

Decision No. 89841 JAN 4 1979

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investiga- )  
tion for the purpose of consid- )  
ering and determining minimum )  
rates for transportation of )  
cement and related products )  
statewide as provided in Minimum )  
Rate Tariff 10 and the revisions )  
or reissues thereof. )

Case No. 5440

OPINION AND ORDER

Minimum Rate Tariff 10 (MRT 10) contains rates, rules, and charges governing the highway transportation of cement and related commodities, in bulk and in packages, within California. The tariff contains rules providing for the application of common carrier rail rates as an alternative to the rates published therein for radial highway common carriers, highway contract carriers and cement contract carriers.

The Governor on September 30, 1978 approved Assembly Bill 1559 which provides for the regulation of cement carriers as common carriers and of cement contract carriers as permitted carriers. The bill, in part, amends Section 3663 of the Public Utilities Code permitting the Commission to establish minimum rates for transportation of cement by either a cement contract carrier or a cement carrier not to exceed the rates for the transportation of such commodity by other common carriers by land. Section 3663, as amended, reads as follows:

3663. In the event the commission establishes minimum rates for transportation services by highway permit carriers, the rates shall not exceed the current rates of common carriers by land subject to Part 1 (commencing with Section 201) of Division 1 for the transportation of the same kind of property between the same points, except when minimum rates have been established for the transportation of portland or similar cements for which specialized operating authority is required by Sections 3519 or 3519.1.

Sections 3519 and 3519.1 pertain to "cement contract carrier" and "cement carrier", other than a highway common carrier, engaged for compensation in the ownership, control, operation or management of any motor vehicle loaded substantially to capacity with and transporting portland or similar cements, either alone or in combination with lime or limestone, in bulk or in packages, over any public highway in this state. The implementation of AB 1559 requires that the rules in MRT 10 pertaining to constructing rates and charges based on the alternative application of common carrier rates by rail tariffs be cancelled.

AB 1559 added Section 452.1 which established that any provision in the tariff of a cement carrier in effect as of January 1, 1978, shall be deemed prima facie just, reasonable, and nondiscriminatory if the cement carrier was actually engaged in transportation pursuant to such provision during the immediately preceding calendar year.

In the circumstances, it appears and the Commission finds that the amendment of MRT 10 to cover transportation by cement contract carriers and cement carriers is justified to the extent indicated in the following order. A public hearing is not necessary. In compliance with the Legislative Order in AB 1559, the effective date of this order shall be the date hereof.

IT IS ORDERED that:

1. Minimum Rate Tariff 10 (Appendix A of Decision 44633, as amended) is further amended by incorporating therein, to become effective twenty-five days after the date hereof, the revised pages contained in Appendix A, 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 to Decision 44633, as amended, are hereby directed to establish in their tariffs the amendments necessary to conform with the further adjustments ordered herein.

3. Common carriers maintaining rates on a level other than the minimum rates for transportation for which rates are prescribed in Minimum Rate Tariff 10 are required to increase such rates to the level authorized by this decision for Minimum Rate Tariff 10. Except: Any provision in the tariff of a cement carrier in effect as of January 1, 1978, shall be deemed prima facie just, reasonable, and nondiscriminatory if the cement carrier was actually engaged in transportation pursuant to such provisions during the calendar year 1977.

4. 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 tenth day after the effective date of this order on not less than ten days' notice to the Commission and to the public and shall be made effective not later than January 29, 1978 (Date to be same as tariff pages.)

5. Common carriers, in establishing and maintaining the rates authorized by this order, are authorized to depart from the provisions of Section 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.

6. 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 Minimum Rate Tariff 10.

7. The Executive Director shall serve a copy of each of the tariff amendments on each subscriber to Minimum Rate Tariff 10.

8. In all other respects, Decision 44633, as amended, shall remain in full force and effect.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 4th  
day of JANUARY, 1979.

