

Decision No. 82 02 134 FEB 17 1982

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation)
for the purpose of considering and)
determining the minimum rates for)
transportation of cement and related)
products statewide as provided in)
Minimum Rate Tariff No. 10 and the)
revisions and reissues thereof.)

Case 5440, OSE 103
(Filed April 12, 1977)

And Related Matters

Case 5432, OSZ 962
(Filed April 12, 1977)

OPINION

On April 12, 1977, we instituted a series of related proceedings collectively referred to as our reregulation proceedings. In Case (C.) 5440, Order Setting Hearing (OSH) 103 and C.5432, OSH 962 (the proceedings in the series relating to regulation of the transportation of cement) we announced that we would explore whether our current system of minimum rates published in Minimum Rate Tariff 10 (MRT 10) should be replaced by a system of individual carrier-filed rates. By Decision (D.) 90663, minimum rates on general commodities have already been canceled and general freight carriers are now operating under such a system.

Since we issued the captioned proceedings in 1977, passage of Assembly Bill 1559 (AB 1559) has provided the opportunity for cement contract carriers to convert their permits to cement carrier certificates under Public Utilities (PU) Code Section 1063.1. ^{1/} As a result of

1/ AB 1559, signed into law on September 30, 1978, created PU Code Section 1063.1. PU Code Section 1063.1, in turn, allowed cement contract carrier permit holders to convert their permits to certificates if they applied to this Commission for conversion prior to June 30, 1979.

AB 1559 also created PU Code Section 3626.5, which requires cement contract carriers to file their transportation contracts with this Commission.

this legislation, the make-up of the cement transportation industry today is materially different from what it was in 1977.

According to data developed by our Transportation Division, Freight Economics Branch staff (the staff):

1. Forty-five former cement contract carriers have converted their permits to cement carrier certificates pursuant to PU Code Section 1063.1.
2. As of August 28, 1979, the date on which Section 1063.1 conversions became effective, only seven cement contract carriers remained subject to MRT 10.2/ These cement contract carriers are currently required to file contract specified rates with this Commission under PU Code Section 3626.5.
3. Highway carriers having annual revenues of at least \$25,000 (176 in number) earned \$47,123,203 in combined 1979 revenue under rates subject to the minimums contained in MRT 10.3/ Those carriers holding cement carrier permits subsequent to August 28, 1979 earned only \$187,801 or 0.4 percent of this \$47,123,203 revenue.
4. Both cement transporters and their affected shippers have, in the past, actively participated in minimum rate proceedings and have offered rate proposals which we have adopted.

Staff Recommendations

From these facts, the staff believes there is no longer a significant need for MRT 10 and recommends it be canceled. The staff further believes the limited benefit now derived from publication of MRT 10

2/ At that time, the permits of two of these carriers were in voluntary suspension.

3/ Revenue information taken from Commission Report 601-10 entitled "Distribution of Revenue by Minimum Rate Tariff-Calendar Year 1979."

can remain available to the industry through the issuance of a Commission general order insuring that rates filed by contract carriers of cement are, in the absence of cost or operational justification, no lower than those set forth in tariffs of competing certificated carriers of cement.^{4/}

More specifically, under the general order proposed by the staff:

1. Contract carrier operations would be governed by the following:
 - a. Upon cancellation of MRT 10, contract carriers would operate only under contracts filed with the Commission. All contracts would be available for public inspection.
 - b. Any contract rate filed below the charges of a competing common carrier would be accompanied by a statement of justification. Such justification would consist of either: (1) reference to a competing highway carrier rate being met; (2) operational and cost data showing that the proposed rate would contribute to carrier profitability; or, (3) in the case of an initial filing made on or before the date of MRT 10 cancellation, reference to a deviation authorized under PU Code Section 3666 and in effect on the date of MRT 10 cancellation.

^{4/} Highway carriers holding out to transport cement as common carriers must obtain a cement carrier certificate, and highway carriers holding out to transport cement as contract carriers must obtain a cement contract carrier permit, when the equipment used in their hauling is loaded substantially to capacity with cement. Under certain circumstances, highway common carriers and highway contract carriers, as defined in PU Code Sections 213 and 3517 respectively, may also transport cement.

Since we are concerned mainly with the competitive relationships existing between common and contract carriage of cement, when we use only the terms "common carrier" or "contract carrier", each shall be deemed to include all highway carriers of that class who are authorized to transport cement subject to the provisions of MRT 10.

- c. Contract rates filed on or before the date of MRT 10 cancellation and justified on the basis of a Section 3666 deviation would remain effective at the time of MRT 10 cancellation.
 - d. Contract rates filed to meet the charges of competing highway carriers would be made effective on the date filed with the Commission (but no earlier than the effective date of the rate being met), or on such later date as might be provided by the contract terms.
 - e. Except for filings (1) justified on the basis of a PU Code Section 3666 deviation or, (2) made to meet charges of highway carrier competitors, contract rate filings below the charges of competing common carriers would be filed on 30 days' notice and would become effective 30 days after the date filed, absent protest.
 - f. Contract rates at or above the charges of competing highway carriers would be made effective on the date filed, or on such later date as might be provided by the terms of the contract.
2. Common carrier operations would be governed by the following:
- a. Common carrier rate increases would be subject to justification and approval of the Commission as required by PU Code Section 454.
 - b. Any rate reduction would be accompanied by a statement of justification. Such justification would consist of either (1) reference to a competing highway carrier rate being met, or (2) operational and cost data showing that the proposed rate would contribute to carrier profitability.

- c. Rate reductions below the charges of highway carrier competitors would be governed by PU Code Section 452.
 - d. Rate reductions filed to meet the charges of highway carrier competitors would be made effective on the date filed with the Commission (but no earlier than the effective date of the rate being met), or on such later date as might be provided.
 - e. Tariff changes which resulted in neither increases nor reductions in rates could be filed under PU Code Section 455 without justification and made effective on 30 days' notice or on such shorter notice as the Commission might provide.
3. The cost data required to be submitted to justify rates below the level of rates of competing common carriers would include individual carrier costs and the prevailing labor costs as determined by the Commission in accordance with D.91265 in Order Instituting Investigation (OII) 53.5/ The actual setting of prevailing labor cost would be contingent upon surveys conducted by the staff in accordance with OII 53, D.93767; except that the staff survey would be issued only once annually, on or about July 1.
4. Rules would be provided to govern payments to underlying carriers and leasing practices in order to insure industrywide uniformity in these matters.
5. Any interested person would be entitled to file a complaint against any filed rate in accordance with PU Code Section 1702.

5/ Consistent with our findings in D.93766 in Order Instituting Rulemaking 4, the staff program would also require Workers' Compensation insurance premiums to be considered as a business expense for overlying (prime) carriers when subhaulers were used to perform the reduced rate transportation, whether or not the prime carrier actually maintained Workers' Compensation coverage or incurred a cost for such coverage.

6. Transportation now rate exempt under MRT 10 would remain exempt. The provisions of the staff's general order would not apply to such transportation.

By letter dated February 20, 1981, the staff solicited comments from shipper and carrier interests regarding implementation of its reregulation program on an ex-parte basis. The staff letter is received in evidence as Exhibit 1 in C.5440 (OSH 103). No substantive objection to the taking of such action has been received.^{6/}

Discussion

We agree with the staff recommendation that MRT 10 should be canceled. Its data indicate that, since the implementation of AB 1559, MRT 10 remains necessary for the operations of no more than seven cement contract carriers. The continuation of the administrative burden of maintaining a minimum rate tariff applicable to such a small segment of the carrier industry is inconsistent with the overall public interest. We also agree that there is a need to maintain some form of regulatory control over cement transportation to ensure equality of competitive opportunity between classes of motor carriers.

The regulatory plan proposed by the staff is similar to the program of competitive individual carrier-filed rates we adopted by D.90663 for the transportation of general freight, except that it provides for no period of transition from minimum rates to carrier-filed rates. Such a reregulation program will be reasonable for the transportation of cement.

^{6/} Responses to this staff letter were received from Universal Transport System, Inc., Western Motor Tariff Bureau, Inc., California Teamsters Public Affairs Council, and Miles and Sons Trucking, Inc. While these responses contained no substantive objection to ex-parte handling, comments were made regarding the technical details necessary to implement the program. The staff has indicated to us that they considered these technical comments in the formulation of their proposed reregulation program.

