

ORIGINAL

Decision 83 11 200 NOV 30 1983

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation for)
the purpose of considering and)
determining minimum rates for)
transportation of sand, rock, gravel)
and related items in bulk, in dump)
truck equipment between points in)
California as provided in Minimum)
Rate Tariff 7-A and the revisions or)
reissues thereof.)

Case 5437
Petition for Modification
320
(Filed September 1, 1983)

O P I N I O N

Minimum Rate Tariff (MRT) 7-A contains rates and rules applicable to certain transportation performed in dump truck equipment.

This petition has been filed by California Trucking Association (CTA) as a result of Decision (D.) 83-04-050, dated April 6, 1983 in Case (C.) 5437, Petition 318. By that decision we reduced distance tonnage rates named in MRT 7-A for the transportation of silica sand and limestone. California Carrier's Association (CCA) had requested in Petition 318 that silica sand and limestone be included within Item 40, a commodity description item, rather than Item 30. Commodities named in Item 40 are subject to generally lower rates than those named in Item 30. Justification offered by CCA in support of its request consisted, inter alia, of the following:

- "1. Silica sand and limestone are the two principal mineral materials used in the manufacture of glass. In excess of 60% of the dump truck transportation of these commodities moves to glass plants; the remainder moves principally to insulation and

roofing filler plants, sodium silicate plants, feed plants, foundaries and other industrial facilities.

- "2. Dump truck transportation of these commodities traditionally has been at rates significantly lower than those named in Item 290, principally because of the assessment of alternatively applied rail rates. But rail rates, in most cases, are now higher than Item 290 rates.
- "3. Glassmakers have been severely impacted by adverse economic conditions. Increases in costs underlying glass production have been substantial.
- "4. Glass producers have been exploring the possibility of meeting their transportation needs through proprietary carriage in order to lower transportation expenses. These producers/shippers have persuaded dump truck carriers to request individual rate deviations, and several of these have been authorized by the Commission.
- "5. The generally lower level of rates in Item 320 is attributable to the favorable transportation characteristics of those commodities listed in Item 40.
- "6. Item 40 names many commodities used in manufacturing and chemical processes. Among these is dolomite, also used in the production of glass.
- "7. Unlike commodities named in Item 40, those named in Item 30 are used mainly in connection with construction and road building work; silica sand and limestone are not used in that activity. On the basis

of end use, therefore, silica sand and limestone ought to be included among the Item 40 commodities.

- "8. Item 30 commodities generally move directly from excavation sites to construction sites. Such construction work is seasonal in nature, and carriers involved in that activity do not generally work year round on those projects. Annual equipment use is low and road conditions are poor, resulting in shortened equipment life and increased maintenance and repair costs.
- "9. Silica sand and limestone are transported from processing plants to plants where glass is manufactured. Little or no off-road driving is involved. Equipment life is lengthened. Glass producers require deliveries of silica sand and limestone almost daily throughout the year. Equipment use is significantly higher than that experienced in connection with Item 30 commodities.
- "10. The motor vehicle equipment transporting silica sand and limestone is significantly lighter than the equipment used in construction hauling, resulting in larger payloads.
- "11. If the request is granted, shippers, carriers, the Commission and its staff will benefit because of reduced time spent processing deviation applications.

By letters dated May 13 and July 12, 1983 (copies attached to this petition), CCA advised the Administrative Law Judge (ALJ) assigned to Petition 318 that it was not the petitioner's

intent to reclassify limestone in its natural state or in blocks, pieces, or slabs. CCA further stated that with respect to silica sand, it was intended that only highly processed silica sand used in the glass manufacturing industry be reclassified. The ALJ advised parties of record that it would be necessary to file a petition requesting modification of the tariff changes adopted by D.83-04-050.

By Petition 320, CTA calls our attention to the fact that while the intent of CCA in Petition 318 principally was to reclassify the specially processed silica sand and limestone used in the glass manufacturing industry, D.83-04-050 had the effect of reclassifying all shipments of silica sand and limestone transported in dump truck equipment.

CTA has included in its petition the following proposed tariff changes in Items 30 and 40 which it believes will remedy certain problems caused by the wording presently contained in those items. (New wording is underscored.)

"ITEM 30 - Application of Tariff - Commodities

When reference is made to this item, rates apply to the transportation of the following commodities:

LIST A.

* * *

Limestone (subject to Note 2)

* * *

Silica Sand (subject to Note 2)

* * *

NOTE 2. - - Does not apply on Limestone or Silica Sand processed for use in glass manufacture.

ITEM 40 - Application of Tariff - Commodities

When reference is made to this item, rates apply to the transportation of the following commodities:

* * *

Limestone, processed for use in glass manufacture.

* * *

Silica Sand, processed for use in glass manufacture."

The chief problem arising from the tariff wording adopted by D.83-04-050 is that Item 40 now describes the commodities in issue merely as "Limestone" and "Silica Sand." These bare descriptions have resulted in the industry interpretation that sand containing any amount of silica, and limestone in any form may be transported at the lower level of distance rates shown in Item 320.