*Robert D. ...*

President

*Robert W. ...*

*Clare ...*

Commissioners

C. 5440

APPENDIX A

LIST OF REVISED PAGES TO  
MINIMUM RATE TARIFF 10

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THIRD	REVISED	PAGE	9-A
FIRST	REVISED	PAGE	9-AA
FOURTEENTH	REVISED	PAGE	10
SECOND	REVISED	PAGE	14

(END OF APPENDIX A)

ARRANGEMENT OF TARIFF

This is a loose-leaf tariff arranged as follows:

- Section No. 1 - Rules and Regulations
- Section No. 2 - Rates
- Section No. 3 - Form of Shipping Document

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Ø Change )  
 \*\* Eliminated ) Decision No.

**89841**

EFFECTIVE

*Jan 29, 1979*

Correction

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

SECTION NO. 1-RULES (Continued)	ITEM
<p>(DEFINITION OF TECHNICAL TERMS (Concluded)            (Items 10 and 11)</p> <p>POWER EQUIPMENT means any gasoline, diesel, electric or gas driven equipment including, without limitation, conveyor belts, electric powered cranes and lift truck equipment.</p> <p>***</p> <p>RATE includes charge and, also, the ratings, minimum weight, rules and regulations governing, and the accessorial charges applying in connection therewith.</p> <p>SAME TRANSPORTATION means transportation of the same kind and quantity of property between the same points, and subject to the same limitations, conditions and privileges, but not necessarily in an identical type of equipment.</p> <p>SHIPMENT means a quantity of property tendered for transportation to one carrier at one time on one shipping document by:</p> <ol style="list-style-type: none"> <li>1. one shipper at one point of origin for one consignee at one point of destination; or</li> <li>2. one shipper at one point of origin for one consignee at more than one point of destination, or for more than one consignee at one or more points of destination (split delivery).</li> </ol> <p>UNDERLYING CARRIER (independent-contractor subhauler) means any carrier who renders service for an overlying carrier (principal carrier), for a specified recompense, for a specified result, under the control of the overlying carrier as to the result of the work only and not as to the means by which such result is accomplished.</p> <p>UNIT OF EQUIPMENT means one or more motor vehicles (as herein defined) physically connected so as to form a complete unit.</p>	<p>111</p>
<p>             ✓ Change            )              ◊ Increase         ) Decision No.        <b>89841</b>              ** Eliminated    )           </p>	
<p style="text-align: right;">EFFECTIVE <b>Jan 29, 1979</b></p>	
<p>Correction</p>	<p>ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA,            SAN FRANCISCO, CALIFORNIA.</p>

SECTION 1--RULES (Continued)		ITEM
<b>COMPUTATION OF CHARGES--WEIGHTS</b>		
<p>Charges shall be assessed on the gross weight of the shipment. No allowance shall be made for the weight of the containers. See Exceptions.</p> <p>EXCEPTIONS--</p> <p>(1) On shipments packed in cloth or 3, 4, 5 or 6-ply paper bags or sacks the following applies:</p>		
<u>Commodity</u>	<u>When the Packed Net Weight Per Package Is:</u>	<u>Charges Will be Assessed on Gross Weight Per Package of:</u>
Cement, Hydraulic, natural or Portland	94 Pounds	95 Pounds
Cement, masonry or mortar	70 Pounds	71 Pounds
Cement flue dust	84 Pounds	85 Pounds
Cement, plastic, gun	94 Pounds	95 Pounds
Cement, plastic, gun	96 Pounds	97 Pounds
Lime	50 Pounds	50½ Pounds
Lime	60 Pounds	60½ Pounds
Lime	100 Pounds	101 Pounds
Limestone, powdered	100 Pounds	101 Pounds
<p>(2) When palletized shipments are loaded or unloaded by power equipment (power loading includes loading of pallets in place on motor vehicle from conveyor-type loading equipment when loading is done by shipper), the weight of the pallets (elevating truck pallets or platforms or lift truck skids) shall not be used in determining the weight of the shipment nor the charges thereon. When palletized shipments are loaded or unloaded by other than power equipment, the weight of the pallets (elevating truck pallets or platforms or lift truck skids) shall be used in determining the gross weight of the shipment and the charges thereon. This exception applies only in connection with the rates contained in this tariff and is not applicable to shipments of empty pallets. o**</p> <p>(3) o**</p>		

o Change )  
 o Increase ) Decision No.  
 \*\* Eliminated )