As an adjunct to its program, the staff contemplates required use of Commission-surveyed prevailing labor costs in the justification of rates filed below the level of rates of competing common carriers. We adopted a definition of prevailing wage, and the criteria for its use in reduced rate justification, for the transportation of general freight in OIT 53 by D.91265. In that proceeding, we found the information necessary to the successful determination of a rational prevailing wage to be:

1. The identity and classification of carrier labor that significantly contributed to direct carrier operating costs.
2. A geographical description of the markets from which carriers draw this labor.
3. The identity of the type of equipment operated by the labor in the performance of the carrier's transportation service.

From an analysis of the records of proceedings in C.5440, in which we established and now maintain MMT 10, the above named information can be readily determined for carriers involved in cement transportation. Evidence in these proceedings shows that:

1. The only individually significant direct labor cost incurred by cement transporters is the cost of employing drivers.

2. The majority of drivers employed by cement haulers are employed under union contracts. The terms of these contracts are similar for like work within, but different between, the following two geographical areas of the state:
 - a. That area of the state north of an imaginary line beginning at a point on the shore line of the Pacific Ocean due south of Gaviota and bearing northeasterly to the junction point of the Santa Barbara, Ventura and Kern County boundaries; then bearing northerly and westerly along the westerly boundary of Kern County to the junction point of Kern, San Luis Obispo and Kings Counties; then bearing easterly along the northerly boundary lines of Kern and San Bernardino Counties to the California-Nevada Border.
 - b. That area of the state south of the imaginary line described above.
3. Since cement is transported both in sacked form and in bulk within California, two distinct types of equipment are operated by driver employees. Flat-bed equipment is operated when the hauling involves sacked cement, while hopper type equipment is operated when the transportation involves bulk cement.

It appears from the C.5440 record that the application of a two zone system of prevailing wages for drivers employed by the cement transportation industry is required to implement the staff program. Our findings in D.91265 additionally necessitate the application of such prevailing wages to the following two driver categories within each zone:

1. Drivers operating equipment used in the hauling of sacked cement.
2. Drivers operating equipment used in the hauling of bulk cement.

Inclusion of a prevailing wage provision in the staff program in the manner discussed here, should insure that while carrier competition on the basis of operating efficiencies is encouraged, disruption of existing carrier labor markets is avoided. While a period of time will necessarily lapse between the date the reregulation plan becomes effective and the issuance of the staff's initial cement carrier industry prevailing wage report, driver wage and fringe benefits reflected in labor contracts underlying MRT 10 are available for use to fill this void.

A portion of cement traffic is currently exempt from minimum rates under our present system. The staff program would maintain the exempt status of this traffic. We know of no instance of predatory pricing, excessive business failure, industry instability or unreliable service attributable to the handling of rate exempt cement traffic that would evidence a need for change.

The staff program of carrier-filed rates, implemented in conjunction with the prevailing wage program as discussed here, is the best alternative to what has become an outmoded system of Commission set minimum rates for cement transportation. We will cancel MRT 10 and concurrently issue the staff proposed general order contained in Appendix 2. In order that the new program may promptly begin, the order implementing it should be effective on date of issuance.

We acknowledge here that the California Supreme Court has recently directed us to consider the economic impact of our decisions when they deal with regulatory change.^{2/} In this case, we have considered the economic

^{2/} See United States Steel Corporation v Public Utilities Commission, 29 Cal 3d 603 (S.F. 24165, order filed July 6, 1981).

implications of our decision and find that the staff reregulation program, as adopted, will tend to stimulate rate competition on the basis of operational efficiencies to the economic benefit of both the carrier industry and the public it serves. The prevailing wage aspect of the program will insure that those economic relationships now prevailing between carrier firms and their labor markets will continue substantially unaffected by our decision.

Hearings in these proceedings are unnecessary.

Findings of Fact

1. The majority of former cement contract carriers who derived revenue from MRT 10 in 1979 have converted their authorities to common carrier status under the provisions of PU Code Section 1063.1.

2. In order to exercise their common carrier authorities for the transportation of cement, the carriers referred to in Finding 1 must now file common carrier tariffs under the provisions of Article 2 of Division 1 of the PU Code.

3. By D.90324 and Commission Resolution No. TS-372, a number of highway common carriers and cement carriers were authorized to adopt MRT 10 as their common carrier tariff.

4. On August 28, 1979, the date PU Code Section 1063.1 authority conversions referred to in Finding 1 became effective, only seven cement contract carriers remained subject to MRT 10.

5. In 1979, 176 highway carriers having annual revenues of at least \$25,000 earned a total of \$47,123,203 under rates subject to the minimums contained in MRT 10.

6. The seven carriers referred to in Finding 4 who held cement carrier permits subsequent to August 28, 1979 earned only \$187,801 or 0.4 percent of the \$47,123,203 1979 revenue referred to in Finding 5.

7. Carriers and shippers of cement are capable of negotiating transportation rate adjustments to reflect economic conditions without Commission involvement.

8. No substantive objection to a reregulation plan involving the cancellation of MRT 10 and the substitution of the regulatory program discussed in the preceding opinion has been received from queried parties now involved in transportation subject to MRT 10.

9. Findings of Fact 1 through 8 indicate that the publication of MRT 10 is no longer required to meet the needs of carriers and shippers of cement.

10. Absent a system of minimum rates, the needs of commerce and the public interest require that carriers be allowed to meet the charges of other competing motor carriers.

11. The only individually significant direct labor cost incurred by cement transporters is the cost of employing drivers.

12. Cement haulers obtain their drivers from the two labor markets defined in the preceding opinion.

13. The foreseeable economic impact created by the regulatory system adopted will be of a beneficial nature.

14. The following order complies with the guidelines in the Commission's Energy Efficiency Plan.

15. It can be seen with certainty that there is no possibility that the regulatory system adopted may have a significant effect on the environment.

Conclusions of Law

1. The commission is not required to establish minimum rates under Division 2 of the PU Code.

2. A regulatory system of individual carrier-filed rates should be established in lieu of the present minimum rate system.

3. The rates of any highway common carrier or cement carrier that has adopted MRT 10 as its common carrier tariff by authority of D.90324 or Commission Resolution No. TS-372 will remain in effect after cancellation of MRT 10.

4. The rates contained in contracts filed by contract carriers will be approved by the Commission under PU Code Section 3662.

5. The precise rates contained in contracts filed by contract carriers and approved by the Commission under PU Code Section 3662 will be, in effect, minimum and maximum rates.

6. Since we are adopting a system of individual carrier-filed rates and canceling minimum rates, Section 726 and Section 3663 of the PU Code will not apply.

7. Common carrier rate changes will be governed by PU Code Sections 452, 453, 454 and 455.

8. To equalize competitive opportunity, common carrier rate reductions filed for the purpose of meeting competing motor carrier charges should be filed and made effective on the same day service is to be initiated, but not earlier than the effective date of the rate being met.

9. Under the reregulation plan adopted, the cost data submitted by carriers to justify rates below the level of rates of competing common carriers should be comprised of:

a. Prevailing labor costs, as defined by the Commission in D.91265 and set on or about July 1 of each year by staff survey conducted in the manner described in D.93767, for the following classes of carrier labor:

(1) Drivers operating equipment used in the hauling of sacked cement.

(2) Drivers operating equipment used in the hauling of bulk cement.

b. Workers' Compensation insurance premiums as a business expense for prime carriers when subhaulers are to be used to perform the reduced rate transportation, whether or not the prime carrier actually maintains Workers' Compensation coverage or incurs a cost for such coverage.

c. The individual carrier's costs in connection with all other cost elements.

10. For the purpose of determining the prevailing labor costs referred to in Conclusion 9, the state should be considered to contain the two labor markets described in this decision.

11. Between the date the regulatory system adopted becomes effective and the the date the staff issues the results of its initial prevailing wage survey, the geographically appropriate driver wage and fringe benefits contained in labor contracts underlying MRT 10 shall be considered to be the prevailing labor cost.

12. Rates of individual contract carriers found reasonable under PU Code Section 3666 and in effect at the time we cancel MRT 10 should remain in effect without further cost on operational justification under the reregulation plan adopted.

13. No additional financial reporting requirements for cement transporters should be required in conjunction with the adopted reregulation plan.

