

ORIGINAL

Decision No. 87484 June 21, 1977

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 California 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 No. 9819
Petition for Modification
No. 15
(Filed April 29, 1976)

E. O. Blackman, for California Dump Truck Owners Association, petitioner.
Richard Hearn, for Hearn Trucking;
Louis Marietta, for Tri County Truck Co.;
Marvin A. Parrish, for A. J. Diani Construction Co.; Robert L. Johnson, for Interstate Rapid Transit; L. S. Hawkins, for E. H. Haskell Co.; and Frank B. Ryzner, Gary W. Sylva, and Otto Lindegaard, for themselves; respondents.
James R. Foote, by E. O. Blackman, for Associated Independent Owner Operators, Inc.; C. D. Gilbert, H. Hughes, and J. C. Kaspar, for California Trucking Association; Frank W. Danby, for Southern Pacific Milling Co.; Paul S. Henson, for Associated General Contractors of California; David Gummitt, for Kaiser Sand & Gravel; Gordon Tucker, for Alamo Rock; and Jake Will and Fred P. Hughes, for themselves; interested parties.
Frank M. Nyulassy and J. M. Jenkins, for the Commission staff.

O P I N I O N

By Petition No. 15 California Dump Truck Owners Association (CDTOA) seeks establishment of production areas, delivery zones, minimum zone rates, and rules for transportation of rock, sand, and gravel by dump truck carriers within portions of Santa Barbara,^{1/} San Luis Obispo, and Monterey counties. Under Petition No. 15 zone rates for rock, sand, and gravel ultimately would replace distance tonnage and hourly rates in Minimum Rate Tariff 7-A (MRT 7-A) which now govern the transportation involved.^{2/}

Public hearing was held at Santa Maria^{3/} on August 5, 1976 before Examiner Norman Haley. The phase of the proceeding

^{1/} Minimum zone rates for transportation of rock, sand, and gravel heretofore have been established in Minimum Rate Tariff 17-A (MRT 17-A) from certain production areas in Los Angeles, Riverside, and Ventura counties, to delivery zones in Santa Barbara County (including much of the city of Santa Barbara) northwest as far as Refugio Beach (Delivery Zone 42035). Production areas and delivery zones have been established in the populous portions of southern California from the U.S.-Mexico border northwesterly to Santa Barbara County Delivery Zone 42035. They are described in Southern California Production Area and Delivery Zone Directory 1 (Directory 1).

^{2/} Petition No. 15, Case No. 9819 was filed to replace Petition No. 210, Case No. 5437, filed July 14, 1971, which contained the same requests. Petition No. 210 was dismissed by Decision No. 84424 (1975) only for the reason that most zone matters had been deleted from Case No. 5437 and initiated in Cases Nos. 9819 and 9820.

^{3/} A prehearing conference was conducted in Petition No. 210, Case No. 5437 at Santa Maria on July 21, 1973, by Examiner John Mallory. At the conference were representatives of carriers, certain producers, and Commission staff. A number of matters pertaining to plans and procedures for development of production areas, delivery zones, costs, and zone rates and rules were agreed upon by those present.

relating to descriptions of production areas and delivery zones was submitted. All other matters, including traverse studies, cost studies, terminal end studies, zone rates, etc., were continued. Petition No. 15 was supported by Associated Independent Owner Operators, Inc. (AIOO). It was opposed by two shippers (producers), E. H. Haskell Co. and Alamo Rock.

Counsel for CDTOA explained the position of his organization. CDTOA believes that all of the commercial production facilities of rock, sand, and gravel which serve the areas involved should be included in production areas and be subject to zone rates.^{4/} It is the position of that organization that the marketing area involved should not be subject in part to zone rates for rock, sand, and gravel, and in part to distance tonnage and hourly rates for the same commodities. CDTOA requests that the Commission either grant the petition in whole or deny it. Counsel stated that AIOO supports this position. He explained that shortly before the hearing he became aware that some producers do not agree that there is need for the establishment of zone rates from all production sources of rock, sand, and gravel in the area.

Counsel for CDTOA explained that after production areas and delivery zones are described, it is planned to run time and distance traverses, make tie-ins, develop cost studies, determine tariff rules, and propose zone rates which will result from the costs and other data. He contended that these processes are time-consuming and costly and that it is almost necessary that the points of origin and descriptions of production areas and delivery

^{4/} CDTOA does not propose at this time zone rates for decomposed granite or asphaltic concrete in the counties involved.

zones be firmed up to the maximum possible extent before proceeding further. He also contended that it would be impractical to incur the additional time and expense required for all of these processes without first determining whether zone rates will be established exclusively in the area for transportation of rock, sand, and gravel. He explained that for these reasons his association is proposing only production areas and delivery zones in this phase of Petition 15, and that the other rate procedyres will be dealt with later if it is decided that zone rates should be established.

