

Decision No. 91300 JAN 29 1980

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

Case No. 6008
Petition for Modification
No. 42
(Filed August 28, 1979)

William R. Haerle, Attorney at Law, for
California Trucking Association, petitioner.
M. J. Nicolaus, for Western Motor
Tariff Bureau, interested party.
John Lemke and Raymond Toohey, for
the Commission staff.

O P I N I O N

Minimum Rate Tariff 13 (MRT 13) contains minimum rates for the transportation of property in vacuum or pump tank truck equipment. The rates and charges in the tariff were last generally adjusted by Decision No. 89352 dated September 6, 1978 in Case No. 6008, Petition 38. Subsequent thereto, surcharge increases to offset increased fuel costs have been added to the tariff by supplements.

By this petition, the California Trucking Association (CTA) seeks increases in the rates and charges in MRT 13 to offset increased costs in labor, Workers' Compensation Insurance payments, and related payroll expenses. Public hearing in the matter was held before Administrative Law Judge Arthur M. Mooney in San Francisco on October 15, 1979, on which date the matter was submitted.

The State is divided into two separate areas in MRT 13 for rating purposes. Territory A consists of the counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Imperial. Territory B consists of the balance of the State. The rates and charges stated in the tariff for Territory A are higher than those for Territory B.

According to the evidence presented by both CTA and the Commission staff, the following increases in direct costs for providing vacuum or pump tank truck transportation became effective July 1, 1979: (1) pursuant to collective bargaining agreements, wages in Territory A were increased 80 cents per hour and certain fringe benefits were also increased; (2) although the employees of many carriers in Territory B do not work under union agreements, employees in this area also received increases in wages and certain fringe benefits, and the weighted average of the wage increases was 54.47 cents per hour; (3) Workers' Compensation Insurance payments by employers for Code 6206 employees, which includes vacuum truck service, increased from \$10.18, the rate the last time the tariff was adjusted, to \$10.36 per \$100; and (4) Social Security taxes paid by employers likewise increased as a result of the increased wages. With respect to Social Security, employers have been paying on the increased rate of 6.13 percent and base of \$22,900 since January 1, 1979.

CTA and the staff agree that the rates and charges in MRT 13 should be adjusted to reflect the aforementioned increases in costs. They disagree, however, as to the offset method to be used to accomplish this. CTA recommends the Wage Cost Offset (WCO) method, which increases indirect costs proportionately with increases in direct costs on the theory that indirect costs follow direct costs, and the staff recommends the Direct Wage Offset (DWO) method, which considers only the measurable changes in direct costs and gives no effect to possible changes that may have occurred in

indirect costs.^{1/} In support of its position, CTA presented exhibits showing increases that have been occurring in the prices of office equipment and supplies, office leasing and construction costs, utility rates, prime interest and Federal Reserve discount rates, and consumer and producer price indices of the Bureau of Labor Statistics of the U.S. Department of Labor. In this regard, the witness for CTA testified that: (1) these exhibits demonstrate that we are in a period of double-digit inflation and that indirect costs are rising rapidly; (2) the increases in indirect costs are eroding the carriers' financial positions, and they can no longer continue to absorb these increases; and (3) since the rates in MRT 13 are on an hourly basis, improvements in productivity by carriers are passed on to customers in the form of more work per hour and do not result in additional income and thereby offset increases in indirect expenses. The staff rate witness stated the following reasons for recommending the DWO procedure: (1) while indirect costs may have been subject to increases, there is no basis for adjusting these costs without a study on this issue; (2) the last full-scale cost and rate studies for this tariff were made quite a few years back, and for this reason, a credibility gap is created regarding the relationship between direct and indirect costs developed therein; and (3) carriers can negotiate rates and charges above those stated in the tariff to offset increases they may be experiencing with indirect expenses as evidenced by the Commission's scientifically programmed ongoing one percent revenue freight bill sample for MRT 13 which shows that some carriers are assessing from one to several dollars over the minimum hourly rates and charges.

^{1/} For a discussion of the WCO and DWO procedures and the rationale for them, see In Re MRT 2 (1969) 70 CPUC 277.

Following is a comparison of the average percentage increases proposed by CTA and by the staff in the accessorial charges and the hourly rates in Items 60 and 200, respectively, of MRT 13:

	<u>Proposed Average Increases (Percent)</u>			
	<u>Territory A</u>		<u>Territory B</u>	
	<u>CTA</u>	<u>Staff</u>	<u>CTA</u>	<u>Staff</u>
Accessorial Charges	10.05	7.75	8.62	6.79
Hourly Rates	7.28	5.67	5.92	4.80

The estimated additional yearly revenue for MRT 13 carriers generated by CTA's proposal would be approximately \$1.5 million and by the staff's proposal would be approximately \$1.2 million, a difference of approximately \$300,000.

