

Decision SZ 05 026JUN 2 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 minimum rates for)
 transportation of rock, sand, gravel)
 and related items in bulk, in dump)
 truck equipment in Southern Califor-)
 nia as provided in Minimum Rate)
 Tariff 17-A and Southern California)
 Production Area and Delivery Zone)
 Directory 1, and the revisions or)
 reissues thereof.)

Case 9819
 Petition for Modification 15
 (Order Granting Rehearing
 dated November 4, 1980)

(See Decisions 87484 and 92203 for appearances.)

Additional Appearances

Michael Lindeman and Rob Johnson, for Concerned
 Dump Truckers of Santa Barbara, Santa Maria,
 and San Luis Obispo Counties, protestants.
Don Lynn, for Interstate Trucking; Frank C.
Alegre, for Frank C. Alegre, Inc.;
Bernie White, for Fidelity Transport, Inc.;
Les Calkins, for himself; Jack Lane, for
 Alamo Transport Co. and Alamo Rock Company;
 and Jim Waller, for J & R Trucking; respondents.
Joseph Braman, for the Commission staff.

OPINION ON REHEARING OF DECISION 92203

Decision (D.) 92203 in Case (C.) 9819 (Petition 15)
 dated September 3, 1980 established production areas, delivery
 zones, and minimum zone rates for the transportation of rock,
 sand, and gravel in portions of Santa Barbara, San Luis Obispo,
 and Monterey Counties. The decision ordered that the production
 area and delivery zone descriptions be incorporated in
 Directory 1 and that the zone rates be published in Minimum Rate
 Tariff (MRT) 17-A. Both publications apply to dump truck
 transportation in southern California. The decision was to be

effective on October 3, 1980, and the directory and tariff amendments were to be effective on October 12, 1980.

In the absence of zone rates, distance or hourly rates in MRT 7-A, which has statewide application, are applicable within the area in question. As stated in Item 70 of MRT 7-A, rates in this tariff do not apply to the transportation of property for which rates are provided in MRT 17-A.

An Application for Rehearing, Reconsideration, and Suspension of D.92203 was filed by the Concerned Dump Truckers of Santa Barbara, Santa Maria, and San Luis Obispo Counties (Concerned Truckers) on September 22, 1980. Also, an Application for Rehearing of D.92203 was filed by California Dump Truck Owners Association (CDTOA) on September 26, 1980. Since the application by the Concerned Truckers was timely filed to stay the effective date of the decision, all interested parties were notified by the Executive Director of the Commission by letter dated September 26, 1980 that the order was stayed. Attached to the letter were supplements to Directory 1 and MRT 17-A that suspended the revisions ordered by D.92203. The revised tariff pages to Directory 1 and MRT 17-A with the revisions ordered by D.92203 were distributed to the subscribers to the two tariffs on April 26, 1982.

In their application the Concerned Truckers stated that they are opposed to zone rates for this three-county area. Following is a summary of the reasons they stated as support for their position:

1. Aggregate plants want zone rates because they will then have control over hauling and can give the choice hauls to their own trucks and left-over, less profitable hauls to for-hire dump truckers.
2. The no-time limit at the origin plant and the 20-minute standby or free-time allowance on the job for zone rates is

unfair. This results in unnecessary, uncompensated delays for truckers at the loading and unloading points.

3. Zone rates eliminate trucker-contractor relationships. More trucks will be ordered from the plant than needed to cover any changes that might occur during the day. This causes short hours and many deadhead miles for truckers.
4. At flat tonnage rates contractors have more incentive to maintain better access roads since good roads mean faster trips and lower charges, particularly at hourly rates. Better roads cause less wear and tear on equipment.
5. Zone rates quickly become obsolete because of constantly changing routes due to new stop signs and lights and other traffic conditions. The majority of dump truckers in the Ventura and Oxnard areas do not favor the zone rates there.
6. Drivers will need accountants to help them determine the applicable zone rate, surcharges, and any out-of-zone charge. This is particularly true if a trucker has three or more different zone hauls a day.
7. The price differential in zone rates between bottom dump and semi-end dump equipment, on the one hand, and transfer equipment, on the other hand, should be increased from 23 to 45 cents.

The application is signed by Rob Johnson as representative of the Concerned Truckers. He owns Interstate Rapid Transit which is headquartered at Fresno but also does business in the involved area. Attached to the application as Exhibit A is a list of 55 signatures of persons purported to be the holders of 80% of the dump truck authorities in the area in question. Also shown with the 55 signatures is the Cal T number assigned to the individual's operating authority. It is noted that there are several duplications of Cal T numbers shown. Also, a few of the signatures are not legible, and some did not list a Cal T number.

