

ORIGINAL

Decision No. 87093

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 property by)
vacuum-type tank vehicles and)
pump-type tank vehicles statewide)
as provided in Minimum Rate)
Tariff 13 and the revisions or)
reissues thereof.)

Case No. 6008
Petition for Modification
No. 33
(Filed December 2, 1975;
amended June 11 and June 30,
1976)

Richard W. Smith, Attorney at Law,
and Herbert W. Hughes, for
California Trucking Association,
petitioner.

Murray Hutchison, for William H.
Hutchison & Sons Service Co.,
Inc.; Roy D. Owen, for Routh
Transportation; Paul W. Simonsen,
for Industrial Trucking, Inc.;
and Donald C. Brain, for Fix &
Brain Vacuum Truck Service, Inc.;
respondents.

Robert S. Greitz, for Western Motor
Tariff Bureau, interested party.
Robert E. Walker and Raymond Toohy,
for the Commission staff.

O P I N I O N

Minimum Rate Tariff 13 (MRT 13) contains minimum hourly rates and rules for transportation of certain property in vacuum and pump tank truck equipment by several classes of highway carriers.^{1/} By this petition, as amended, California Trucking Association (CTA) seeks cost offset increases in the established

^{1/} The background and scope of MRT 13 is discussed in Decision No. 81672 (1973).

hourly rates and accessorial helper charges named in the tariff. Specifically, the sought increases in the basic hourly rates for truck and driver in Item 200 are 16 percent for Territory A and 11 percent for Territory B.^{2/} The sought increases in the hourly accessorial rates in Item 60 for additional helpers are 20 percent for Territory A and 9 percent for Territory B.

The hourly rates in MRT 13 were last adjusted to reflect measured increases in costs by Decisions Nos. 83664 (1974) and 85118 (1975). CTA contends that since those rate adjustments were made the carriers involved have experienced further substantial increases in virtually all elements of labor costs. On January 1, 1975, statutory changes in employer-financed social benefits programs occurred. Further statutory changes in the federal program were effective January 1, 1976. With the passage of Assembly Bill 91, tax rates for California unemployment insurance increased on the same date. Basic levels of workers' compensation insurance were increased on October 1, 1975, and again on May 1, 1976, pursuant to action of the State Insurance Commissioner. Certain hourly wage rates and fringe benefit payments were increased on July 1, 1975, and a further increase in the base hourly wage rate and other fringe benefits became effective October 1, 1975. The second amendment to Petition 33 was filed for the purpose of including the impact of the carrier labor increase effective July 1, 1976 under a new three-year labor contract.^{3/} Assertedly, other costs, including equipment costs

^{2/} Territory A consists of the counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Imperial. Territory B consists of all the other counties in California.

^{3/} The monetary settlement and contract language of the Vacuum and Pump Truck Supplemental Agreement (1976-1979) between CTA and Teamsters Union Local 692, Long Beach, is included in Exhibit B of the application (second amendment) and in Exhibit 2. This agreement provides the basis for wage costs in Territory A. Wage costs for Territory B were developed from a survey of carriers operating in that area.

and running costs, also have increased. CTA alleges that the impact and effect of such increases in costs upon the total cost of transportation are susceptible to precise measurement; that as a result of such cost increases the minimum rates are unreasonably low; and that these rates should be adjusted to reflect the increased costs.

Public hearings were held in San Francisco before Examiner William Pilling on June 21, 1976, and before Examiner Norman Haley on July 27, 1976 at which time the matter was submitted.

Evidence relative to the increased costs^{4/} of performing the transportation involved, and proposed increased rates assertedly necessary to return the higher costs, was presented by a witness for CTA and by two witnesses for the Commission staff.^{5/} CTA cost Exhibits 1 and 2 reflect the two wage increases which became effective in Territory A on October 1, 1975 and July 1, 1976.

According to Schedule I-A in Exhibit 2, there were increases in labor costs in Territory A of more than 18 percent since Decision No. 83664. Schedule IV-A in Exhibit 2 shows that the average of all

^{4/} The cost datum planes for Territories A and B were established by Decisions Nos. 81672 (1973) and 83664 (1974), respectively.