Although the request of CCA in Petition 318 was to include limestone and silica sand in Item 40, and this request was granted, the preponderance of the petitioner's justification in that proceeding was concerned with these commodities when processed for use in the manufacture of glass. The wording suggested by CTA appears reasonable and appropriate for the purposes originally intended by CCA in Petition 318.

CTA asserts it is unaware of any opposition to its request. Copies of its petition were served upon all parties served by CCA with copies of Petition 318. These consist of three carrier and six shipper associations. Notice of filing of the petition appeared in our Daily Transportation Calendar of September 7, 1983. No objection to granting the petition has been received.

Findings of Fact

1. MRT 7-A contains rates and rules for transportation performed in dump truck equipment.
2. By D.83-04-050 dated April 6, 1983 silica sand and limestone were included within the list of commodities described in Item 40 of MRT 7-A.
3. Commodities described in Item 40 move at generally lower distance rates than commodities described in Item 30.
4. The intent of CCA in Petition 318 was that only silica sand and limestone processed for use in the manufacture of glass be included in Item 40.
5. The bare descriptions "Limestone" and "Silica Sand" now appearing in Item 40 allow unprocessed shipments of sand containing silica, and limestone in all forms, to be transported at rates lower than intended.
6. The wording suggested by CTA to replace the present descriptions of limestone and silica sand is reasonable and will remedy the problems stemming from the descriptions of these commodities presently contained in Item 40.
7. Rates shown in Item 320 will be reasonable when applied to shipments of silica sand and limestone as described in CTA's petition.

Conclusion of Law

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

O R D E R

IT IS ORDERED that:

1. MRT 7-A (Appendix B to D.82061, as amended) is further amended by incorporating Eighth Revised Page 3, Eleventh Revised Page 8, and Eleventh Revised Page 9, attached, to become effective January 9, 1984.

2. Common carriers subject to the Public Utilities Act, to the extent that they are subject also to D.82061, as amended, are directed to establish in their tariffs the increases and reductions necessary to conform with the further adjustments ordered by this decision.

3. 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 effective date of the tariff pages attached.

4. Common carriers, in establishing and maintaining the rates authorized by this order, are authorized to depart from the provisions of PU Code § 461.5 to the extent necessary to adjust long- and short-haul departures now maintained under outstanding authorizations; such outstanding authorizations are modified to the extent necessary to comply with this order; and schedules containing the rates published under this authority shall make reference to the prior orders authorizing long- and short-haul departures and to this order.

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

6. The Executive Director shall serve a copy of this decision on every common carrier, or such carrier's authorized tariff publishing agent, performing transportation services subject to MRT 7-A.

7. The Executive Director shall serve a copy of the tariff amendments on each subscriber to MRT 7-A.

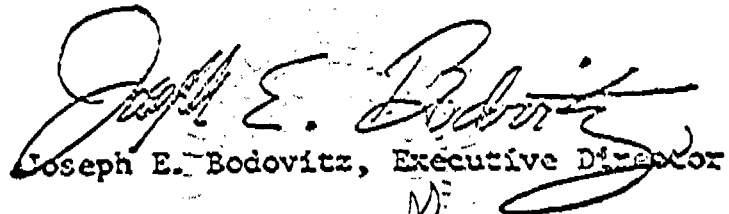
This order becomes effective 30 days from today.

Dated NOV 30 1985, at San Francisco, California.

LEONARD M. GRIMES, JR.
President
VICTOR CALVO
PRISCILLA C. GREW
WILLIAM T. BAGLEY
Commissioners

Commissioner Donald Vial, being necessarily absent, did not participate.

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


Joseph E. Bodovitz, Executive Director

MINIMUM RATE TARIFF 7-A

INDEX OF COMMODITIES

COMMODITY	ITEM	COMMODITY	ITEM
Aggregates, Lightweight	50, 330, 340	Mill Scale	40, 320, 390
Ash	50, 330, 340	Mixture, Cold Road Oil	30, 300, 390, 430, 480, 490, 530, 540
Asphalt (M)	30, 300, 390		550, 560
Base, Cement Treated	30, 290, 390	Mortar Mud	30, 290, 390 40, 320, 390
Cake, Salt	60, 390	Ore	30, 290, 390
Cement (M)	30, 300, 390	Perlite	40, 50, 320, 330, 340, 390
Cement Clanker	40, 320, 390	Plaster	30, 290, 390
Cinders	50, 330, 340	Pumice	50, 330, 340
Clay	40, 50, 320, 330, 340, 390	Pyrite	40, 320, 390
Coke, petroleum	60, 325, 390	Pyrophyllite	40, 320, 390
Compounds, Barium, Clay or Silicate Mud	40, 320, 390	Rock	30, 290, 390
Concrete	30, 60, 290, 300, 390, 480, 490	Sand	30, 50, 290, 330, 340, 390, 430, 510, 560
Containers	30, 290, 390	Scoria	50, 330, 340
Debris	60, 390, 400	Shale	40, 50, 320, 330, 340, 390
Dolomite	40, 320, 390	Silica Sand,	30, 40, 290, 320, 390
Earth	30, 290, 310, 390	Slag	30, 40, 50, 290, 320, 330, 340, 390
Fodder	60, 350, 390	Slurry	60, 390
Granite	30, 40, 290, 320, 390, 510	Soapstone	40, 320, 390
Gravel	30, 290, 390, 430, 510, 560	Stone	30, 290, 390, 430, 510, 560
Gypsum	40, 320, 390	Talc	40, 320, 390
Limestone	30, 40, 290, 320, 390	Trona, Crude	40
Loam	30, 290, 310, 390		

(M) Denotes articles on which application of rates is limited to mixed shipments.