14. The Commission may exempt selected commodity transportation from rate regulation under Division 2 of the PU Code.

15. Under the reregulation plan adopted, transportation presently exempt from rate regulation by provisions of MRT 10 should remain exempt.

16. The reregulation program adopted is consistent with state antitrust law.

17. The reregulation program adopted will not create any unfair competitive advantage for any particular class of carrier.

18. The reregulation program adopted will not result in any unfair competitive advantage for carriers or shippers who have carrier-carrier or carrier-shipper affiliations.

19. There is a need to establish improved regulatory procedures to administer the transportation covered in these proceedings so that the overall public interest will be served.

20. The reregulation program adopted satisfies the requirements of PU Code Section 3502.

21. Although the policy provisions of the California Environmental Quality Act, California Public Resources Code, Sections 21000 and 21001 apply to these proceedings, the Environmental Impact Report provisions, California Public Resources Code, Sections 21100, et seq. do not.

22. The reregulation plan outlined in the body of this opinion is just and reasonable and should be adopted by the Commission.

23. The following order should be effective today since it is in the public interest to adopt the reregulation program.

O R D E R

IT IS ORDERED that:

1. The reregulation plan outlined in the body of this opinion, and specified more fully in Appendix 2, is adopted and shall be effective April 1, 1982.

2. The attached Cancellation Supplement 37 to Minimum Rate Tariff 10 is adopted and shall be effective April 1, 1982.

3. All deviations authorized under PU Code Section 3666, applicable to transportation covered by these proceedings, shall expire effective April 1, 1982.

4. Any carrier who would otherwise be allowed to perform transportation covered by these proceedings after March 31, 1982 at charges authorized by a deviation granted under PU Code Section 3666, may continue authorization to perform such transportation at such charges by filing a contract with this Commission. The charges contained in such contract shall require no cost or operational justification, provided they are no different in volume or effect than those charges contained in the aforementioned deviation and the contract makes reference to this Ordering Paragraph and bears an effective date of April 1, 1982.

5. Orders Setting Hearing Nos. 103 and 962 in Case Nos. 5440 and 5432, respectively, are concluded.

6. The Executive Director shall serve a copy of this decision upon all parties named in Appendix 1, upon all cement carriers, and upon all subscribers to Minimum Rate Tariff 10.

This order is effective today.

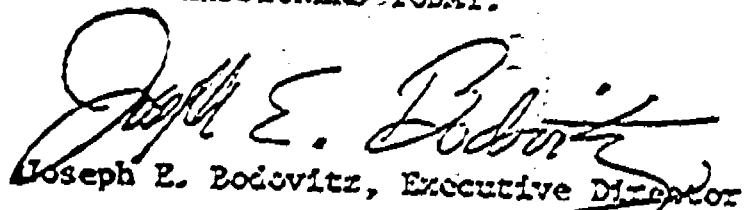
Dated February 17, 1982, at San Francisco, California.

RICHARD D. CRAVELLE
LEONARD M. GRIMES, JR.
VICTOR CALVO
PRISCILLA C. CREW
Commissioners

Commissioner JOHN E. BRYSON

Present but not participating.

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


Joseph E. Bodovitz, Executive Director

APPENDIX 1

List of Parties for Service Referred
to in Ordering Paragraph 5
Page 1

David Abney
State Wide Traffic Service, Inc.
P. O. Box 1018
Huntington Park, CA 90255

Victor Adelson
448 Vega Terrace
Fremont, CA 94536

T. W. Anderson
General Portland, Inc.
P. O. Box 49026
Los Angeles, CA 90049

Associated Traffic Services
5455 Wilshire Blvd., Suite 707
Los Angeles, CA 90036

Don Austin
Monolith Portland Cement Co.
P. O. Box 3303
Los Angeles, CA 90051

William T. Barklie
California Portland Cement Co.
800 Wilshire Blvd.
Los Angeles, CA 90017

E. J. Bortana
Lone Star Industries, Inc.
2800 Campus Drive
San Mateo, CA 94403

Bishop and Bahler
P. O. Box 329
Palo Alto, CA 94301

Ronald C. Broberg
California Trucking Assn.
1240 Bayshore Hwy.
Burlingame, CA 94010

Jess J. Butcher
California Manufactures Assn.
P. O. Box 1138
Sacramento, CA 95805

City Traffic Services, Inc.
P. O. Box 487
San Bruno, CA 94066

Fred R. Covington
Kaiser Cement Corp.
300 Lakeside Drive
Oakland, CA 94612

W. Lee Cozad
Lavic Stone Corp.
17171 South Western Ave.
Gardena, CA 90247

Alan Edelstein, Attorney at Law
California Teamsters Public Affairs
Council
925 "L" Street, Suite 920
Sacramento, CA 95814

Jack L. France
Coast to Coast Traffic Services
and Tariff Publishers
P. O. Box 58064
Vernon, CA 90058

James M. Gallagher
Calaveras Cement
215 Market Street
San Francisco, CA 94105

Barney Garcia
B. R. Garcia Traffic Service
681 Market Street
San Francisco, CA 94105

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Page 2

Bob Gleason
Western Traffic Conference, Inc.
1127 - 10th East
Seattle, WA 98102

Golden State Tariff Bureau
681 Market Street, Suite 747
San Francisco, CA 94105

T. B. Guthrie Tariff Bureau
10506 So. Shoemaker Avenue
Santa Fe Springs, CA 90670

David Hoerchler
G. R. Leonard & Co.
2121 Shermer Road
Northbrook, IL 60062

Ideal Basic Cement
1324 Washington Building
Seattle, WA 98101

Frank Jacobs
Traffic & Distribution Committee
900 - 17th Street N. W., Suite 1100
Washington, DC 20006

Charles A. Johnson
P. O. Box 273
Jamestown, CA 95327

Los Angeles Chamber of Commerce
Transportation Dept.
404 So. Bixel Street
Los Angeles, CA 90017

David Marchant
Graham & James
1 Maritime Plaza, Suite 300
San Francisco, CA 94111

D. H. Marken
Traffic Associates, Inc.
P. O. Box 31007
Los Angeles, CA 90031

Sam Miles
3704 Candlewood Drive
Bakersfield, CA 93306

Kieth E. Miller
Miller Traffic Service, Inc.
P. O. Box 370
Maywood, CA 90270

William Mitze
Riverside Cement Co.
P. O. Box 832
Riverside, CA 92502

J. L. Nelson
Pacific Southcoast Freight Bureau
717 Market Street
San Francisco, CA 94103

M. J. Nicolans
Western Motor Tariff Bureau
P. O. Box 392
South Gate, CA 90280

Bill Owens
California Traffic Services
8023 East Stanson, Suite 9
Montebello, CA 90640

George A. Pendleton
P. O. Box 51
Comstock Park, MI 49321

Ron C. Peterson
Tuttle & Taylor
609 Grand Avenue
Los Angeles, CA 90017

Redwood Empire Traffic Service
P. O. Box 126
Pinole, CA 94564

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John T. Reed
Pacific Coast Tariff Bureau
450 Mission Street
San Francisco, CA 94105

Reliable Traffic Service
2322 No. Maroa Avenue
Fresno, CA 93704

Arden Riess
West Coast Freight Tariff Bureau, Inc.
P. O. Box 6067
Stockton, CA 95206

L. V. Rollins, Sr.
M-Z Publishing Company
P. O. Box 119
Palo Alto, CA 94302

George B. Shannon
Southwest Portland Cement
3055 Wilshire Blvd.
Los Angeles, CA 90010

Don B. Shields
Highway Carriers' Assn.
8696 So. Atlantic
Southgate, CA 90280

Stephenson & Associates
P. O. Box 30154
Dallas, TX 75230

R. D. Vinick
Distribution - Publications, Inc.
P. O. Box 6458, Airport Station
Oakland, CA 94621

Western Tariff Service
2340 Merced Street
San Leandro, CA 94577

Wigle & Larimore
260 California Street
San Francisco, CA 94111

(END OF APPENDIX 1)

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GENERAL ORDER 150

PUBLIC UTILITIES COMMISSION OF THE
STATE OF CALIFORNIA

RULES AND REGULATIONS GOVERNING THE TRANSPORTATION OF CEMENT
AND RELATED COMMODITIES BY COMMON CARRIERS AND CONTRACT
CARRIERS UNDER THE COMMISSION'S REREGULATION PROGRAM

Adopted February 17, 1982. Effective April 1, 1982.