^{5/} The following five exhibits were received:

<u>Exhibit</u>	<u>Witness</u>	<u>Representing</u>	<u>Subject</u>
1	H. Hughes	CTA	Cost data - Territories A and B.
2	H. Hughes	CTA	Revised cost data for Territory A.
3	H. Hughes	CTA	Proposed increased rates.
4	R. Labbe	Staff	Cost data - Territories A and B.
5	D. Harvey	Staff	Proposed increased rates, rate comparisons, and revenue estimates.

measured cost increases in Territory A since Decision No. 83664 is approximately 19 percent. This would equate to an approximate 16 percent increase since Decision No. 85118.

Schedule I-B of Exhibit 1 shows that between October 1, 1974 and October 1, 1975 hourly labor costs in Territory B increased 8.83 percent. Schedule IV-B of Exhibit 1 shows that the average of all measured cost increases in Territory B since Decision No. 83664 is approximately 13 percent. This would equate to an approximate 11 percent increase since Decision No. 85118.

The staff cost witness reviewed CTA Exhibits 1 and 2 and underlying work papers. He recomputed CTA running costs to conform with findings in Decision No. 85118. Staff cost Exhibit 4 gives effect directly to the cost factors underlying rates established by Decision No. 85118, whereas the CTA witness started with cost factors underlying rates in Decision No. 83664. In other respects, total cost increases measured by the CTA and staff witnesses are essentially the same. The staff indirect costs were calculated by three basic cost offset methods.^{6/} The CTA indirect costs were calculated by the wage (cost) offset method. Since staff cost Exhibit 4 gives effect directly to the cost factors underlying rates established by Decision No. 85118, that exhibit measures somewhat more definitively than CTA cost Exhibits 1 and 2 increased costs which have occurred since the rates in MRT 13 were last adjusted.

^{6/} Decision No. 76353 (1969) 70 CPUC 280-294, in Case No. 5432 and related cases, describes three basic cost offset methods. The decision also states that those and other cost offset procedures as may be deemed appropriate by parties assuming the burden of proof may be employed in recommending remedial cost offset minimum rate adjustments.

In Exhibit 5 the staff rate expert recommended that the rates be increased by the direct wage offset method. By that method indirect expenses are held constant, which excludes any consideration for increases in those expenses. In general, indirect expenses include the wages and salaries of nonoperating personnel and general administrative expenses (legal, auditing, communications, rents, certain depreciation expense items, property taxes, and certain insurance expense items). Decisions Nos. 81672 and 83664, which established cost datum planes for Territories A and B, are relatively recent decisions. Nevertheless, as we intend to hold minimum rate increases to the lowest possible amounts, we will adopt the staff direct wage offset method.

The record demonstrates that since the hourly rates in MRT 13 were last adjusted by Decisions Nos. 83664 and 85118, costs for wages, fringe benefits, unemployment insurance, workers' compensation insurance, social security, equipment, maintenance, tires, oil, and liability insurance, for which provision is included in those rates, have increased. Clearly, adjustments in the rates to compensate for the measured increases in those costs should be made in order that the rates may be continued at a just and reasonable level. We will adopt the proposed increased rates calculated by the staff rate witness in Exhibit 5 for Items 60 and 200 of MRT 13, as set forth below:

Revisions in Minimum Rate Tariff 13

Item 60: Accessorial Charges - Additional Helper

	<u>Rate in Dollars</u>	
	<u>Per Hour</u>	
	<u>Present</u>	<u>Revised</u>
Territory "A"	\$14.95	\$17.20
Territory "B"	14.00	15.00

Item 200: Hourly Rates

<u>Capacity of Equipment</u>		<u>Rate in Dollars</u>		<u>Rates in Dollars</u>	
<u>In Barrels</u>		<u>Per Hour</u>		<u>Per Hour</u>	
<u>More Than</u>	<u>But Not</u>	<u>Territory "A"</u>		<u>Territory "B"</u>	
<u>More Than</u>	<u>More Than</u>	<u>Present</u>	<u>Revised</u>	<u>Present</u>	<u>Revised</u>
0	35.....	\$21.60	\$24.15	\$18.25	\$19.50
35	45.....	21.60	24.15	18.55	19.80
45	60.....	23.15	25.90	20.00	21.35
60	80.....	25.70	28.40	22.80	24.40
80	95.....	26.00	28.70	22.85	24.45
95	26.15	29.15	22.95	24.70

It is estimated that the increased rates shown above will produce annually approximately \$1,400,000 or 10 percent additional cost offset revenue, based on total reported tariff revenue of approximately \$13,500,000.