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Jan 29, 1979

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

Correction



MINIMUM RATE TARIFF 10

SECTION 1--RULES (Continued)	ITEM									
<p style="text-align: center;"><b>ACCESSORIAL SERVICES</b></p> <p>When carrier performs any accessorial or incidental service which is not authorized to be performed under rates named in this tariff, and for which a charge is not otherwise provided, additional charges shall be assessed as follows:</p> <table style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th></th> <th style="text-align: center;">Charges in Cents For First 30 Minutes or Fraction Thereof</th> <th style="text-align: center;">For Each Additional 15 Minutes or Fraction Thereof</th> </tr> </thead> <tbody> <tr> <td>(a) For Driver, Helper, or Other Employee per Man---</td> <td style="text-align: center;">655</td> <td style="text-align: center;">325</td> </tr> <tr> <td>(b) For Unit of Equipment-----</td> <td style="text-align: center;">150</td> <td style="text-align: center;">75</td> </tr> </tbody> </table> <p>The charge for unit of equipment shall apply whenever the accessorial or incidental service requires its use, or whenever the unit of equipment is inactivated by reason of its driver or helper being engaged in such service.</p>		Charges in Cents For First 30 Minutes or Fraction Thereof	For Each Additional 15 Minutes or Fraction Thereof	(a) For Driver, Helper, or Other Employee per Man---	655	325	(b) For Unit of Equipment-----	150	75	100
	Charges in Cents For First 30 Minutes or Fraction Thereof	For Each Additional 15 Minutes or Fraction Thereof								
(a) For Driver, Helper, or Other Employee per Man---	655	325								
(b) For Unit of Equipment-----	150	75								
<p style="text-align: center;"><b>DIVERTED SHIPMENTS</b></p> <p>Charges upon shipments diverted at request of consignor or consignee shall be assessed upon the basis of the charge established for the constructive mileage applicable via the point or points where diversion occurs, subject to Items 50 and 100.</p>	110									
<p style="text-align: center;"><b>SHIPMENTS TRANSPORTED IN MULTIPLE LOTS</b></p> <p>When a carrier is unable to pick up an entire shipment at one time, or when more than one vehicle, or connected train of vehicles, are used to pick up the entire shipment, the following provisions shall apply in addition to other applicable rules and regulations:</p> <ol style="list-style-type: none"> <li>1. The entire shipment shall be available to the carrier for immediate transportation at the time of the first pickup.</li> <li>2. A single shipping document for the entire shipment tendered shall be issued prior to or at the time of the first pickup.</li> <li>3. An additional shipping document shall be issued for each pickup and shall give reference to the single shipping document and shall be attached thereto and become a part thereof.</li> <li>4.             <ol style="list-style-type: none"> <li>a. If rated under the rates in this tariff, the entire shipment shall be picked up by the carrier within a period of two days computed from 12:01 a.m. of the date on which the initial pickup commences, excluding Saturdays, Sundays and legal holidays.</li> <li>b. <del>***</del></li> </ol> </li> </ol> <p>(1) 5. The separate pickups made in accordance with the foregoing provisions shall constitute a composite shipment which shall be subject to the rates named or provided for in this tariff.</p> <p>(1) Any property separately picked up without complying with the foregoing provisions shall constitute a separate shipment and shall be subject to the rates and rules applicable thereto.</p>	115									
<p>(1) Provisions transferred from Item 116 on Original Page 6-A.</p> <p>o Change )        o Increase ) Decision No. <b>89841</b>        ** Eliminated )</p>										
EFFECTIVE <b>Jan 29, 1979</b>										
ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.										

Correction

SECTION 1--RULES (Continued)	ITEM
(1) Provisions of Item 116 transferred to Item 115.	
EFFECTIVE <u>Jan 29 1979</u>	
Correction ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.	