In its application CDTOA stated that it is a nonprofit corporation with approximately 950 permitted carriers as members statewide. It asserted that the new minimum zone rate system has resulted in a certain amount of confusion and anxiety in the affected area. It pointed out that:

1. Many of the dump truckers in the area had worked under MRT 7-A only and were not subscribers to MRT 17-A, and they have not yet obtained copies of the new zone system rates and rules.
2. Some shippers were having difficulty identifying the new zones without accurate maps. CDTOA has made arrangements to have maps reproduced and will furnish copies to them.
3. There may be a few instances in which there may be an error in either computer run-out or in the traverse times for particular zone rates.

For these reasons, CDTOA requested the effective date of the decision be postponed for 90 days to allow time for tariff and map distribution and to remedy any problems that might exist before the new zone rates would go into effect. It otherwise supported the decision.

D.92406 dated November 4, 1980 granted the Concerned Truckers' request for rehearing of D.92203. Duly noticed public hearing on the matter was held before Administrative Law Judge Arthur M. Mooney in Santa Maria on August 4 and 5, 1981. The matter was submitted on August 21, 1981 upon the filing of written closing statements by the Concerned Truckers, CDTOA, and the Commission staff. A statement was also filed by Mrs. John D. Marques, Cal T 89-099, on August 24, 1981. While she is not an appearance in this or prior phases of this proceeding, her statement has been made a part of the record. At the hearing: (1) representatives of five dump truck operators testified on behalf of the Concerned Truckers, (2) this group also called E. O. Blackman, a consultant for CDTOA, as an adverse witness, (3) the general manager of CDTOA testified on

behalf of his organization in favor of the D.92203 zone rates, and (4) the staff presented a written opening statement, which was marked Item A in the proceeding, and assisted in the development of the record. No documentary evidence was presented by any of the parties.

Background

The question of whether zone rates should be established for the involved area has been before the Commission for over a 10-year period. Following is a chronological summary of the major events that have occurred during this period.

1. On July 14, 1971 the original petition in C.5437 (Petition 210) was filed by CDTOA requesting the establishment of production areas, delivery zones, and zone rates for the transportation of rock, sand, and gravel in Santa Maria and adjacent areas. The petition stated that there were large quantities of these commodities moving here, hourly and distance rates are presently applicable, and both carriers and shippers of a major portion of this tonnage believe that zone rates would be more desirable, compensatory, and enforceable.
2. On August 21, 1973 a prehearing conference was held in Santa Maria. At the conference the question of who would prepare traverse times and mileages, costs, and other data necessary to the establishment of the zone rate? was considered. It was determined that CDTOA should develop some preliminary strip zones along major highways and other zones.
3. On March 25, 1975 CDTOA furnished the Commission with three scale maps on which rough outlines of proposed delivery zones were drawn and with several sheets of paper containing zone boundary descriptions.
4. On May 13, 1975 Petition 210 was dismissed by D.84424. C.9819 replaced C.5437 as the proper proceeding for zone rates.

5. On August 14, 1975, an informal meeting attended by CDTOA, approximately 24 carriers and shippers, and the staff was held in Santa Maria. It was agreed that strip and area zones should be developed and that the staff should firm up zone boundaries, check traverse times and mileages and draw maps with (1) modes, (2) times, (3) mileages, (4) zone numbers, (5) tie-in times, and (6) production areas.
6. On April 29, 1976 Petition 15 in C.9819 was filed by CDTOA. It requested the same thing as Petition 210 in C.5437. It stated that descriptions of proposed production areas and delivery zones are completed and that carriers and shippers are prepared to cooperate with the staff in developing traverse and cost data and rate proposals.
7. On June 21, 1977 D.87484 was issued. Finding 3 of the decision stated that the phase of the proceeding considered in the decision is limited (1) to the question of whether zone rates should be established or whether Petition 15 should be dismissed, and (2) if zone rates are to be established, whether the 11 production areas and 394 delivery zones described in CDTOA's Exhibit 2 are reasonable. The two ordering paragraphs of the decision stated as follows:
 - "1. The system of production areas and delivery zones (also, the numbering of the delivery zones) which the California Dump Truck Owners Association has proposed in connection with Petition No. 15 in Case No. 9819, and which is set forth in Exhibit 2 in this proceeding, is hereby established as a reasonable basis for the development and establishment of zone rates in further phases of Petition No. 15, in Case No. 9819, for the transportation of rock, sand, and gravel by dump truck

carriers within Santa Barbara, San Luis Obispo, and Monterey counties.