Evidence of Petitioner

Counsel for CDTOA testified as consultant for that organization. He stated that following the prehearing conference in Petition 210 in Case No. 5437 (Footnote 3, above) he called a meeting of all parties believed to be interested. Carrier and shipper association representatives and a member of the Commission staff attended and were invited to cooperate in the development of proposed production areas and delivery zones. He said a committee worked diligently in developing the necessary descriptions and drawing outlines of zones on maps. Proposed zone descriptions developed by the committee were rechecked in the field by members of the Commission staff. Final descriptive language was prepared and furnished by the staff. On the southeast the proposed zones tie into the present zones at Refugio Beach and in the city of Santa Barbara. The proposed zones extend north to Camp Roberts in Monterey County. The consultant stated that all of the producers in the area had been solicited for comments, and to the best of his knowledge had received copies of the proposed production area and delivery zone descriptions.

The witness introduced Exhibits 1-A and 1-B which are maps outlining proposed production areas and delivery zones in Santa Barbara and San Luis Obispo counties, respectively. He also introduced Exhibit 2 which contains metes and bounds descriptions of the proposed production areas and delivery zones, including delivery zones in southern Monterey County. Altogether there are 11 production areas and 394 delivery zones. The zone numbering is the same as currently used in MRT 17-A and Directory 1. Under that numbering system the first two digits designate the county in which the zone is located, and the last three digits the number of the zone within the county.

The witness explained that Vandenberg Air Force Base was not zoned for several reasons. First, it covers a large area where it is difficult to find boundaries and to run traverses. It was determined that zone rates should be proposed to the entrances and rate additives in cents per ton established for deliveries within the base itself. It is anticipated that there would be many delivery points and various lengths of haul within the base. It also is anticipated that points of entry into the base may change depending upon the size of the job and location, and that these factors are impossible to predetermine. In addition, there would be problems in determining equitable entry times into the base. The witness explained that in areas covered by existing zone rate tariffs the zone rate additive applies within a 10-mile radius of the last zone passed through.

The CDTQA consultant testified concerning methods and procedures employed in developing the proposed production areas and delivery zones. They are similar to those published in Directory 1 (southern California) and Directory 2 (San Francisco Bay Area). He explained that some of the proposed production area descriptions encompass only one production facility, whereas others

encompass two or more. When there is only one plant or facility in a production area the point of origin for purposes of traversing is usually the producer's scale. However, when there is more than one plant or production facility within a single production area it is necessary to determine a common point of origin for purposes of traversing. Proposed delivery zones generally are not larger than two miles by two miles, or four square miles in area. This is so there will not be too great a spread in rates developed between them. Strip zones were developed along highways in canyon areas and in other relatively underdeveloped areas. They are about two miles long and extend about one-fourth to one-half mile on either side of the highway. The consultant explained that after delivery zones are established it will be necessary to determine average points of destination within them. It also will be necessary to develop entry times into each zone from the traverse network.

The witness explained the proposed rate development procedures. He stated that the next step in following adoption of production area and delivery zone boundaries will be the running of traverses. These are series of times and distances obtained between various intersections or designated points on main highways within the zone system. The times are obtained by running loaded trucks in one direction and empty trucks in the other. It is proposed to have the traverses run with five-axle units of equipment of approximately 300 horsepower capable of carrying 25 to 26 tons. He said it would be the responsibility of the observer riding the truck to insure that the truck operates efficiently and at maximum legal speeds consistent with traffic and highway conditions. In some cases where there is traffic congestion multiple runs are proposed to be made at various times of day in order to obtain an average.

The consultant explained that field studies will be made to determine the terminal end time which is involved in the actual loading and unloading operations throughout the area under consideration. Among five-axle trucks there is a substantial difference in terminal end time between transfer type and bottom dump vehicles because it takes substantially longer to dump the transfer type of unit. It is proposed to utilize the bottom dump vehicle as the most efficient vehicle (ratemaking unit). This is the procedure used in San Diego County (the most recent part of MRT 17-A) and in the San Francisco Bay Area (MRT 20). The witness stated that there are different types of loading and unloading facilities within plants within the area involved. Some have automatic scales and expedited loading processes, where others do not. Under these circumstances, terminal end time in the particular geographical region involved would be determined as an average of conditions within the region.