Decision 82-02-134 in C.5440, OSH 103 and C.5432, OSH 962.

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RULE 1 - APPLICATION

- A. This General Order is issued to implement the Commission's reregulation program and to provide guidance for tariff and contract filings in connection with the transportation of cement and related commodities.
- B. When provisions of this General Order are in conflict with the Commission's Rules of Practice and Procedure, the provisions of this General Order shall apply.
- C. Except as otherwise provided, the carriers listed below are subject to this General Order:
 - 1. Highway common carriers as defined in Section 213 and referred to in Section 1063 of the Code;
 - 2. Cement carriers as defined in Section 214.1 and referred to in Section 1063 of the Code;
 - 3. Highway contract carriers as defined in Section 3517 of the Code; and
 - 4. Cement contract carriers as defined in Section 3519 of the Code.

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RULE 2 - DEFINITIONS

For the purpose of this General Order and when used in tariffs or contracts filed under this General Order, the definitions for the following terms shall apply:

- A. "Carrier's Equipment" means any motor truck, tractor or other self-propelled highway vehicle, trailer, semitrailer, or any combination of such highway vehicles, operated by the carrier.
- B. "Code" means the Public Utilities Code of the State of California.
- C. "Commission" means the Public Utilities Commission of the State of California.
- D. "Commodities" means:
 - 1. Cement, hydraulic, masonry, natural or Portland, in bulk or in packages, subject to the applicable minimum charge defined in Paragraph K.
 - 2. The following commodities when shipped in mixed shipments with not less than fifty percent (50%) by weight, of cement in packages, subject to the applicable minimum charge defined in Paragraph K.
 - (a) Lime, common, including magnesium lime, hydrated or hydraulic, quick or slaked, in packages;

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- (b) Cement flue dust, in packages, and/or;
 - (c) Limestone, powdered, in packages.
- E. "Common Carrier" means every highway common carrier and cement carrier described in Rule 1.
- F. "Contract Carrier" means every highway contract carrier and cement contract carrier described in Rule 1.
- G. "Contract" means an agreement in writing which binds both shipper and contract carrier to good faith performance for a specific term. For terms of contract, see Rule 6(E)(1).
- H. "Distance Table" means Distance Table 8 and/or the Optional All Points to All Points Table for Distance Table 8 issued by the Commission and any amendments or reissues (D.89303, August 22, 1978, C.7024).
- I. "Exempt Commodities" and/or "Exempt Transportation" means the commodities and geographic areas described in the Commission's publication, including any revisions, entitled "Commodities and Geographic Areas Exempt from Rate Regulation Within the Permissive Scope of Highway Contract Carrier Operations." This definition also includes transportation which has been exempted for specific carriers by Commission decision.

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- J. "Independent-Contractor Subhauler" means any carrier who renders a service for a principal carrier, for a specified recompense, for a specified result of the work only and not as to the means by which such result is accomplished. This term includes sub-subhaulers when such carriers are engaged by other subhaulers.
- K. "Minimum Charge" means the charge per shipment shall be the charge for 47,500 pounds at the applicable rate.
- L. "Point" means a particular city, town, community, extended area, metropolitan zone, or other area which is defined for the application of rates.
- M. "Rate" means the figure stated in cents, dollars and cents, or fractions, including the charge and, also, the minimum weight and rules governing, and any accessorial charges to be used in computing the charge on the property transported.
- N. "Rate Bureau" means each conference, bureau, committee, or other organization established or continued under any agreement approved by the Commission under the provisions of Code Section 496.

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- O. "Shipment" means a quantity of property tendered for transportation to one carrier at one time on one shipping document by:
1. One shipper at one point of origin for one consignee at one point of destination; or
 2. One shipper at one point of origin for one consignee at more than one point of destination (split delivery).
- P. "Tariff" means a publication containing the rates and charges of common carrier(s) including operating rights (scope of operations), rules, regulations and provisions governing the service(s) of the carrier(s) including any supplements, amendments, or revised pages or reissues.

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RULE 3 - EXCEPTIONS

- A. The provisions of this General Order do not apply to transportation by independent-contractor subhauers when such transportation is performed for other carriers. This exception shall not be construed to exempt from this General Order carriers for whom the independent-contractor subhauers are performing transportation service.
- B. The provisions of this General Order do not apply to transportation of the following:
 - 1. 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 extreme emergency.
 - 2. Property of the United States, or property transported under an agreement whereby the United States contracted for the carrier's services.
 - 3. Property transported for a displaced person when the cost is borne by a public entity as provided in Section 7262 of the Government Code.
 - 4. The transportation of exempt commodities and/or exempt transportation by contract carriers.

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RULE 4 - DEPARTURES

Departure from the provisions of this General Order may be granted upon formal application to the Commission and if the Commission finds that such departure is reasonable and necessary.

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RULE 5 - TARIFF FILINGS BY COMMON CARRIERS

- A. Highway common carriers shall file tariffs in accordance with the requirements of Division 1 of the Code and General Order Series 80; provided, however, that when the provisions of this General Order are in conflict with the provisions of General Order Series 80, the provisions of this General Order shall apply.
- B. Cement carriers shall file tariffs in accordance with the requirements of Division 1 of the Code and General Order Series 117; provided, however, that when the provisions of this General Order are in conflict with the provisions of General Order Series 117, the provisions of this General Order shall apply.
- C. Every common carrier shall maintain and keep open for public inspection a copy of its adoption notices, tariffs, and any revisions or supplements in accordance with General Order Series 122.

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RULE 6 - CONTRACT FILINGS BY CONTRACT CARRIERS

- A. No contract carrier shall commence to perform any transportation or accessorial service until it has on file and in effect with the Commission three copies of an executed binding contract for such service.
- B. No contract carrier shall provide any transportation or accessorial service except in accordance with its contract or contracts as filed and in effect with the Commission. Contract carriers shall strictly observe, as their exact rates, the rates and provisions of their contracts.
- C. Contracts must be in conformance with Commission policy on the proper scope of contract carrier operations as provided in attached Appendix A.
- D. Every contract carrier shall keep and maintain in its files all contracts for a period of three years after the termination date of the contracts.
- E. Content and Form of Contracts; Amendments and Supplements to Contracts.
 - 1. Every contract shall contain:
 - (a) The name, address, signature, and "T" file number of the carrier.
 - (b) The name, address, and signature of the shipper.
 - (c) Date contract executed, effective date, and the duration of the contract.

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- (d) The area involved in performance, such as the route and/or termini.
 - (e) A description of all mutual obligations and understandings of the parties, including but not limited to:
 - (1) The services to be provided and the projected frequency.
 - (2) The commodities involved and the projected tonnage (or other appropriate unit of measurement) of the commodities to be transported.
 - (3) The compensation to be paid and received. (Rate items may not be published by reference to other tariffs or contracts. Each rate item must be published in its entirety.)
 - (f) The conditions, if any, under which changes in compensation or other terms of the contract may be made by the parties.
 - (g) Reference to the Distance Table, if applicable.
 - (h) Such explanatory statements as may be necessary to remove all reasonable doubt of its proper application.
2. Contracts shall be plainly typed or prepared by other similar durable process on letter-size (not less than 8" x 10 1/2" nor larger than 8 1/2" x 11") paper of good quality and shall be clear and legible.

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3. Each carrier shall issue contracts under the "T" file number assigned to it by the Commission with a suffix number beginning with the number 1. Subsequent contracts shall bear consecutive suffix numbers. The contract number shall appear on every page in the following manner:

"CONTRACT NUMBER
CAL T-000,000-1"
4. A contract or an amendment which is required or authorized to be filed under a decision of the Commission shall refer to that decision in connection with the item or supplement which incorporates the change resulting from that decision.
5. Contracts may be amended by filing a supplement or by filing new pages on which changes are made. Revised pages shall be identified as consecutively numbered revisions of the previous page, e.g., "First Revised Page 2 Cancels Original Page 2."
6. A supplement to a contract shall contain:
 - (a) Those requirements set forth in subparagraph (E)(1) necessary to clearly and effectively identify and amend the original contract.
 - (b) Reference to the item number, page number, and/or previous supplement number which it amends.