- "2. Further phases of this proceeding will relate to development of time and distance traverses, terminal end times, costs, zone rates and rules, and related matters from each of the production areas identified in Exhibit 2."
8. On July 28, 1977 a duly noticed prehearing conference was held at Santa Maria. Study areas relative to matters identified in Ordering Paragraph 2 of D.87484, quoted above, were agreed upon, and CDTOA sent a confirming letter of this to all appearances of record and other known interested parties. No exceptions to the study outline were received.
9. Subsequent to this, performance data were developed through the joint efforts of CDTOA, the producers involved, carriers, and the staff. The methods were similar to those used in establishing and revising zone rates in other areas of the state. From this data CDTOA developed full cost. The zone rates were developed by computer program which takes into account all routes from a production area to a delivery zone and selects the lowest rate calculated as the minimum rate. They reflect full cost, gross revenue expense, and an 8% profit factor.
10. On September 4, 1980 D.92203 was issued following duly noticed public hearing. As stated above the decision established productive area and delivery zone descriptions in Directory 1 and zone rates in MRT 17-A for the three-county area in question.
11. On September 22, 1980 the Concerned Truckers timely filed their application for suspension, reconsideration, or rehearing of D.92203 to stay the decision.
12. On September 26, 1980 CDTOA filed its application for rehearing to delay the effective date of D.92203 90 days.

13. On September 26, 1980 by Executive Director Letter suspension supplements were issued to Directory 1 and MRT 17-A suspending the revisions to each provided for in D.92203.
14. On November 4, 1980 rehearing of D.92203 was granted by D.92406.
15. On April 22, 1981 a meeting sponsored by CDTOA was held at Santa Maria. It had invited all dump truck carriers and producers domiciled in the Paso Robles to Santa Barbara area, all of the persons it was able to ascertain and contact who had signed the Concerned Truckers' rehearing application, and several members of the staff. The purpose of the meeting was to discuss any questions or problems which might be resolved or clarified concerning the D.92203 zone rates. In attendance were the general manager and consultant Blackman for CDTOA, representatives of two shippers, approximately 40 truckers which included Johnson for the Concerned Truckers and some of the people who had signed Exhibit A to their rehearing application, and five staff members. The CDTOA representatives and staff members explained in detail the methods and procedures used in developing the zone rates and their application. Both CDTOA and the staff representatives invited all present to advise them of errors in D.92203 or the computations of any of the zone rates. No known responses were received.
16. Since this meeting did not resolve the objections of the Concerned Truckers, the matter was set for rehearing. The notice of the setting was sent to all appearances in C.9819 and to other carriers, shippers, organizations, and persons known to be interested. Included were Johnson and all who had signed the Exhibit A to the Concerned Truckers rehearing application for whom an address could be located.

Evidence and Position of Concerned Truckers

In his opening statement, the representative of the Concerned Truckers asserted that there is no public need for zone rates in the area in question, and that they are opposed by the majority of overlying and underlying carriers operating in the area. It is his position that zone rates eliminate competition between

carriers and are contrary to the public interest. He stated that reregulation is imminent in the dump truck field and that the expense of maintaining another tariff for zone rates is not warranted. The representative asserted that if at some future time conditions should change and zone rates should become desirable, they could be established then. He urged that the zone rates and provisions under suspension be permanently canceled.

When called as an adverse witness by the Concerned Truckers, Blackman, the consultant for CDTOA and its former general manager, testified regarding the background of zone rates in general. He stated that zone rates were first introduced in the Los Angeles area in the 1937-1938 period and that since then the size of zones has been greatly reduced thus making them more accurate and zone rates more precise. It is his opinion that zone rates are more equitable for both carriers and shippers than MRT 7-A hourly and distance rates. He also stated that zone rates have helped the dump truck industry remedy the conversion problem. This problem arises when a carrier charges below the applicable minimum but shows on the billing a minimum hourly rate with the hours adjusted so that the total charge shown will equal the lawful rate, whereas the actual rate is less than minimum lawful amount to be paid. The witness also testified that the distance and hourly rates are established on an average northern or southern California cost basis, whereas zone rates are based on costs for a particular area such as the one here.

