

DEC. 8 1992

Decision 92-12-018 December 3, 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 rock, sand, gravel,
 and related items in bulk, in dump
 truck equipment in Northern California
 as provided in Minimum Rate Tariff
 20 and Northern California
 Production Area and Delivery Zone
 Directory 2, and the revisions or
 reissues thereof.

ORIGINAL

Case 9820
 Petition for Modification 43
 (Filed December 19, 1991)

INTERIM OPINION

A decision dated today in this proceeding found that rates and charges in Minimum Rate Tariff 20 (MRT 20) should be increased and directed that amendment of the tariff be accomplished by separate order.

IT IS ORDERED that:

1. MRT 20 (Appendix A to Decision (D.) 81799, as amended) is further amended by incorporating Supplement 37, attached, effective today.
2. In all other respects, D.81799, as amended, shall remain in full force and effect.

3. The Executive Director shall serve a copy of the tariff amendments on each subscriber to MRT 20.

This order is effective today.

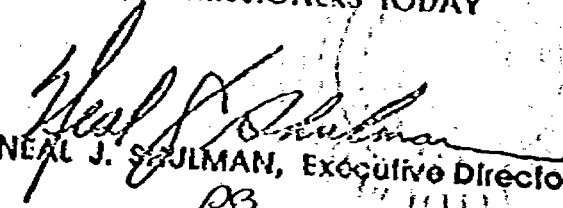
Dated December 3, 1992, at San Francisco, California.

DANIEL Wm. FESSLER
President
JOHN B. OHANIAN
PATRICIA M. ECKERT
Commissioners

I will file a written dissent.

/s/ NORMAN D. SHUMWAY
Commissioner

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


NEAL J. SAULMAN, Executive Director
PB

SURCHARGE SUPPLEMENT

SUPPLEMENT 37

(Cancels Supplements 32 and 33)

(Supplements 2, 7 and 37 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

◇ 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 thirteen and six-tenths (13.6) 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:

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◇ Increase, Decision 92-12-018
** Eliminated

EFFECTIVE December 3, 1992

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

C.5437, Pet. 350, D.92-12-020
C.9819, Pet. 145, D.92-12-017
C.9820, Pet. 43, D.92-12-018

11-6, 11-7, 2-

Norman D. Shunway, Commissioner, Dissenting:

Only a few months ago in Decision 92-05-028 we took a significant step toward introducing more competition in the regulation of transportation. In that decision we ended fifty years of minimum rate regulation in the household goods moving industry. We thus reaffirmed the idea that open competition will result in benefit to California's consumers.

Today's decision is a step backward from our policy to end minimum rate tariffs which we began in 1990 when we eliminated such tariffs in the general freight industry. I believe we made the right decision when we applied the same policy to the household goods movers. We miss here a golden opportunity to continue our resolve toward promoting competition in the transportation industry.

California's economy continues to show signs of recession. Many of our state's carriers would no doubt like to be shielded from the effects of a distressed economy by seeking protection through increased minimum rates. But a better solution would be to give the industry greater flexibility to adjust prices and improve services. Raising rates during recessionary times contradicts basic common sense.

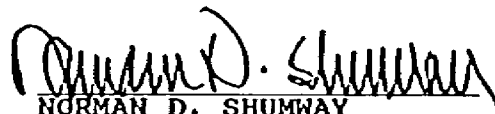
If carriers cannot survive at rates currently being charged, they should raise their prices. A minimum rate is just that; a minimum. The industry is free to charge higher prices if it chooses. However, if some carriers find price increases necessary to cover their costs, all other carriers who operate efficiently at lower costs should not be required to deprive consumers of the benefits of the lower prices they might offer. Today's decision insures that consumers will not benefit from lower prices.

C.5437, Pet. 350, D.92-12-020
C.9819, Pet. 145, D.92-12-017
C.9820, Pet. 43, D.92-12-018

Moreover, minimum rate regulation creates compliance problems which conflict with our desire to promote competition. If a carrier wishes to offer lower prices which benefit consumers, the carrier must file for permission which may result in a lengthy, costly regulatory process. Otherwise, the carrier faces fines or other penalties. A Commission which has clearly stated its desire to foster greater competition should not be supporting a process which deprives the public from the very benefits attributable to competition.

Finally, minimum rates do not promote improvements in service quality. To the contrary, protection provided by minimum rates serves to reduce innovation and improvement since rates are guaranteed in spite of service quality. Increasing minimum rates only further reduces incentives to improve service quality, and may encourage marginal or inefficient operators to enter the business. The result is higher prices and lower quality service to consumers, with greater regulatory intervention to enforce rate compliance and weed out shoddy operators. I don't believe that is the direction this Commission wants or ought to go.

I note that we have not examined the facts surrounding the degree and nature of competition in the dump truck industry as we did in the household goods moving industry. I believe we should do so. Our present "Efficient Carrier, Expedited Deviation" process (OSH 325) is not calculated to get us there. We should perhaps issue a new Order Instituting Investigation (OII) in order to underscore the need for deregulation. In the meantime, we should preserve the status quo without increasing minimum rates.


NORMAN D. SHUMWAY
Commissioner

December 3, 1992
San Francisco