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7. When a carrier changes its name, as shown in the Commission's records, without transfer of control from one company to another, it shall immediately amend each contract issued by it to show the new name of the company. (See subparagraph (E)(9).)
8. When a shipper changes its name, whether or not control is transferred from one company to another, the carrier shall immediately amend its contract with such shipper to reflect the change. (See subparagraph (E)(9).)
9. Amendments required by subparagraphs (E)(7) and (E)(8) may be accomplished by the filing of a supplement containing a provision that "Whenever the name (enter the old name) appears, it shall be construed as meaning (enter the new name)."
10. The Commission shall be notified in writing when a contract is canceled. Unless an amendment is filed with the Commission extending the duration of the contract, it shall be deemed canceled on the expiration date.

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RULE 7 - FILING PROCEDURES - CARRIER RESPONSIBILITY

A. Rate Filings - Where and When Filed

1. Three copies of tariffs, adoption notices and contract filings, including any supplements and amendments, which are rate reductions and result in rates lower than rates of competing highway carriers, together with a statement of rate justification (See EXCEPTION), shall be received at the Commission's office at:

Truck Tariff Section, PUC
State Building
San Francisco, CA 94102, or

State Building
107 South Broadway
Los Angeles, CA 90012, or

State Building
1350 Front Street
San Diego, CA 92101

Documents received are not considered filed until they have been reviewed for compliance with this General Order and accepted for filing. A document accepted for filing in accordance with this paragraph will be deemed filed as of the date it is published in the Commission's Daily Calendar (or any other Commission publication that may in the future be designated for this purpose). Only hand-delivered documents shall be received by the Los Angeles and San Diego offices. First class postage to San Francisco shall be paid at the time documents are tendered at the Los Angeles and San Diego offices. Payment of postage shall be made by personal check or money order.

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EXCEPTION: The provisions of subparagraph (A)(1) shall not apply to initial contract rate filings based on Code Section 3666 deviations. For provisions applying to such filings, see subparagraph (A)(2) of this rule.

2. Three copies of tariffs, adoption notices, and contract filings, including any supplements and amendments;
 - (a) Which are rate increases,
 - (b) Which are changes in rules or provisions not resulting in a reduction in rates lower than rates of competing highway carriers,
 - (c) Which are filed to meet the rates of competing highway carriers (i.e., at or above the level of a competing highway carrier), or
 - (d) Which are initial contract filings, made on or before April 1, 1982, containing rates based on a Code Section 3666 deviation effective on such date,

together with a statement of justification, may be mailed direct to the Truck Tariff Section, San Francisco Office, or hand-delivered to the Los Angeles or San Diego Offices or any district office. Tariff and contract filings made in accordance with this paragraph and accepted for filing shall be deemed filed: (1) on the date of mailing as evidenced by the postmark, or (2) if hand-delivered, by the date received at any of the Commission's offices or district offices.

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B. Transmittal Letters

Regardless of where documents are filed, they shall be accompanied by a letter of transmittal identifying the documents filed and addressed to the Public Utilities Commission of the State of California, Truck Tariff Section, PUC, State Building, San Francisco, California 94102. If a receipt of the filing is desired, the letter of transmittal shall be sent in duplicate; one copy will be stamped and returned as a receipt. A self-addressed stamped envelope must be provided for the copy to be returned. Tariffs, contracts, rate filings, adoption notices and supporting documents shall be filed in a single package which shall also include the letter of transmittal required to accompany the filing.

C. Rejected documents will be returned to the sender with a statement explaining why the documents were not accepted.

D. Carrier Responsibility for Maintenance of Tariffs, etc.

1. Carriers shall maintain tariffs, contracts and the Distance Table at all times in a current condition.
2. Upon request, a carrier or its agent shall furnish a copy of, or a subscription to, any tariff which it issues, or a copy of any tariff, contract or rate filing, with supporting documents, including any statement of justification. A reasonable charge may be assessed for such copies or subscription.

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E. Public Inspection

All contracts and tariffs will be available for public inspection at the Commission's office, San Francisco.

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RULE 8 - RATE JUSTIFICATION

A. Common Carrier Rate Justification

1. Common carrier rate reductions which result in rates below the applicable rates of a competing highway carrier must be accompanied by a statement of justification. The statement shall consist of:
 - (a) Reference to the rate of a competing highway carrier, including the identity of the tariff and item number or contract containing the rate being met, or
 - (b) Operational and cost data showing that the proposed rate will contribute to carrier profitability. These data must reflect individual carrier costs, except those labor costs which are subject to prevailing wage criteria. (See Appendix C.)
2. Common carrier rate increase applications shall be filed in accordance with the rules provided in Appendix B.

(See EXCEPTION in sub-paragraph A.2.(a).) Justification supporting the need for an increase in rates and/or charges must accompany the application. The proposed increase shall not become effective until it has been approved by the Commission.

 - (a) EXCEPTION: No application is required to increase a rate to a level which is less than or equal to a rate previously authorized by the Commission for the same transportation by the same carrier.

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3. Common carrier rate filings which depart from the rules of its filed and published tariff or the Distance Table, and result neither in an increase nor a reduction must be accompanied by a statement demonstrating that the filing does not result in any change in rates.
4. Increases will be authorized on 30 days' notice unless sooner requested and justified by applicants.

B. Contract Carrier Rate Justification

1. Any contract carrier rate reduction must be accompanied by a statement of justification with each copy of the contract filing. Such justification shall consist of:
 - (a) Reference to the rate of a competing highway carrier, including the identity of the tariff and item number or contract containing the rate being met, or
 - (b) Operational and cost data showing that the proposed rate(s) will contribute to carrier profitability (these data must reflect individual carrier costs, except those labor costs which are subject to prevailing wage criteria (See Appendix (C.)), or
 - (c) In the case of initial filings made on or before April 1, 1982, and based on a Code Section 3666 deviation in effect on such date, reference to both Ordering Paragraph 4 of Decision 82-02-134 and the deviation.

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2. A contract carrier may increase its rates by filing an appropriate amendment or a new contract. The increases will be effective on the date filed or such later date as may be provided by terms of the contract.

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RULE 9 - EFFECTIVE DATES OF RATE FILINGS AND PUBLIC NOTICE

- A. No tariff or contract filing resulting in a rate reduction below the rates of competing highway carriers which is required to be cost and operationally justified under the provisions of this General Order shall be made effective on less than 30 days' notice to the Commission and the public. (See paragraph (C)).
- B. Except as provided in Paragraphs (A) and (C), contracts may be made effective on the date filed with the Commission or on such later date as may be provided by the terms of the contract. Neither contract rate increases nor initial contract rate filings based on Code Section 3666 deviations require prior notice. (See paragraph (F).)
- C. No tariff rate reduction filed to meet a rate of a competing highway carrier shall be made effective earlier than the effective date of the competing carrier rate. If the rate of the competing carrier is already effective such filing may be made effective on the date filed (See paragraph (F)).
- D. Except as provided in Paragraphs (A) and (C), common carrier tariff filings resulting in rate reductions, or in changes which are neither increases nor reductions, may be made effective on 30 days' notice to the Commission or on such later date

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as may be provided in the tariff filings. Except as provided in Rule 8(A)(2)(a), tariff filings resulting in increases shall not be made effective until the increases have been approved by order of the Commission.

- E. Tariff and contract filings which result in rates less than the rates of competing highway carriers shall be docketed and published in the Commission's Daily Calendar, or any Commission publication designated for this purpose. Publication in the Commission's Daily Calendar shall constitute public notice.
- F. If a filing to meet the rate of a competing highway carrier is deficient with respect to (1) the kind and quantity of property, (2) point of origin or destination, or (3) limitations, conditions, and privileges, the filing may be rejected by the Executive Director of the Commission within a 10-day period of the filing.

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RULE 10 - PROTEST AND SUSPENSION OF RATES

- A. Commission review of any tariff or contract rate, required to be filed on 30 days' notice, may be initiated by the filing of a protest.
1. Any such protest must be filed five or more days before the rate is scheduled to become effective.
 2. Protests shall be deemed filed on the date received by the Truck Tariff Section, PUC, State Building, San Francisco, California 94102.
 3. Protests must be in writing, must identify the rate protested, and must clearly state the grounds on which the protest is based.
 4. Protests must be filed in triplicate with the Commission.
 5. A copy of each protest filed shall be simultaneously served upon the carrier making the rate filing, or his designated agent.
 6. Notice of any protest filed will be provided in the Commission's Daily Calendar (or any other Commission publication that may in the future be designated for this purpose).
- B. 1. If a protest is filed, or if the Commission on its own motion decides to suspend a tariff or contract, the tariff or contract provision at issue may be temporarily suspended for a period of time not to exceed 45 days beyond the date it is suspended,

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during which time the Commission will either reject the protest or further suspend the rate and set the matter for hearing. In the event the Commission further suspends the effective date of the tariff, or contract filing, or any provision, and sets the matter for hearing, the period of suspension shall not extend more than 120 days beyond the date it would otherwise go into effect, unless the Commission extends the period of suspension for a further period not exceeding six months.