The companies which each of the Concerned Truckers' five supporting witnesses own or represent vary in size and operation. One owns two dump trucks, another owns six power units and five trailer transfer units, and the others own substantially more dump truck equipment of various types. The operator with two trucks subhauls for other carriers at times but does not hire subhaulers. The others engage subhaulers, including pullers for their trailing equipment, in varying degrees. One operator is located in Lodi and

has never operated in the area in question. His protest was to all zone rates generally. He does not want them in the area in which he operates which is subject to MRT 7-A. Another has its main place of business in the Fresno area and uses subhaulers primarily in the involved area. One of the others operates out of Modesto and has done some work in the Santa Maria-San Luis Obispo area. Of the remaining two, one is located in Santa Maria, and the other is located in Santa Barbara. They operate in these areas. All of the five operate primarily under MRT 7-A rates. Some avoid operating in areas of the State where zone rates apply. Most have had very little experience in hauling under zone rates.

The reasons stated by the five witnesses for opposing zone rates for this three-county area were generally similar to those set out in the Concerned Truckers' rehearing application. Following is a summary of their testimony:

1. If zone rates are in effect, producers will use their own trucks for choice hauls and give them priority in loading. This results in shorter workdays for dump truck carriers and would have serious financial consequences for them.
2. While there may be some good zone rates, most are bad. On the average earnings under zone rates are 25% less than under MRT 7-A rates.
3. It is estimated that only about 25% of the truckers in this area favor zone rates. Truckers from the Ventura area where zone rates are in effect say that they prefer hourly rates when they come here to work. Business is being subject to too much regulation. Rates should be based on what the majority of the truckers want which is the MRT 7-A mileage and hourly rates.
4. To be equitable zone rates would have to be changed frequently to give effect to constantly changing conditions. This is not done. Also, zone rates are based on

5-axle 280-300 hp hopper equipment. Many truckers do not have equipment of this type or as efficient.

5. With MRT 7-A rates in effect, contractor consignees will buy material fob plant. The trucker can give him an estimate for the transportation. Most estimates are very accurate. The trucker is working for the contractor. Under this system carriers can compete with each other for business. However, with zone rates competition ceases to exist. Material is sold by the producer at a delivered price. The plant controls the hauling and decides what carriers it will use. For this reason some suppliers want zone rates.
6. Truckers are able to charge above minimum hourly rates but cannot do this with zone rates because they are not competitive.

One of the witnesses asserted that the first he knew about the zone rates for the area was when he received notification from the Commission that they were going into effect. He testified that shortly after this he attended a meeting in Santa Barbara called by Johnson. The witness explained that there were approximately 35 truckers at the meeting, some were members of CDTOA, and all were opposed to the zone rates. He stated that he was never at a CDTOA meeting where zone rates for the area were explained.

The statement by Marques and a letter from Granite Construction Company, a supplier of rock and other materials located in Santa Barbara, both supported the position of the Concerned Truckers against zone rates. In its written closing statement, the Concerned Truckers summed up the opposition to zone rates stated in their rehearing application and by their witnesses. According to the statement, zone rates are out of step with the Commission's policy of reregulation in the trucking field, and they are unfair, unsatisfactory, inequitable, not in the public interest, noncompetitive, unpopular, and should be abolished. They urge that D.92203 be canceled.

Evidence and Position of CDTOA

The general manager testified in support of zone rates for the three-county area. He stated that CDTOA has 21 chapters statewide, including one in Santa Maria. The witness reviewed the background of Petition 15 and his participation in the underlying field work and studies on which the suspended zone rates were based. He asserted that while the studies were in progress and before D.92203 was issued, three staff meetings were held, two in Santa Maria and one in Nipomo, and the matter was well-publicized in the CDTOA news which is distributed monthly to members and on a bi-monthly basis to all nonmember dump truck operators and in the organizations' Convention News which is sent to all operators. The witness stated that there were also meetings with producers during this period regarding traverses to be run. He testified that in all he attended seven meetings in the Santa Maria area prior to D.92203 and that there were no objections by carriers to zone rates at any of the informal meetings. The witness stated that at the original prehearing conference on zone rates, Johnson objected to the establishment of such rates on behalf of Granite Construction Company, and the objection might have been on behalf of himself also. He also pointed out that the purpose of the April 21, 1981 meeting in Santa Barbara, referred to above, was to familiarize interested truckers and shippers who might be using the new zone rates with the method in which they were constructed and their application.