Findings

1. Hourly rates in both Territory A and Territory B of MRT 13 were last adjusted by Decisions Nos. 83664 (1974) and 85118 (1975).

2. The revisions in rates authorized by Decision No. 83664 reflected wage costs, payroll expenses, and fuel costs effective generally as of October 1974.

3. The revisions in rates authorized by Decision No. 85118 were made to cover increases in running costs (as such costs relate to labor) and equipment costs generally as of November 1975.

4. In Petition No. 33, as amended, in Case No. 6008, CTA seeks increases in hourly rates in MRT 13 of (1) 16 percent in Territory A for truck and driver, (2) 20 percent in Territory A for extra helpers, (3) 11 percent in Territory B for truck and driver, and (4) 9 percent in Territory B for extra helpers.

5. Petitioner and the staff have shown that since MRT 13 Territories A and B hourly rates and charges were last adjusted by Decisions Nos. 83664 and 85118, vacuum and pump tank truck major costs elements have materially increased. Specifically, there have been measured increases in costs for wages, fringe benefits, unemployment insurance, workers' compensation insurance, social security, equipment, maintenance, tires, oil, and liability insurance. Such cost increases are not reflected in the present level of MRT 13 hourly rates and charges.

6. Exhibits 1, 2, and 4 disclose that in total the present rates in MRT 13 fail to cover the cost of performing transportation services by efficient means.

7. The Commission's Transportation Division staff recommends increases of approximately (1) 11½ percent in Territory A for truck and driver, (2) 15 percent in Territory A for extra helpers, (3) 7 percent in Territory B for truck and driver, and (4) 7 percent in Territory B for extra helpers. We adopt this recommendation.

8. The increased rates set forth in Finding 7 have been shown to be justified and the resulting increased hourly rates and charges

constitute the just, reasonable, and nondiscriminatory minimum rates and charges for the transportation governed thereby.

9. Increases in hourly rates of (1) 16 percent in Territory A for truck and driver, (2) 20 percent in Territory A for extra helpers, (3) 11 percent in Territory B for truck and driver, and (4) 9 percent in Territory B for extra helpers have been justified as maximum for rates that may be filed by common carriers.

10. We are not sympathetic to offset procedures, as we have stated in several recent decisions; however, we cannot fail to recognize that carriers are faced with increased costs of doing business. Accordingly and reluctantly, we will adjust the minimum rates pending the possible adoption and implementation of a plan for reregulation of the trucking industry. Case No. 10278 was instituted to investigate proposed plans.

11. The minimum rate increases established herein are estimated to produce annually \$1,400,000 or 10 percent additional revenue.

Conclusions

1. The revisions of MRT 13 found reasonable above should be incorporated in MRT 13.

2. To the extent not granted by the order which follows, Petition No. 33, as amended, should be denied.

O R D E R

IT IS ORDERED that:

1. Minimum Rate Tariff 13 (Appendix B of Decision No. 55584, as amended in Case No. 6008) is further amended by incorporating therein, to become effective April 16, 1977, Seventeenth Revised Page 7 and Fifteenth Revised Page 12 attached hereto and by this reference made a part hereof.

2. Common carriers subject to the Public Utilities Act, to the extent that they are subject also to Decision No. 55584, as amended, are directed to establish in their tariffs the increases necessary to conform with the further adjustments ordered by this decision.

3. Common carriers maintaining rates on a level other than the minimum rates for transportation for which rates are prescribed in Minimum Rate Tariff 13 are authorized to increase such rates by the same amounts authorized by this decision for Minimum Rate Tariff 13 rates.

4. Common carriers maintaining rates on the same level as Minimum Rate Tariff 13 rates for the transportation of commodities and/or transportation not subject to Minimum Rate Tariff 13 are authorized to increase such rates by the same amounts authorized by this decision for Minimum Rate Tariff 13 rates.

5. Common carriers maintaining rates at levels other than the minimum rates for the transportation of commodities and/or for transportation not subject to Minimum Rate Tariff 13 are authorized to increase such rates by the same amounts authorized by this decision for Minimum Rate Tariff 13 rates.