2. Notice of any rate suspension will be provided in the Commission's Daily Calendar (or any other Commission publication that may in the future be designated for this purpose).
3. In the event the Commission suspends a tariff, or contract, or any provision, and sets the matter for hearing, the burden of proof to show that the tariff, or contract, or provision at issue is just, reasonable, and nondiscriminatory shall be upon the proponent of the tariff or contract filing.

C. When in the absence of a protest the Commission, on its own motion, suspends a tariff, or contract, or any provision, and sets the matter for hearing, the burden of proof to show that the proposal is just, reasonable, and nondiscriminatory shall be upon the proponent of the tariff or contract filing.

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RULE 11 - COMPLAINTS

Commission review of any tariff or contract rate which is in effect may be initiated by filing a formal complaint in accordance with the Commission's Rules of Practice and Procedure. The burden of proof to show that any tariff or contract rate in effect is not just, reasonable, and nondiscriminatory shall be upon the complainant.

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RULE 12 - PAYMENTS TO UNDERLYING CARRIERS

(Subject to Notes (1), (2) and (3) below)

Charges paid by any overlying carrier to an underlying carrier and collected by the latter from the former for services of said underlying carrier shall be 100 percent of the charges under the applicable rates prescribed in the overlying carrier's tariff or contract, less the gross revenue taxes applicable and required to be paid by the overlying carrier.

Note (1) - As used in this rule, the term "gross revenue taxes" means the California transportation tax payable to the California Public Utilities Commission under the Transportation Rate Fund Act.

Note (2) - Nothing herein shall prevent an overlying carrier, in paying such charges, from deducting therefrom such legitimate liquidated amounts as may be due from the underlying carrier to the overlying carrier (except amounts for bookkeeping, administration or sales services provided by the overlying carrier in connection with the transportation involved), providing such deductions have been authorized in writing by the underlying carrier. Any overlying carrier electing to employ this procedure shall itemize such amounts and maintain for the Commission's inspection all documents involved in the transaction. Upon demand by the Commission, the overlying carrier shall substantiate that there has been full, fair and adequate consideration for each item so deducted.

Note (3) - As used in this rule, the terms "overlying carrier" and "underlying carrier" mean those carriers as defined in General Order Series 102, as follows:

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DEFINITIONS:

- (a) Prime carrier (principal or overlying carrier) means an authorized carrier that contracts with a shipper to provide transportation service for the latter, but in turn, engages the services of another authorized carrier known as the independent contractor subhauler (subhauler or underlying carrier) to perform that service. The term prime carrier also includes any independent contractor subhauler who engages other authorized carriers to perform all or part of the services which such independent contractor subhauler has agreed to render for a prime carrier. Such an engaged authorized carrier is designated as a sub-subhauler and as to it, the original independent contractor subhauler is a prime carrier.
- (b) Independent contractor subhauler (subhauler or underlying carrier) means any authorized carrier who renders service for a prime carrier (principal or overlying carrier), for a specified recompense, for a specific result, under the control of the prime carrier as to the result of the work only and not as to the means by which such result is accomplished. This term includes sub-subhaulers in appropriate cases.
- (c) As used in this rule, the term "authorized carrier" means a highway carrier licensed by the Commission under the provisions of the Code.

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RULE 13- REGULATION OF LEASING PRACTICES

- A. No lease of trailer equipment shall provide for the payment of rental in excess of 9 percent of the charges applicable under the rates prescribed in the overlying carrier's tariff or contract for the transportation performed in said trailer equipment, except in special cases upon application by a carrier to the Commission and a showing by the carrier and a finding by the Commission that the higher rental is reasonable. Authorization to charge rental higher than 9 percent must be secured from the Commission before the parties enter into a lease arrangement. As used in this rule, the term "trailer equipment" includes a semitrailer, full trailer or any combination thereof which lawfully may be pulled over public highways of the State of California by one power unit.
- B. Each freight bill or other shipping document issued by the carrier with respect to transportation performed in whole or in part by leased trailer equipment shall identify thereon the leased trailer equipment so utilized. In addition, the carrier shall maintain for the Commission's inspection records reflecting all payments made to lessors of trailer equipment including substantiating documents therefor.
- C. No lease of trailer equipment shall be for a term of less than thirty (30) days.

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- D. No carrier shall lease any power equipment, or combination of power and trailer equipment, for a period of less than thirty (30) days.
- E. No power or combination of power and trailer equipment shall be leased on the basis of percentage of gross revenue applicable to transportation provided by such leased equipment and all persons engaged in operating such motor vehicle equipment for the carrier shall be employees of the carrier.
- F. Every carrier leasing equipment as provided in paragraphs D and E hereof shall retain and preserve for the Commission's inspection an executed copy of each such equipment lease for a period of not less than three years from the date of execution of the document. A true copy of each such equipment lease shall also be carried with leased equipment at all times during the term of the lease.

Approved and dated February 17, 1982 at San Francisco, California.

PUBLIC UTILITIES COMMISSION
STATE OF CALIFORNIA

By 

Executive Director

(END OF APPENDIX 2)

APPENDIX A TO GENERAL ORDER

Page 1

COMMISSION POLICY ON THE PROPER SCOPE OF
HIGHWAY CONTRACT AND CEMENT CONTRACT CARRIER OPERATIONS

The purpose of this statement is to inform carriers engaged in contract carriage of the Commission's policy on the proper scope of such operations and to set the following guidelines which the Commission will apply in determining whether a highway carrier is operating as a contract carrier. The question of whether a contract carrier is lawfully operating is determined on a case-by-case basis dependent upon the facts surrounding the carrier's operations.

1. A contract carrier generally may not solicit individual one-time shipments; it may solicit and enter into negotiated continuing hauling relationships with shippers, i.e., contracts. Individual one-time shipments may be solicited where the specialized nature of the transportation is sufficient to distinguish it from common carrier service or where a carrier is performing a rate-exempt transportation service.
2. A contract carrier must generally have a continuing relationship with the shipper or shippers it serves. A continuing relationship requires that service be provided periodically over a period of time, not less than 30 days in duration. A continuing relationship cannot be predicated upon a single shipment.
3. The existence of more than five contracts contemporaneously in effect shall be prima facie evidence of a holding out by a cement contract carrier as a cement carrier, as provided under the provisions of Section 3627 of the Public Utilities Code.
4. A shipper using the service of a contract carrier can be either the consignee or consignor. Normally, the shipper is regarded as the party who pays the charges for the transportation; provided, however, the shipper may also be the party who controls the traffic such as the manufacturer of Brand X who ships freight collect to exclusive dealers of Brand X.

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Page 2

5. A contract carrier must provide services that are specialized or tailored to the particular requirements of the shipper being served. Examples of specialized services include, but are not limited to, providing repeat service over a period of time with specialized equipment, unique loading/unloading and accessorial activity, or specialized scheduling of service. Such specialization alone in some instances distinguishes contract from common carrier operations. Heavy hauling and the transportation of rate-exempt commodities are examples of such specialized operations.
6. All contract carriers, except highway contract carriers engaged in rate-exempt transportation, must file written contracts with the Commission. Such contracts must also be available for inspection by the public. Contract carriers may provide service only under written contracts which bind both carrier and shipper to good faith performance for a specific term.
7. Copies of contracts must also be kept on file in the carrier's office and available for inspection by the Commission or the Commission's staff. They must be retained by the carrier for not less than three years after expiration.