The record clearly establishes that the increases in wages and related payroll expenses referred to above are being experienced by MRT 13 carriers and that these increases are not now reflected in the cost datum plane on which the rates in the tariff are based. For the past several years, it has been the Commission's policy to apply the DWO method, advocated by the staff, in adjusting rates and charges in offset proceedings involving changes in direct costs such as the labor increases herein. We are not persuaded by the evidence that such policy should be changed in this proceeding and the WCO method urged by CTA applied. We recognize CTA's concern regarding inflation and its effect on prices; however, there is not sufficient data in the record to make a determination with any degree of certainty as to the effect inflation is having on the overall indirect costs of carriers. The purpose of an offset proceeding is to adjust rates to reflect known changes in the datum plane cost components. We will adopt the increased rates proposed by the staff in its Exhibit 7.

The increases authorized herein comply with the guidelines of President Carter's Council on Wage and Price Stability.

In this connection, the Council has furnished the Commission with an opinion that the profit margin exception in the guidelines may be applied when increase petitions on an industry-wide basis are being considered. The increases herein would have no upward effect on the profit margin of respondent carriers and would come within this test.

With respect to our reregulation program for MRT 13, the implementation of Decision No. 90354 dated May 22, 1979 in Case No. 5436, Petition 244 et al., which sets forth this program, has been postponed. It was our intent, as stated in the decision, that the rates and charges in MRT 13 not be raised during the program transition period unless exceptional need were shown. Such a showing will not be required until the effective date of the reregulation program is certain. In the circumstances, there is no need to comment on the evidence which was presented regarding exceptional need.

Because the current fuel surcharge supplement to MRT 13 is subject to possible future revisions, the fuel surcharge will not be incorporated with the increases authorized herein into Items 60 and 200. The reissued tariff pages will, therefore, include only the increases in issue. Also, since these increases are already effective, the order which follows will be made effective on the date it is issued, and the revised tariff pages will be made effective five days thereafter.

Findings of Fact

1. MRT 13 was last generally adjusted by Decision No. 89352 to give recognition to labor, labor-related, and other direct cost increases. Also surcharge increases have been added to the tariff by supplements to subsequent decisions to reflect increases in the cost of fuel.

2. CTA and the staff have demonstrated that since MRT 13 was last generally adjusted, the for-hire carriers governed thereby have incurred increases in labor costs and allied payroll taxes and expenses.

3. The increased direct costs referred to in Finding 2 are not now reflected in the historical cost data underlying the level of rates named in MRT 13.

4. CTA seeks increases in MRT 13 based on the WCO procedure to reflect the increases referred to in Finding 2, and the staff recommends that the tariff be adjusted in accordance with the DWO method to give recognition to these increases.

5. While it is apparent we are in a period of rising costs, the precise, measurable effect this has had on indirect expenses of carriers performing transportation governed by MRT 13 has not been shown on this record. The DWO procedure, which reflects only the increases in the direct costs referred to in Finding 2, is the proper offset method to use in this proceeding.

6. The increased rates and charges recommended by the staff in its Exhibit 7 for MRT 13 are just, reasonable, and nondiscriminatory minimum rates for the transportation governed thereby, and the tariff should be amended accordingly.

7. The increases referred to in Finding 6 are within the guidelines of President Carter's Council on Wage and Price Stability.

8. The current fuel charge supplement to MRT 13 is not affected by the order which follows and remains in full force and effect.

Conclusions of Law

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

2. To the extent not granted by the order which follows, Petition 42 should be denied.

3. The increases in labor and labor-related costs in issue are now in effect. Accordingly, the order herein should be made effective on the date of signature and the increases to MRT 13 should be made effective five days thereafter.

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 five days after the date hereof, Twentieth Revised Page 7 and Eighteenth 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 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. 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 made effective five days after the date hereof, on not less than five days' notice to the Commission and to the public; such tariff publications as are authorized shall be

made effective not earlier than five days after the date hereof, on not less than five days' notice to the Commission and to the public, and this authority shall expire unless exercised within sixty days after the effective date of this order.

7. 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.

8. The current fuel surcharge supplement to Minimum Rate Tariff 13 is not affected by this order and shall remain in full force and effect.

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

10. To the extent not granted herein, Petition No. 42 in Case No. 6008 is denied.

11. 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 13.

The effective date of this order is the date hereof.

Dated JAN 29 1980 at San Francisco, California.

Commissioner Claire T. Dedrick, being necessarily absent, did not participate in the disposition of this proceeding.

John E. Boyer President
Richard L. [unclear]
Charles D. Howell
[unclear] Commissioners

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) \$21.75 or (2) \$18.95 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.</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>	660
<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.</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 139.</p>	75
<p>◊ Increase, Decision No. 91300</p>	
<p>EFFECTIVE Feb-3, 1980</p>	
<p>ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.</p>	

Correction

SECTION 2--HOURLY RATES				ITEM
Capacity of Equipment (In Barrels)		Rates in Dollars per Hour (See Note)		6200
More Than	but Not More Than	Territory "A"(1)	Territory "B"(2)	
0	35	\$29.00	\$23.15	
35	45	29.00	23.50	
45	60	31.10	25.35	
60	80	34.05	29.00	
80	95	34.35	29.05	
95		34.95	29.55	

(1) Territory "A" consists of the Counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego and Imperial.

(2) Territory "B" consists of all counties in California other than those included in Territory "A".

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.

Change)
 Increase) Decision No. **91300**

EFFECTIVE *Feb. 7, 1960*

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

Correction