6. Common carriers are authorized to establish in their tariffs increases in hourly rates not exceeding (1) 16 percent in Territory A for truck and driver, (2) 20 percent in Territory A for extra helpers, (3) 11 percent in Territory B for truck and driver, and (4) 9 percent in Territory B for extra helpers.

7. The base rates, on which the increases authorized by Ordering Paragraph 6 are to be applied, are the rates which were authorized by Decision No. 85118. In no circumstance is the authority conferred by Ordering Paragraph 6 to be construed as authorizing that increase in addition to the increases ordered and/or authorized by Ordering Paragraphs 1 through 5.

8. Tariff publications required or authorized 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 tenth day after the effective date of this order, on not less than ten days' notice to the Commission and to the public; such tariff publications as are required shall be made effective not later than April 16, 1977; and as to tariff publications which are authorized but not required, the authority shall expire unless exercised within sixty days after the effective date of this order.

9. Common carriers, in establishing and maintaining the rates authorized by this order, are authorized to depart from the provisions of Sections 460 and 461.5 of the Public Utilities Code to the extent necessary to adjust long- and short-haul departures now maintained under outstanding authorizations; such outstanding authorizations are hereby modified only 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.

10. *W.S.*

11. In all other respects Decision No. 55584, as amended, shall remain in full force and effect.

The effective date of this order shall be twenty days after the date hereof,

Dated at San Francisco, California, this 15th day of MARCH, 1977.

Robert Bateman

 President

William S. ...

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 Commissioners

MINIMUM RATE TARIFF 13

SECTION 1--RULES OF GENERAL APPLICATION (Continued)	ITEM
<p style="text-align: center;">ACCESSORIAL CHARGES</p> <p>When carrier furnishes help in addition to the driver, an additional charge of (1) \$17.20 or (2) \$15.00 per man per hour shall apply. The time for computing the additional charge shall be not less than the actual time in minutes the helper or helpers are engaged in performing the services. The total time so computed shall be converted into hours and fractions thereof. Fractions of an hour shall be determined in accordance with the table provided in Item 80. See Item 360 for additional charges in connection with Volume Tender Service.</p> <p>(1) Applies when the accessorial service is performed in Territory "A" consisting of the Counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego and Imperial.</p> <p>(2) Applies when the accessorial service is performed in Territory "B" consisting of all counties in California other than those included in Territory "A".</p>	060
<p style="text-align: center;">MINIMUM CHARGE</p> <p>1. The minimum charge per shipment shall be that for two hours of service at the applicable rate. See Item 300 for minimum charge in connection with Volume Tender Service.</p> <p>2. When service is provided under the provisions of Items 60 or 200 on holidays, an additional charge shall be assessed for each driver or helper so furnished, as follows:</p> <p>(a) On New Years Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day and Christmas Day, twice the hourly charge in Item 60 for each hour worked with a minimum charge of four hours.</p> <p>(b) On Washington's Birthday, Good Friday, the day after Thanksgiving and December 24th, the hourly charge in Item 60 for each hour worked with a minimum charge of four hours.</p>	70
<p style="text-align: center;">HANDLING OF CLAIMS FOR LOSS OR DAMAGE</p> <p>Claims for loss or damage shall be governed by the provisions of General Order No. 139.</p>	75
<p>o Increase, Decision No. 87093</p>	
EFFECTIVE	
<p>Correction</p>	<p>ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.</p>

MINIMUM RATE TARIFF 13

SECTION 2--HOURLY RATES				ITEM
Capacity of Equipment (In Barrels)		Rates in Dollars per Hour (See Note)		
More Than	But Not More Than	Territory "A" (1)	Territory "B" (2)	
0	35-----	\$24.15	\$19.50	6200
35	45-----	24.15	19.80	
45	60-----	25.90	21.35	
60	80-----	28.40	24.40	
80	95-----	28.70	24.45	
95	-----	29.15	24.70	
<p>(1) Territory "A" consists of the Counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego and Imperial.</p> <p>(2) Territory "B" consists of all counties in California other than those included in Territory "A".</p> <p>NOTE.--The rates named are for transportation by vacuum-type tank vehicles. Where the transportation is performed by pump-type tank vehicles, the applicable rates are \$1.00 per hour less than those for transportation in vacuum-type tank vehicles.</p>				

Change)
 Increase) Decision No. **87093**

EFFECTIVE

Correction

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