(END OF APPENDIX A)

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Page 1

CONTENTS OF COMMON CARRIER RATE INCREASE APPLICATIONS

Common carrier applications for increases in rates and charges, except increases filed under the provisions of Article 7 of the Rules of Practice and Procedure or under the provisions of Rule 8(A)(2)(a) of this General Order, shall be filed with the Docket Office and in accordance with the following:

- (a) Form and Size. Pleadings and briefs shall be type-written or printed upon paper 8½" wide and 11" long, and attached exhibits shall be folded to the same size. Unless printed, the impression shall be on one side of the paper only and shall be doublespaced, except that footnotes and quotations of more than a few lines may be single-spaced. Pleadings shall be bound on the left side. Reproductions may be by any process, provided all copies are clear and permanently legible.
- (b) Title and Docket Number. All applications presented for filing shall show the caption for the proceeding, the docket number, and the title of the document, and leave sufficient space in the upper right-hand corner for a time and date stamp.
- (c) Signatures. The original of each application or amendment shall be signed in ink by each party. If the party is a corporation or association, the pleading may be signed by an officer. Any attorney for or representative of a party shall also sign the pleading, and show his address and telephone number.

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Page 2

- (d) Verification. Applications or amendments shall be verified by each applicant. If the party filing the pleading is a corporation or association, the pleading may be verified by an officer. Verification may be made before a notary public or by certificate or declaration under the penalty of perjury.
- (e) Signature and Verification by Attorney. The attorney for an applicant may sign and verify a pleading if the applicant is absent from the county where the attorney has his office, or if for some reason is unable to sign and verify the application. When an application is signed and verified by the attorney, he shall set forth in the affidavit the reasons why the verification is not made by the applicant.
- (f) Copies. There shall be filed with the Commission's Docket Office the original and 4 conformed copies of each application or amendment.
- (g) Amended Applications. Amendments to applications may be filed before a hearing, provided they are served upon all known interested parties, are filed at least five days before the hearing, and contain a certification of service. Thereafter, applications may be amended as permitted or directed by the Commission or the presiding officer.

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Page 3

(h) Contents. All applications shall state clearly and concisely the authorization or relief sought; shall cite by appropriate reference the statutory provision or other authority under which Commission authorization or relief is sought, and shall state the following:

1. The exact legal name of each applicant and the location of principal place of business; and if an applicant is a corporation, trust, association, or other organized group, the state under the laws of which the applicant was created or organized.
2. The name, title, address and telephone number of the person to whom correspondence or communications in regard to the application are to be addressed. Notices, orders, and other papers may be served upon the person so named, and such service shall be deemed to be service upon applicant.
3. Such additional information as may be required by the Commission in a particular proceeding.
4. Applications for ex-parte (without formal hearing) action shall set forth the basis for such request, and those seeking the granting of relief pending full hearing shall set forth the necessity for such relief.

(i) Articles of Incorporation. If applicant is a corporation, a copy of its articles of incorporation, certified by the Secretary of State, shall be attached to the original of the application but need not be attached to the copies. If current articles have already been filed, the application need only make specific reference to such filings.

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Page 4

(j) Applications shall contain the following data, either in the body of the application or as attached exhibits or accompanying the application:

1. A balance sheet as of the latest available date, together with an income statement covering the period from close of the last year for which an annual report has been filed with the Commission to the date of the balance sheet attached to the application.
2. A statement of the presently effective rates or charges which are proposed to be increased, or of the classification, contract, practice, or rule proposed to be altered. Such statement need not be in tariff form.
3. A statement of the proposed increases or changes which will result in increases, which applicant requests authority to make effective. Such statement need not be in tariff form, but shall set forth the proposed rate structure with reasonable clarity. Where a general rate increase application is filed, the statement shall include an estimate of the amount of additional annual gross revenue estimated to result from the increase, which shall be based on the amount of involved traffic handled for the preceding calendar year and shall indicate the percentage by which such estimate exceeds the gross revenues on the involved traffic for the preceding calendar year, if more than one percent.
4. A general rate increase application shall contain a general description of applicant's property and equipment, or reference to such description in a recent prior application, and a statement of its original cost, together with a statement of the applicable depreciation reserve. If it is impossible to state original cost, the facts creating such impossibility shall be set forth.

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Page 5

5. Applicant's exhibits must accompany the application and applicant shall state the date it will be ready to proceed with its showing.
6. In the event applicant desires to revise the level of rates shown in its original application before hearing, applicant shall file an amendment to the application in accordance with Paragraph (g). Such amendment shall contain a complete revised statement of proposed changes as required by Paragraph (j)3.

(END OF APPENDIX B)

APPENDIX C TO GENERAL ORDER
Page 1

FORMS FOR OPERATIONAL AND
COST DATA IN JUSTIFICATION STATEMENTS

The forms on pages 2 through 9 of this Appendix are supplied as models for carriers' statements of justification in support of rate reduction filings.

If a rate reduction filing includes scales of distance rates, the Summary of Revenues and Expenses on page 2 should be prepared for typical distances. For example, a scale of rates for distances of 5 to 500 miles could be supported by revenues and expenses for selected hauls of 25, 100, 175, 250, 350 and 450 miles.

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Page 2

SUMMARY OF REVENUES AND EXPENSES

I. REVENUE

- A. Front Haul Revenue 1/ _____
- B. Back Haul Revenue 2/ _____
- C. Total Revenue (A + B) _____
- D. Actual Round Trip Mileage
(including all empty miles) 3/ _____
- E. Revenue Per Mile (C ÷ D) _____
- F. Revenue Per Other Unit of Measurement,
if any, (C ÷ Units of Measurement) _____

II. EXPENSES

- A. Labor
 - 1. Hourly Basis (See Page 3) _____
 - 2. Mileage Basis (See Page 4) _____
 - 3. Loading & Unloading Expense 4/
@ _____ Per Hour _____
- B. Vehicle Fixed Costs (See Page 6)
Mileage @ _____
- C. Vehicle Running Cost (See Page 8)
Mileage @ _____
- D. Any Other Direct Cost, e.g.,
Subsistence Allowance _____
- E. Indirect Expense @ _____ %
(See Page 9) _____
- F. Gross Revenue Expenses (See Page 9) _____

TOTAL

- 1/ Revenue for typical examples of hauls included in rate reduction filing. NET _____
- 2/ Revenue, if any, derived from return movement. OR _____ %
- 3/ Include mileage to and from terminals.
- 4/ Includes driver, vehicle and helper time, if used.

APPENDIX C TO GENERAL ORDER

Page 3

DRIVER WAGE COST (HOURLY BASIS)

In developing driver labor costs, carriers must use the prevailing wages established by the Commission. Carriers should refer to Prevailing Wage Report 282 and succeeding reports issued by the Transportation Division staff to obtain the prevailing wage elements and the methodology (including determination of annual hours and appropriate premium pay factors) for total labor cost development based on those prevailing wage elements.

<u>Line</u>	<u>Item</u>	<u>Hourly Amount</u>
* 1.	Base Wage.....	\$ _____
2.	Holiday-sick-funeral leave (_____ % x L.1).....	_____
3.	Vacation (_____ % x L.1).....	_____
4.	Subtotal.....	\$ _____
5.	Health, welfare, & pension.....	_____
6.	Subtotal.....	\$ _____
7.	Payroll taxes.....	_____
8.	Worker's Comp. Ins. (L.16 % x L.4).....	_____
9.	Total hourly labor cost.....	\$ _____
* 10.	Holidays _____ days/yr. x 8)	
11.	Sick leave & _____ days/yr. x 8) _____ Hrs. ÷ L.17 = _____ % funeral leave	
* 12.	Vacation _____ days/yr. x 8) = _____ Hrs. ÷ L.17 = _____ %	
* 13.	Health & welfare \$ _____ /mo. x 12) \$ _____ ÷ L.17 = \$ _____ /hr.	
* 14.	Pension \$ _____ /wk. x 52) \$ _____ ÷ L.17 = \$ _____ /hr.	
15.	Payroll taxes	
a.	FICA ** _____ % x \$ _____)	
b.	FUI _____ % x \$ _____) \$ _____ ÷ L.17 = \$ _____ /hr.	
c.	SUI _____ % x \$ _____)	
	Manual	
16.	Worker's Comp. Ins. Modifier x Rate = _____ %	
17.	Annual hours.....	_____ hrs.
* *	Prevailing Wage Elements obtained from current prevailing wage report.	
**	Self-employment (FICA) taxes applicable to owner-driver operations should reflect actual cost.	