The consultant explained that rate formulae include running costs (fuel, maintenance, operation, tires, and oil) as a cost per mile, and other costs (wages, fixed costs, overhead, annual cost of taxes, insurance, and licenses) as hourly costs. The costs are allocated proportionately to the times and distances determined by the traverses. To these costs are added costs for terminal end time. It is proposed to use a profit factor of eight percent which has been utilized in connection with zone rates in MRT 17-A and MRT 20, and with distance tonnage, and hourly rates in MRT 7-A. The zone rates are developed by computer programs which apply the rate formulae to all routes from a production area to a delivery zone and select the lowest rate calculated as the minimum rate (least cost method).

The CDTOA consultant contended that zone rates are preferable to the distance tonnage and hourly rates now applicable in the three-county area involved in this proceeding. It was explained that zone rates for rock, sand, and gravel are far simpler to apply because there are no distance factors or time factors to compute.^{5/} Disputes assertedly arise from rate differences that result from computing the underlying factors, particularly time factors. The witness explained that zone rates are more precise in that they more accurately reflect the exact cost of a haul between a production area and a delivery zone. Distance tonnage and hourly rates in MRT 7-A apply to large regions of California and therefore reflect averages of conditions throughout the State. Those rates do not necessarily reflect the lowest cost of transportation in the immediate economic area under consideration. The proposed change from distance tonnage and hourly rates in MRT 7-A to zone rates would cause increases and reductions in individual rates. The witness was of the opinion that overall revenue would be the same or slightly less under zone rates because it would reflect only the transportation of rock, sand, and gravel by the most efficient means in the particular area involved.

The consultant asserted that zone rates tend to eliminate rate violations. He said for-hire dump truck carriers operating under distance tonnage and hourly rates in MRT 7-A have encountered rate conversion in the area. The witness explained that rate conversion occurs when a shipper ostensibly uses hourly

^{5/} The rule for computation of distances and the rule for application of hourly rates are contained in Items 150 and 360 of MRT 7-A respectively.

rates, but in fact has predetermined a tonnage rate (less than minimum) and makes the hours fit the revenue from the predetermined tonnage rate. It has been the experience of CDTOA in other areas that shippers and carriers engage in rate conversion, particularly on the larger jobs.

Petitioner called two dump truck carriers who are engaged in the transportation of rock, sand, and gravel in the area involved. Both carriers support the establishment of zone rates to apply in lieu of the present distance tonnage and hourly rates. One instance of rate conversion in the area was cited where there had been a significant discrepancy between the hourly rate revenue and the revenue actually received for transportation under a distance tonnage rate that was not correct. Only after the carrier made an issue of the matter were the correct charges paid. The carriers contended that zone rates take the unknown out of dump truck operations since both carriers and shippers know in advance what it is going to cost for a particular haul, regardless of the carrier involved or the type of equipment operated.^{6/} It was asserted that when transportation is performed on a zone basis there is a tendency for truckers to update equipment and to operate more efficiently. It was stated that a newer piece of equipment usually will carry more tons in the same amount of time. It was

^{6/} Under provisions of MRT 7-A different distance tonnage rates and different hourly rates can be applicable to different types and sizes of dump truck equipment. Furthermore, different routes of movement, in the case of distance tonnage rates, or different times in transit in the case of hourly rates, can cause differences in transportation charges between the same points by different carriers using similar equipment.

claimed that zone rates provide an incentive to truckers to run their equipment somewhat faster; to carry more payload; and to try and pick up an extra load at the end of the day, all of which adds more revenue. One carrier testified that under zone rates currently in effect in the Ventura area he utilizes underlying carriers with varying types of trucks on the same job. He stated that a mix of different types of trucks at the same zone rate permits a carrier to serve a shipper who otherwise might have difficulty in securing transportation.

Petitioner called representatives of two producers of rock, sand, and gravel in the area involved. Both of these shippers support the establishment of zone rates as the most fair and precise rates for the transportation of rock, sand, and gravel. It was the testimony of these two witnesses that zone rates make accounting simpler and otherwise are more preferable than distance tonnage or hourly rates. They asserted that distance tonnage or hourly rates require policing or checking so that the customer will not be receiving one price one time and a different price another time. They confirmed that under hourly rates two different carriers will assess different charges for essentially the same transportation. They asserted that zone rates obviate the necessity for being selective among the trucks that are hired, which was stated to be a substantial problem today. In some cases contractors desire fixed prices for delivery including transportation. It was explained that this is one of the reasons transportation charges are converted from an hourly rate basis to a fictitious tonnage rate basis. The producer representatives said they would not desire to have one or two producers on zone rates and the others on distance tonnage or hourly rates. One of them

has a plant in Ventura County which currently is subject to zone rates. He stated that if zone rates are established in the Santa Maria area the company would have no reason to acquire more of its own trucks.