The witness explained that he is also a dump truck operator and has three transfer dump trucks and a 10-wheeler unit. He stated that he operates in Los Angeles and surrounding counties both under MRTs 7-A and 17-A. He asserted that based on his experience in the Los Angeles Metropolitan Area where MRT 17-A zone rates apply, he is of the opinion that the zone rate system is good and does not have the pitfalls alleged by the Concerned Truckers and their witnesses. In this connection, he stated that one of the large rock producers in

the Los Angeles area has reduced his proprietary trucking from 60% in 1962 to less than 40% now and that only about 5% of asphalt concrete moves by proprietary trucking in this area.

The general manager requested the zone rates for the area in issue in Santa Barbara, San Luis Obispo, and Monterey Counties be reinstated. He also requested that if this is done, these rates be updated to include any offset increases that have been added to MRT 17-A since they were issued and that they also be made subject to any such additional increases now under consideration.

In its written closing statement, CDTOA asserted that the Concerned Truckers made no showing to justify the cancellation of zone rates for the area in question. It argued that no specific evidence or studies were presented to support any of the allegations in the Concerned Truckers' rehearing application or the assertions by its witnesses. It stated that of the 55 listed signatures on Exhibit A to the rehearing application, six denoted three of the same T numbers, nine gave addresses outside the subject area, 10 were unidentifiable, two were shippers, and one was a supplier. CDTOA urged that the zone rates including all cost offset increases that were added to MRT 17-A since they were published, be made effective.

Position of Staff

As stated, the staff did not present evidence but did examine witnesses, furnish a written opening statement, and file a written closing statement.

In its written opening statement, the staff detailed the background of the development of the zone rates in issue. It stated that everyone had ample opportunity at the various hearings and prehearing conferences to offer input into these proceedings. The staff pointed out that the MRT 17-A zone system is not an inflexible program and that several petitions are filed a year to correct and adjust the program. The staff is of the opinion that the allegations of error in the Concerned Truckers' rehearing application are not of sufficient magnitude or scope to warrant a further stay of D.92203. It also asserted that many of these allegations would occur regardless of the tariff used, MRT 7-A hourly rates or MRT 17-A zone rates.

The staff in its written closing statement reviewed the Commission's past actions in the development of zone rates for this area. It is the staff's opinion that despite the many opportunities the Concerned Truckers have had in the past to state their objections to the zone rates, they have apparently failed to convince the Commission of the merits of their position. It asserted that none of the allegations in the rehearing application or assertions by the Concerned Truckers' witnesses were supported by any specific or hard evidence. It alleged that this, and the fact that a similar system of zone rates has been in place in southern California for about 20 years, clearly demonstrates the lack of substance in applicants' position. The staff asserted the Concerned Truckers have failed to introduce any new facts, or shown any material changes in conditions, or that the Commission proceeded upon misconceptions or misapprehensions. The staff requested that the suspension of D.92203 be vacated and that the rates, rules, and regulations established by the decision be allowed to go into effect at the earliest possible date.

Discussion

The issue for our consideration is whether the showing presented by the Concerned Truckers is sufficiently persuasive to establish that zone rates are not appropriate for the area of Santa Barbara, San Luis Obispo, and Monterey Counties in question. We concur with CDTOA and the staff that it is not.

As stated above, the businesses of two of the Concerned Truckers' five supporting witnesses are based in this area, and the businesses of the other three are based elsewhere. Of these three, one does have a representative in the area and uses subhaulers almost exclusively for its business here. Another has done some hauling here, but apparently it has not been extensive. The third has never operated in the area. As a group substantially all of their hauling has been under MRT 7-A rates. Their actual experience with hauling under zone rates in other parts of the state has been very limited.

One of the reasons advanced by the five witnesses for their opposition to zone rates is that their ability to compete for business is eliminated under such rates. No concise explanation of this was given other than that they can give estimates to contractor consignees under MRT 7-A hourly rates. Both the hourly and distance rates in MRT 7-A are minimum rates as are zone rates in MRT 17-A. Without Public Utilities Code § 3666 authority from the Commission to deviate, a carrier may not charge less than a minimum rate. Any competition on the basis of a rate could not involve any rate that was below the minimum. It is presumed, therefore, that the competition would, for the most part, be dependent on the efficiency and types of equipment of the carriers involved at hourly rates. In this connection, costs on which minimum rates are predicated are based on those of an efficient operator. This and the other asserted problems of zone rates set forth in the rehearing application and stated by the Concerned Truckers' five carrier witnesses are not convincing. There is nothing in the record that would cause us to conclude that D.92203 is not correct.

