granted.

Findings of Fact

1. MRT 7-A names rates for the transportation of certain commodities when moving in dump truck equipment, including petroleum coke.
2. Petitioner seeks exemption from the rates named in MRT 7-A for the transportation of petroleum coke moving for export from certain sites in the Los Angeles Harbor Commercial Zone.
3. The circumstances surrounding the movement of petroleum coke covered by this petition are substantially the same as those found in the movements of petroleum coke from other sites in the Los Angeles Harbor Commercial Zone which have been previously exempted from the application of rates named in MRT 7-A.

Conclusions of Law

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

O R D E R

IT IS ORDERED that:

1. Minimum Rate Tariff 7-A (Appendix B to Decision 82061, as amended) is further amended by incorporating 18th Revised Pages 10 and 11, attached, to become effective 39 days after today.

2. The document "Commodities and Geographic Areas Exempt from Rate Regulation" is amended by incorporating 6th Revised Page 5, attached, to become effective 39 days after today.

3. In all other respects Decision 82061, as amended, shall remain in full force and effect.

4. The Executive Director shall serve a copy of this decision on every subscriber to Minimum Rate Tariff 7-A, and on each highway common carrier and each highway contract carrier.

5. The petition is granted.

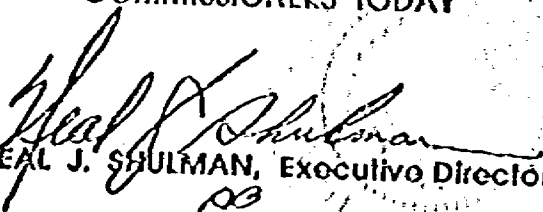
This order becomes effective 30 days from today.

Dated March 11, 1992, at San Francisco, California.

DANIEL Wm. FESSLER
President

JOHN B. OHANIAN
PATRICIA M. ECKERT
NORMAN D. SHUMWAY
Commissioners

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


NEAL J. SHULMAN, Executive Director

SECTION 1--RULES (Continued)	ITEM		
<p style="text-align: center;">APPLICATION OF TARIFF--COMMODITIES</p> <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="width: 50%; vertical-align: top;"> <p>Coke, petroleum; Concrete, broken, asphaltic or hydraulic; Concrete, premixed, wet; Debris: from street or highway maintenance, including ice, mud, and slush; also debris from drainage or flood control construction and/or maintenance projects;</p> </td> <td style="width: 50%; vertical-align: top;"> <p>Fodder: Chopped green corn and sorgham grain plants, including heads, stalks, and leaves; Salt cake (crude sulphate of soda); and Slurry (mixed sand, dust, crushed stone and/or gravel, wet).</p> </td> </tr> </table>	<p>Coke, petroleum; Concrete, broken, asphaltic or hydraulic; Concrete, premixed, wet; Debris: from street or highway maintenance, including ice, mud, and slush; also debris from drainage or flood control construction and/or maintenance projects;</p>	<p>Fodder: Chopped green corn and sorgham grain plants, including heads, stalks, and leaves; Salt cake (crude sulphate of soda); and Slurry (mixed sand, dust, crushed stone and/or gravel, wet).</p>	60
<p>Coke, petroleum; Concrete, broken, asphaltic or hydraulic; Concrete, premixed, wet; Debris: from street or highway maintenance, including ice, mud, and slush; also debris from drainage or flood control construction and/or maintenance projects;</p>	<p>Fodder: Chopped green corn and sorgham grain plants, including heads, stalks, and leaves; Salt cake (crude sulphate of soda); and Slurry (mixed sand, dust, crushed stone and/or gravel, wet).</p>		
<p style="text-align: center;">APPLICATION OF TARIFF--PAGES</p> <p>Unless otherwise provided, amendment of a page will be made by reprinting the page and showing a revision number. The revision numbers will be used in consecutive numerical order beginning with "First Revised Page". A revised page cancels any uncanceled revised or original pages which bear the same page number. Specific cancellation shall be made of pages containing rates or provisions under suspension or held in force by reason of suspension.</p>			
<p>No change on this page, Decision No. 92-03-024</p>			
<p>EFFECTIVE APRIL 19, 1992</p>			
<p>Correction 485</p>	<p>ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.</p>		

ITEM SECTION 1--RULES (Continued)

470 APPLICATION OF TARIFF--GENERAL

Rates in this tariff do not apply to the transportation of:

(a) Disaster Supplies, i.e., those commodities which are allocated to provide relief during a state of extreme emergency or state of disaster; and those commodities which are transported for a civil defense or disaster organization established and functioning in accordance with the California Disaster Act to ultimate point of storage or use prior to or during a state of disaster or state of extreme emergency.