Other Evidence

Evidence was presented by representatives of the two producers who opposed Petition No. 15. It was the position of these witnesses that their companies experience comparatively efficient loading and unloading operations for trucks, and that this advantage will be lost if zone rates are established based on averages of conditions in the area. It was asserted that under zone rates, trucks will always have to stop to weigh which is not now required on some state highway projects. It was contended that the necessity to obtain scale weights at the plants will increase terminal end time for ratemaking purposes over that now being experienced. It also was contended that carriers tend to furnish better trucks and to haul more tons per hour at hourly rates than at tonnage rates. One of these witnesses admitted on cross-examination that his company does double check some truck weights at the scale in the plant to insure that loads do not exceed the legal weight limit. He also agreed that it is the responsibility of the carrier to make certain that his vehicle is not overloaded.

Discussion

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.

However, it would appear from the record of these proceedings thus far that zone rates should be established from each of the production areas described in Exhibit 2. Within the single marketing area involved it would not be reasonable to have zone rates in effect from some production sources, and distance tonnage and hourly rates in effect from the others. Ultimately, the changeover to zone rates probably would produce a general revenue reduction because costs would reflect the use of only the most efficient vehicle (five-axle bottom dump train), and otherwise would more accurately reflect the actual costs of hauls from production areas to delivery zones.

The descriptions of production areas and delivery zones in Exhibit 2 should be established at this time as the basis for studies leading to proposals for zone rates for dump truck transportation of rock, sand, and gravel in the three-county area involved.

Findings

1. In Petition No. 15, Case No. 9819, CDTCA seeks establishment of production areas, delivery zones, and zone rates and rules to apply to dump truck transportation of rock, sand, and gravel in portions of Santa Barbara, San Luis Obispo, and Monterey Counties.

2. Zone rates identified in Finding 1 would apply from production areas to delivery zones and, where applicable, would replace distance tonnage and hourly rates contained in MRT 7-A.

3. The instant phase of this proceeding is limited (1) to the question of whether zone rates should be established from all of the production areas identified in Exhibit 2, or whether Petition No. 15 should be denied; and (2) if zone rates are to be established, the reasonableness of the production areas and delivery zones described in Exhibit 2.

4. Zone rates for transportation of rock, sand, and gravel in the area involved would be generally more precise from a cost standpoint than distance tonnage or hourly rates.

5. Zone rates for the transportation involved would be simpler and more certain for the tariff user to apply than distance tonnage or hourly rates.

6. Zone rates for the transportation involved would substantially eliminate questions concerning determination of correct transportation charges from origins to destinations.

7. Zone rates generally are easier to enforce than distance tonnage or hourly rates.

8. Zone rates encourage a high level of carrier productivity.

9. To establish zone rates from some of the proposed production areas, but not all of them, would create in the marketing area involved an inharmonious rate structure resulting in unreasonable discriminations between shippers and between receivers.

10. Petitioner has justified the need for zone rates from all of the production areas described in Exhibit 2.

11. The descriptions of the production areas and delivery zones in Exhibit 2 provide a reasonable basis for the development of time and distance traverses, costs, zone rates and rules, and related matters in further phases of this proceeding.

12. The procedures of the Commission provided for reasonable opportunity for participation by all interested persons or their representatives. Copies of the petitions and notices of hearing were sent to known carrier and shipper organizations and to the State of California Department of Transportation.

Conclusions

1. The phase of Petition No. 15 in Case No. 9819 relative to establishment of production areas and delivery zones should be granted.

2. Further phases of this proceeding, which have been continued, should relate to development of time and distance traverses, terminal end time, costs, zone rates and rules, and related matters, from each of the production areas set forth in Exhibit 2.

3. There is no need to reproduce herein the descriptions of production areas and delivery zones set forth in Exhibit 2. Publication of the descriptions may be accomplished in conjunction with further phases of this proceeding.

O R D E R

IT IS ORDERED that:

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.

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

Dated at San Francisco, California, this 21st day of JUNE, 1977.

William J. Gorman, Jr. President
Yusuf L. Stinson
Richard D. Givale

Commissioners

Commissioner Robert Batinevich, being necessarily absent, did not participate in the disposition of this proceeding.