SECTION 1--RULES (Continued)		ITEM
oItem Cancelled		o150
THIRD REVISED PAGE.....9-A CANCELS SECOND REVISED PAGE....9-A	oItem Cancelled	o160
FIRST REVISED PAGE....9-AA CANCELS ORIGINAL PAGE.....9-AA	oItem Cancelled	o161
o Change ) o Increase ) Decision No.		
<span style="font-size: 1.5em;">89841</span>		
EFFECTIVE <u>Jan 29, 1979</u>		
ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.		
Correction		

MINIMUM RATE TARIFF 10

SECTION 1--RULES (Concluded)	ITEM
<p>ACCESSORIAL SERVICES NOT INCLUDED IN COMMON CARRIER RATES</p> <p>oitem Cancelled</p>	<p>#170</p>
<p>ISSUANCE OF SHIPPING DOCUMENTS</p> <p>A shipping document (either in individual or manifest form) shall be issued by the carrier to the shipper for each shipment received for transportation. Except with respect to intercarrier transactions and as hereinafter provided, only one shipping document shall be issued for each shipment transported and the carrier shall not apportion, prorate, or otherwise divide the freight charges between or among the consignor, consignee(s), or any other parties. For accessorial service not included in the rate for actual transportation, the carrier shall furnish a shipping document to the consignor or consignee who requested or ordered such accessorial service. The shipping document shall show the following information:</p> <ul style="list-style-type: none"> <li>(a) Name of shipper.</li> <li>(b) Name of consignee.</li> <li>(c) Point of origin.</li> <li>(d) Point of destination.</li> <li>(e) Description of the shipment.</li> <li>(f) Weight of the shipment (or other factor or unit of measurement upon which charges are based).</li> <li>(g) Rate and charge assessed.</li> <li>(h) o**</li> </ul> <p>The form of shipping document in Section 3 will be suitable and proper.</p> <p>A copy of each shipping document, freight bill, accessorial service document, weighmaster's certificate, written instructions, written agreement, written request or any other written document which supports the rates and charges assessed and which the carrier is required to issue, receive or obtain by this tariff for any transportation or accessorial service shall be retained and preserved by the carrier, at a location within the State of California, subject to the Commission's inspection, for a period of not less than three years from the date of issue.</p>	<p>180</p>
<p>UNITS OF MEASUREMENT TO BE OBSERVED</p> <p>Rates or accessorial charges shall not be quoted or assessed by carriers based upon a unit of measurement different from that in which the minimum rates and charges in this tariff are stated.</p>	<p>190</p>
<p>ACCESSORIAL CHARGES NOT TO BE OFFSET BY TRANSPORTATION CHARGES</p> <p>Accessorial charges set forth in this tariff for accessorial services not included in the rate for actual transportation shall be assessed and collected whenever such services are performed, regardless of the level of the transportation rate assessed. Such accessorial charges may not be waived on the basis that a higher-than-minimum transportation rate serves as an offset.</p>	<p>195</p>
<p>o Change )          o Increase ) Decision No. <b>89841 Jn</b>          ** Eliminated )</p>	
<p>EFFECTIVE <b>Jan, 29, 1979</b></p>	
<p>ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA,          SAN FRANCISCO, CALIFORNIA.</p>	

Correction

SECTION NO. 3					
SYSTEM NO. 310					
FORM OF SHIPPING DOCUMENT					
SHIPPING ORDER AND FREIGHT BILL					
				Bill No. _____	
				Permit No. _____	
				Date _____, 19____	
Name of Carrier _____ <small>(Name of carrier must be same as shown on permit)</small>					
Point of Origin _____			Point of Destination _____		
Shipper _____			Consignee _____		
Street Address _____			Street Address _____		
City _____			City _____		
No. of Packages	Sacked or In Bulk	Description of Commodities	Weight	Rate	Charges
Shipper _____		**	C.O.D. C.O.D. Fee		
By _____ <small>(Show name in full)</small>					
Received by Carrier in good condition except as noted					
By _____		Advances			
<small>(Driver (Show name in full))</small>		Other Charges			
Received by Consignee in good condition except as noted		Prepaid			
By _____		Total to Collect			
<small>(Show name in full)</small>					
Show each charge separately and what it represents					
§ Change            ) ** Eliminated    ) Decision No.		89841			
THE END					
EFFECTIVE <span style="font-size: 1.5em;">Jan 29 1979</span>					
ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.					
Correction					