(b) Petroleum coke for export when transported among the following points in the Los Angeles Harbor Commercial Zone: Shell Oil Company Refinery, Wilmington; Texaco Oil Company Refinery, Wilmington; Long Beach Pier "G", Berth 212; Applied Industrial Materials Corporation's storage facility, Los Angeles Harbor; Koch Carbon's storage facility, Carson; Atlantic Richfield Company Refinery, Carson; Arco CCG Kiln, Inc.'s facility, Wilmington; *Mobil Oil Corporation Refinery, Torrance. *Ultramar, Inc., Refinery Wilmington; *Long Beach, Pier "A", Berths 210 and 211; and *Koch Carbon, Inc. Storage facilities, Terminal Island.

(c) Property of the United States or property transported under agreement whereby the United States contracted for the carrier's service.

(d) Property for which rates are provided in Minimum Rate Tariffs 17-A or 20 when said property is transported under the provisions of such tariffs.

(e) Property transported for a displaced person when the cost thereof is borne by a public entity as provided in Section 7262 of the Government Code.

For rates for the transportation of commodities in dump truck equipment, other than as provided in this tariff, see Minimum Rate Tariffs 17-A, 20 or other tariffs as the case may be.

80 APPLICATION OF TARIFF--TERRITORIAL

Rates in this tariff apply for transportation between all points within the State of California.

90 ACCESSORIAL CHARGES

In addition to the charges under the rates in Sections 2 and 4, and when, through no fault of the carrier, the unloading and release of carrier's equipment at destination is delayed beyond the time allowances shown herein, the following accessorial charges shall be assessed:

	a	b	c
Charge per unit of carrier's equipment for delay beyond the time allowance shown below. Charge applies for each six (6) minutes (one-tenth of an hour) or fraction thereof.....	251	251	251
Time allowance in minutes, per unit of carrier's equipment (See Note).....	30	45	30

a. Applies when transportation is performed by truck without trailing equipment.
 b. Applies when transportation is performed by truck with transfer type trailer.
 c. Applies when transportation is performed by truck with other than transfer type pull trailers, tractors with semitrailers or tractors with semitrailers and pull trailers operating in train.

NOTE:--In computing the time allowance under this rule, time shall commence when the carrier arrives at point of destination.

a Change)
 • Addition) Decision 92-03-024
 & Reduction)

EFFECTIVE APRIL 19, 1992

Correction 484 ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.

SECTION 2--LIST OF COMMODITIES EXEMPT FROM RATE REGULATION (Continued)

Milk, liquid (Subject to Note 6).

Motor vehicles, disabled, when towed by a tow car.

Motor vehicles when towed by a tow car, exemption applies only when said transportation is performed within the East Bay Drayage Area as described in Section 5 and within the City and County of San Francisco.

Newspapers, newspaper supplements, sections or inserts (not scrap or waste); Subject to Note 1.

Nuts, in the shell.

Nuts, field shelled.

Optical goods transported from or to wholesale houses in packages weighing 10 pounds or less; Subject to Notes 1 and 3; for San Diego Drayage Area see below.

Optical goods, as follows, when said transportation is performed within the San Diego Drayage Area described in Section 5:

Cases, eyeglass or spectacle, MOI;
Cases, eyeglass or spectacle, not covered nor lined;
Eyeglasses or spectacles, MOI;
Lenses, optical, MOI;

1. Ground or polished;
2. Not surface ground nor polished (Lens Blanks).

Petroleum Coke for export, when transported in bulk in dump truck equipment between the following points in the Los Angeles Harbor Commercial Zone:

1. Shell Oil Company refinery, Wilmington;
2. Pier #6, Berth 212, Long Beach;
3. Storage facility of Applied Industrial Materials Corp., Los Angeles Harbor;
4. Texaco Oil Company refinery, Wilmington;
5. Storage facility of Koch Carbon, Inc., Carson;
6. Atlantic Richfield Company refinery, Carson;
7. Arco COC Kiln, Inc.'s facility, Wilmington;
8. Mobil Oil Corporation refinery, Torrance;
- *9. Ultramar, Inc. refinery, Wilmington;
- *10. Long Beach, Pier A, Berths 210 and 211;
- *11. Koch Carbon, Inc. Storage facilities, Terminal Island.

* Addition, Decision 92-03-024

EFFECTIVE APRIL 19, 1992

Correction 30

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