We have in our prior decisions in this matter considered and rejected the Concerned Truckers' argument that zone rates are not desirable. In regard to this, we stated at pages 11 and 12 of the mimeograph copy of D.87484.

"The record indicates that zone rates have certain advantages as compared to distance tonnage or hourly rates for transportation of rock, sand, and gravel from production sources in the geographic area involved herein. Zone rates generally are advantageous because they are more definite and certain to apply. Zone rates incorporate the elements of distance and time; the user of the tariff, therefore, does not need to determine either of these factors before finding the correct zone rate. This contrasts to distance tonnage rates where the user of the tariff must first determine distance via route of movement between origin and destination, or in the case of hourly rates, the time

involved computed in accordance with established tariff provisions for application of hourly rates. Zone rates eliminate practices such as adverse selection of distance tonnage and hourly rates, and rate conversion, and they are easier to enforce. Zone rates encourage a high level of carrier productivity. Zone rates give effect to differences in geographical locations of individual producers."

Also in Findings of Fact 4 through 8 of the decision we found each of these advantages to be a fact. Finding 9 stated that: "Increases and reductions in rates resulting from Pet. 15 would be technical in nature and largely offsetting".

Several of the witnesses did testify that they had talked to other truckers in the area in question who preferred MRT 7-A rates. However, there is nothing in the record to verify to any degree whatsoever or otherwise give credence to the estimate by one of the witnesses that only 25% of the truckers in the area support zone rates or the assertion in the Concerned Truckers' closing statement that an overwhelming majority of truckers do not want zone rates. As stated, of the 55 truckers who signed Exhibit A to the rehearing application, several listed duplicate Cal T numbers, some did not show a Cal T number, some are based outside the area, and a few of the signatures are not legible. According to the Commission's records there are 120 dump truck carriers domiciled in San Luis Obispo and Santa Barbara Counties. There is also an unknown number of outside dump truck carriers who do business in the area. Also, 133 dump truck carriers are domiciled in neighboring Ventura County.

Some questions were raised concerning a lack of publicity of CDTOA's zone rate proposal and deficiencies in the notification of interested truckers of informal meetings, prehearing conferences, and hearings that had been held regarding zone rates. We are of the opinion that CDTOA did give reasonable publicity of its proposal and notification of its informal meetings. As the evidence shows frequent articles regarding its proposal were included in its monthly

dump truck news which is distributed to its members monthly and to all other dump truckers bimonthly, and it made a concerted attempt to notify all known interested parties of informal meetings. The Commission's formal file in Petition 15 shows and Finding 12 in D.87484 and Finding 11 in D.92203 state that notices of the prehearing conferences and hearings were sent to carriers, shippers, and organizations known to be interested.

We do not agree with the assertion by the Concerned Truckers that the establishment of new zone rates at a time when reregulation of the dump truck industry is imminent would be inappropriate. While studies relative to possible changes in dump truck rate-making policy have been initiated, hearing dates on the matter have not been set, and obviously the determinations that might be made are unknown.

No study or other evidence was presented by the Concerned Truckers to support its assertion that the price differential between equipment types in zone rates is too low. No specific errors in the zone rates in issue have been brought to our attention.

We will affirm D.92203 and issue a supplement to Directory 1 vacating suspension Supplement 1 and to MRT 17-A vacating suspension Supplement 23. The revised tariff pages to Directory 1 and MRT 17-A with the revisions ordered by D.92203 were distributed to the subscribers to them on April 26, 1982.

By Supplement 26 to MRT 17-A, effective October 6, 1981, the rates in the tariff were made subject to a 16-1/2% surcharge to offset fuel and other cost increases. With the vacating of the suspension of the zone rates in issue, they will be subject to the Supplement 26 surcharge increase. A request by CDTOA in Petition 52 to C.9819 for a further cost offset increase is now before the Commission. The rates in issue will be made subject to any applicable further increase that may be granted in Petition 52.

Findings of Fact

1. D.87484 dated June 21, 1977 adopted a system of dump truck production areas and delivery zones for portions of Santa Barbara, San Luis Obispo, and Monterey Counties and provided that further hearing would be held to consider underlying cost data and zone rates for the area in question.

2. D.92203 dated September 3, 1980 established production areas, delivery zones, and zone rates for the transportation of rock, sand, and gravel in the involved area of Santa Barbara, San Luis Obispo, and Monterey Counties. The decision provided for the publication of the production areas and delivery zones in Directory 1 and the zone rates in MRT 17-A. The decision had an effective date of October 3, 1980. The directory and MRT 17-A amendments had an effective date of October 12, 1980.