Change, Decision No. 83-11-100

EFFECTIVE 1/9/84

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

Correction 389

SECTION 1--RULES (Continued)	ITEM
<p style="text-align: center;">APPLICATION OF TARIFF--CARRIERS</p> <p>Rates provided in this tariff are minimum rates, established pursuant to the Highway Carriers' Act. They apply for transportation of property and other accessorial or incidental services performed prior to, during, or subsequent to said transportation by carriers, as defined in Item 10, in bulk in dump truck equipment.</p> <p>The rates and rules contained in this tariff shall apply to transportation by underlying carriers (independent-contractor subhaulers) when such transportation is performed for other carriers, as provided in Item 210.</p>	20
<p style="text-align: center;">APPLICATION OF TARIFF--COMMODITIES</p> <p>When reference is made to this item, rates apply to the transportation of the following commodities:</p> <p>LIST A</p> <p>Asphaltic or cement concrete, crushed or recrushed; Base, cement treated (Moist mixture of sand, crushed rock and/or gravel and cement); Concrete, mortar or plaster: ingredients of, in batches, in nylon-corded rubberized bags; Containers, empty, used, viz.: empty, used nylon-corded rubberized bags being returned from an outbound trip in which they moved containing batches of the ingredients of concrete, mortar or plaster; (1) Earth, including dirt, loam, silt or soil individually or in any combination. It also includes miscellaneous material such as stone, rock, tree stumps and broken concrete in combination with earth when such material does not exceed 50 percent of the total volume of the shipment. Granite, decomposed; Gravel; * Δ Limestone (Subject to Note 2); Ore; Rock (commonly called "cobblestone" or "rip rap"); Sand, crushed stone and gravel, mixed dry, with or without cement added; Sand, other than burnt shale; * Δ Silica Sand (Subject to Note 2); Slag, other than expanded; Stone, crushed, chips or waste; Stone, natural, blocks, pieces or slabs, rough quarried; Stone, natural, sawed, not further finished.</p> <p>(2) See Item 290 for shipments subject to Distance Rates of more than 30 miles. See Item 310 for shipments subject to Distance Rates of 30 miles or less.</p> <p>LIST B</p> <p>Asphaltic concrete (commonly called "Hot Stuff"); Cold road oil mixture (commonly called "Plant Mix"); Asphalt, cold liquid, in containers not exceeding 5 gallons capacity per container (Subject to Note 1).</p> <p>NOTE 1.--Cold liquid asphalt will be transported under the provisions of this tariff, at rates which apply for the transportation of asphaltic concrete, when tendered for transportation with, and as a part of, a shipment of asphaltic concrete and when the quantity so tendered does not exceed 15 gallons per shipment.</p> <p>NOTE 2.--Does not apply on limestone or silica sand processed for use in glass manufacture.</p>	30
<p>Δ Change Δ Change, neither increase nor reduction</p>	} Decision No. 83-11-100
EFFECTIVE 1/9/84	
ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.	

Correction 390

ITEM SECTION 1--RULES (Continued)

APPLICATION OF TARIFF--COMMODITIES

When reference is made to this item, rates apply to the transportation of the following commodities:

40 Barium, clay or silicate mud compounds, dry, oilwell drilling; Cement clinker; Clay, other than burnt or calcined; Dolomite, dead-burned; Dolomite rock, crushed; Gypsum rock, crude, not further processed than broken or crushed; Limestone, processed for use in glass manufacture;	Mill scale; Mud, dry, oilwell drilling; Perlite rock, crude, not expanded, not further processed than broken, crushed or ground; Pyrite cinders; Pyrophyllite, crude, in blocks, pieces or slabs, rough quarried; Shale, other than burnt, calcined or expanded;	Silica Sand, processed for use in glass manufacture; Soapstone, crude, in blocks, pieces or slabs, rough quarried or not further finished than sawed or chipped on four sides; Talc, crude, in blocks, pieces or slabs, rough quarried or not further finished than sawed or chipped on four sides; Trona, Crude.
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APPLICATION OF TARIFF--COMMODITIES

When reference is made to this item, rates apply to the transportation of the following commodities:

Lightweight Aggregates, viz.:

50 Ash, volcanic; Cinders; Clay, burnt or calcined; Perlite, expanded;	Pumice; Sand, burnt shale; Scoria, volcanic;	Shale, burnt or calcined; Shale, expanded; Slag, expanded.
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o Change)
 Δ Change, neither increase) Decision No. 83-11-100
 nor reduction)

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

Correction 392