APPENDIX C TO GENERAL ORDER

Page 4

DRIVER WAGE COST (MILEAGE BASIS)

In developing driver labor costs, carriers must use the prevailing wages established by the Commission. Carriers should refer to Prevailing Wage Report 282 and succeeding reports issued by the Transportation Division staff to obtain the prevailing wage elements and the methodology (including determination of annual hours and appropriate premium pay factors) for total labor cost development based on those prevailing wage elements.

<u>Line</u>	<u>Item</u>	<u>Mileage Amount</u>
* 1.	Base Wage.....	\$ _____
2.	Holiday-sick-funeral leave (_____ % x L.1).....	_____
3.	Vacation (_____ % x L.1).....	_____
4.	Subtotal.....	\$ _____
5.	Health, welfare, & pension.....	_____
6.	Subtotal.....	\$ _____
7.	Payroll taxes.....	_____
8.	Worker's Comp. Ins. (L.16 % x L.4).....	_____
9.	Total mileage labor cost.....	\$ _____
* 10.	Holidays _____ days/yr. x 8)	
11.	Sick leave & _____ days/yr. x 8) _____ Hrs. ÷ L.17 = _____ % funeral leave	
* 12.	Vacation _____ days/yr. x 8) = _____ Hrs. ÷ L.17 = _____ %	
* 13.	Health & welfare \$ _____ /mo. x 12)	
* 14.	Pension \$ _____ /wk. x 52) \$ _____ ÷ L.17 = \$ _____ /hr. or \$ _____ ÷ MPH = \$ _____ /mi.	
15.	Payroll taxes	
	a. FICA ** _____ % x \$ _____)	
	b. FUI _____ % x \$ _____) \$ _____ ÷ L.17 = \$ _____ /hr.	
	c. SUI _____ % x \$ _____) or \$ _____ ÷ MPH = \$ _____ /mi.	
	Manual	
16.	Worker's Comp. Ins. <u>Modifier</u> x <u>Rate</u> = _____ %	
17.	Annual hours.....	_____ hrs.
* 18.	Prevailing Wage Elements obtained from current prevailing wage report.	
** 19.	Self-employment (FICA) taxes applicable to owner-driver operations should reflect actual cost.	

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EQUIPMENT INVESTMENT AND FEES

Equipment investment costs allow you to recover the value of equipment lost through depreciation. The method set forth in this section depreciates the equipment over the useful (service) life of the equipment. (Such method differs from methods used for income tax purposes, where rapid, accelerated depreciation is allowed.)

To properly develop depreciation costs, carriers must determine the following for each unit of equipment:

1. The price of the equipment (less tires and tubes) including any additional equipment on the vehicle at the time of vehicle licensing and any sales taxes;
2. The useful (service) life of the specific equipment;
3. The estimated salvage value of the equipment at the end of its useful life.
4. License fees, including but not limited to, the following:
 - a. Registration;
 - b. Vehicle license fees;
 - c. Vehicle weight fees;
 - d. Highway use taxes.

(Any additional fees that are incurred on a regular basis may also be included.)

It may be desirable, because of varying service lives, to segregate equipment costs by categories such as: power equipment, trailing equipment, dollies, tractors (diesel and gas), trucks (diesel and gas), trailers (van, flatbed), etc.

Page 6 sets forth investment and fee costs on an hourly and mileage basis. This development is considered the simplest method for calculating depreciation costs. It can be used to develop total costs on an hourly, mileage, tonnage, shipment, or trip basis.

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INVESTMENT - DEPRECIATED SERVICE LIFE

Line :		Equipment Classification :
No. :	Item	:
1	Equipment Cost	
2	Salvage Value (Note 1)	
3	Service Value (Note 2)	
4	Service Life (Note 3)	
5	Depreciation Cost per Year (Note 4)	
6	Vehicle Registration (Note 5)	
7	Vehicle License Fee (Note 6)	
8	Vehicle Weight Fee (Note 7)	
9	Highway Use Tax (Note 8)	
10	TOTALS (Lines 5 thru 9)	
11	Cost Per Hour (Note 9)	
12	Cost Per Mile (Note 10)	

Notes:

- 1 Salvage value at end of useful life
- 2 Equipment cost less salvage value
- 3 Useful life of equipment in years
- 4 Service value \div service life
- 5 Current registration fee under California Vehicle Code Sec. 9250
- 6 Current license fee under Revenue and Taxation Code Sec. 10753
- 7 Current weight fee under California Vehicle Code Sec. 9400
- 8 Current tax under U.S. Publication No. 349
- 9 Line 10 \div Annual hours that vehicle is in revenue service
- 10 Line 10 \div Annual miles that vehicle is in revenue service

APPENDIX C TO GENERAL ORDER

Page 7

RUNNING AND INSURANCE COSTS

Running costs are those costs which are incurred during actual operation of the vehicle or which are required to maintain the vehicle in adequate operating condition.

The elements of these costs are as follows:

1. Cost of fuel;
2. Cost of oil;
3. Cost of tires and tubes; and,
4. Cost of maintenance and repairs.

Prices should reflect the cost of both bulk and road purchases of gasoline and diesel fuel. Fuel costs should include all applicable taxes.

Oil costs should give consideration to the quantity purchased, frequency of change, and frequency of adding oil.

The cost of tires and tubes should consider the purchase price of tires and tubes, the frequency of recapping tires, and the annual miles experienced (including new tires and recaps).

Repair and maintenance costs should include all costs for materials and labor incurred by carrier performing its own maintenance work on operating equipment. (The labor cost should not be limited only to time spent on repairs, but should include all labor costs associated with fueling, with adding or changing oil, and with changing or repairing tires and tubes). Additionally, any costs incurred for outside repairs should be included in this item.

Insurance costs on equipment may be stated either as an annualized premium or as a percentage of revenue. (For percentage of revenue see page 9) Insurance cost for equipment should include the premiums paid for public liability, property damage, and cargo.

PAGE 8 DEVELOPS TOTAL RUNNING AND INSURANCE COSTS ON A PER MILE BASIS.

APPENDIX C TO GENERAL ORDER
Page 8RUNNING COSTS - INSURANCE COSTS
PER MILE

: Line :		: Equipment Classification :
: No. :	Item	: : :
1	Fuel Cost (Note 1)	_____
2	Oil Cost (Note 2)	_____
3	Tire and Tubes Cost (Note 3)	_____
4	Repair and Maintenance Cost (Note 4)	_____
5	Total Cost	=====
6	Running Costs Per Mile (Note 5)	_____

Notes:

- 1 Include all applicable taxes and consider bulk and pump purchases.
- 2 Include consideration of bulk and road purchases.
- 3 Include all costs including outside service costs.
- 4 Include all labor and material costs.
- 5 Divide line 5 by miles traveled during cost period.

Insurance Cost per Mile

(Annual Premium divided by annual miles traveled.)

APPENDIX C TO GENERAL ORDER

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INDIRECT COSTS

Indirect operating costs include those expenses which are necessary for the operation of a transportation service but which cannot be directly assigned to any particular phase of the operation. Such items include general administrative salaries and expenses; general office salaries and expenses; supervision of the various phases of the operation; solicitation and advertising expense; rent; utilities; other expenses of like nature. They may be expressed as a percentage of direct costs.

$$\text{INDIRECT RATIO} = \frac{\text{INDIRECT EXPENSE}}{\text{DIRECT EXPENSE}}$$

GROSS REVENUE EXPENSES

Gross revenue expenses include:

PUC Tax _____ %

City Business License Tax _____ %

*Insurance (Variable)

*Insurance on equipment when the premium is computed as a percentage of gross revenue. (Insurance costs include PL/PD and cargo premiums.)

(END OF APPENDIX C)

CANCELLATION SUPPLEMENT

SUPPLEMENT 37
TO
MINIMUM RATE TARIFF 10
NAMING
DISTANCE MINIMUM RATES
ALSO
RULES
FOR THE
TRANSPORTATION OF CEMENT AND OTHER
COMMODITIES OVER THE
PUBLIC HIGHWAYS
WITHIN THE
STATE OF CALIFORNIA
BY
HIGHWAY CONTRACT CARRIERS
AND
CEMENT CONTRACT CARRIERS

CANCELLATION NOTICE

Minimum Rate Tariff 10 is canceled. The rates of any highway common carrier or cement carrier that adopted Minimum Rate Tariff 10 as its common carrier tariff by authority of Decision 90324 or Commission Resolution No. TS-372 shall remain in effect.

Decision No. 82 02 134

EFFECTIVE APRIL 1, 1982

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