3. An Application for Rehearing, Reconsideration, and Suspension of D.92203 was filed by the Concerned Truckers on September 22, 1980. The application alleged that the decision is erroneous and unlawful and cited various reasons for this. (The Application for Rehearing filed by CDTOA on September 26, 1980 is not in issue.)

4. Since the Concerned Trucker's rehearing application was filed more than ten days prior to the effective date of D.92203, the decision was automatically stayed. By Executive Director Letter dated September 26, 1980 interested parties were notified. Attached to the letter were supplements to Directory 1 and MRT 17-A suspending the revisions in each ordered by D.92203. The revised tariff pages to Directory 1 and MRT 17-A containing the revisions ordered by D.92203 were distributed to the subscribers to these tariffs on April 26, 1982.

5. D.92406 dated November 4, 1980 granted the rehearing of D.92203 requested by the Concerned Truckers.

6. For the phases of this proceeding on which D.87484 and D.92203 were based, notice of hearing was sent to carriers, shippers, and organizations known to be interested, and all interested parties or their representatives were accorded reasonable opportunity to participate in the matter.

7. Notice of the time and place of the rehearing was sent to carriers, shippers, and organizations known to be interested, including Johnson and all parties who signed Exhibit A of the Concerned Truckers' rehearing application and for whom an address could be obtained. All interested parties or their representatives were accorded reasonable opportunity to participate in the rehearing.

8. The arguments and evidence presented by the Concerned Truckers in support of their position that zone rates should not be made applicable within the area in question are not persuasive. Most of this has been considered in the prior decisions in this matter and rejected.

9. It has not been shown that the production areas, delivery zones, and zone rates established by D.92203 for the area in question are unjust or unreasonable for for-hire dump truck carrier operations in the area.

10. It has not been established that D.92203 is erroneous, unlawful, or otherwise inappropriate.

11. The evidence does not support the continuation of the stay of D.92203 or the continuation of the suspension of the tariff revisions to Directory 1 or MRT 17-A ordered by this decision.

Conclusions of Law

1. D.92203 should be affirmed and made effective on the date provided below.

2. Suspension Supplement 1 to Directory 1 should be vacated.

3. Suspension Supplement 23 to MRT 17-A should be vacated.

4. The revised tariff pages to Directory 1 and MRT 17-A which had been suspended by the suspension supplements referred to in Conclusions 2 and 3 were distributed to the subscribers to these tariffs on April 26, 1982.

ORDER ON REHEARING OF DECISION 92203

IT IS ORDERED that:

1. D.92203 is affirmed.

2. Directory 1 (Appendix A to D.69469, as amended) is further amended by incorporating Vacating Supplement 2, attached, to become effective 39 days after today.

3. MRT 17-A (Appendix C to D.80578, as amended) is further amended by incorporating Vacating Supplement 27, attached, to become effective 39 days after today.

4. To the extent that minimum zone rates, rules, production areas, and delivery zones established by this order are applicable, they supersede present provisions of MRT 7-A which apply to the same transportation.

5. All dump truck carriers shall cease and desist from assessing, charging, or collecting rates or charges in MRT 7-A for transportation and related incidental services 39 days after today, for which rates have been provided in MRT 17-A from production areas in Santa Barbara and San Luis Obispo Counties.

6. Common carriers and other transportation companies are authorized to depart from the long- and short-haul rate provisions of Public Utilities Code §§ 460 and 461.5 to the extent necessary to assess or otherwise to apply the minimum rates, rules, and regulations established under this order.

7. Common carriers subject to the Public Utilities Act to the extent that they are subject to D.69469, 80578, and 82061, as amended, are directed to establish in their tariffs the amendments necessary to conform with the further adjustments ordered.

8. Tariff publications required to be made by common carriers as a result of this order shall be filed not earlier than the effective date of this order and may be made effective not earlier than the 10th day after the effective date of this order on not less than 10 days' notice to the Commission and to the public.

9. The Executive Director shall serve a copy of this decision on every common carrier, or such carriers' authorized tariff publishing agents, performing transportation services subject to MRT 17-A.

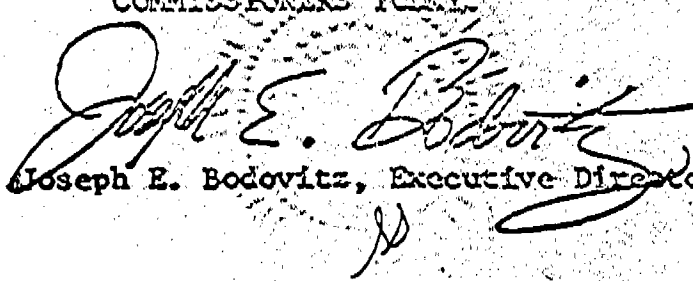
10. The Executive Director shall serve a copy of the vacating supplements on each subscriber to MRT 17-A.

This order becomes effective 30 days from today.

Dated JUN 2 1982, at San Francisco, California.

JOHN E. BRYSON
President
RICHARD D. GRAVELLE
LEONARD M. GRIMES, JR.
VICTOR CALVO
PRISCILLA C. CREW
Commissioners

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


Joseph E. Bodovitz, Executive Director

VACATING NOTICE

The effective date of the following tariff pages is vacated and shall become effective July 11, 1982.

Second Revised Page 261	Original Page 303
Third Revised Page 3	Original Page 305
First Revised Page 4	Original Page 306
First Revised Page 5	Original Page 307
First Revised Page 263	Original Page 308
Original Page 263.1	Original Page 309
First Revised Page 264	Original Page 310
First Revised Page 269	Original Page 311
Original Page 270	Original Page 312
Original Page 271	Original Page 313
Original Page 271.1	Original Page 314
Original Page 272	Original Page 315
Original Page 272.1	Original Page 316
Original Page 273	Original Page 317
Original Page 273.1	Original Page 318
Original Page 274	Original Page 319
Original Page 274.1	Original Page 320
Original Page 275	Original Page 321
Original Page 275.1	Original Page 322
Original Page 276	Original Page 323
Original Page 276.1	Original Page 324
Original Page 277	Original Page 325
Original Page 277.1	Original Page 326
Original Page 278	Original Page 327
First Revised Page 301	Original Page 328
	Original Page 329

Supplement 1 suspended the effective date of the above pages and was mailed only to parties of record to the proceeding and was not mailed to all subscribers.

THE END

Decision No. 82 06 026 250 29 50 EFFECTIVE JUL 11 1982

POSITION OF THE BOARD

SUPPLEMENT 2, to be made available and
(Cancel Supplement 1)

(Supplement 2 Contains All Changes)
TO
DIRECTORY 1
CONTAINING
DESCRIPTIONS OF PRODUCTION AREAS
AND DELIVERY ZONES
AND
RULES GOVERNING BOUNDARY DESCRIPTIONS
FOR
HIGHWAY CONTRACT CARRIERS
AND
DUMP TRUCK CARRIERS

and to be made available and
and to be made available and

END

Decision No. S2 06 026 300 20 38 EFFECTIVE JUL 11 1982

VACATING SUPPLEMENT

SUPPLEMENT 27
 WITHIN SIXTY DAYS
 Cancels Supplement 23

(Supplements 6, 13, 26, and 27 Contain All Changes), and
 shall be in full effect on the date of the filing of this order.

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AND POINTS IN SOUTHERN CALIFORNIA

shall be in full effect on the date of the filing of this order.

BY

HIGHWAY CONTRACT CARRIERS

AND

DUMP TRUCK CARRIERS

EXHIBIT

Decision No. 82 06 026 250 20 32 EFFECTIVE JUL 11 1982

Issued by the
 PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
 State Building, Civic Center
 San Francisco, California 94102

VACATING NOTICE

Q2

Fourth Revised Page 11 Original Page 9.1-C-1
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First Revised Page 1-1 THIRAT ITAN Original Page 9.1-D-1
Sixth Revised Page 1-3 Original Page 9.1-E
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Fifth Revised Page 1-13 Original Page 9.2-B
Fifth Revised Page 1-14 INT MO Original Page 9.2-B-1
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ADMINISTRATIVE PROCEDURE NO. 2710104 CIA

Supplement 23 suspended the effective date of the above pages and was mailed only to parties of record to the proceeding and was not mailed to all subscribers.

HIGHWAY CONTRACT CARRIERS

Q3A

2025 RELEASE UNDER E.O. 14176

THE END

Decision No. _____

82 06 026

EFFECTIVE JUL 11 1982

San Francisco, California 94102
 Gerald R. Hirschman, 2nd Floor
 Public Hearing Commission of the State of California
 Issued by the