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EX-2

MAY 22 1990

FILED

PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

MAY 22 1990

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation
for the purposes 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.

SAN FRANCISCO OFFICE
Case NO. 5437, OSH 344

ORIGINAL

And Related Matters.

Case 9819, OSH 123
Case 9820, OSH 37

**ORDER SETTING HEARING ON WHETHER
AND HOW MUCH RATES FOR DUMP TRUCK
CARRIERS SHOULD BE ADJUSTED BECAUSE OF
THE REQUIREMENTS IMPOSED BY ASSEMBLY BILL 3220**

BACKGROUND:

On September 28, 1988 Assembly Bill (AB) No. 3220 was approved by the Governor (Chapter 1486, Stats. 1988). It added Section 3617 to the Public Utilities Code and amended several sections of the Vehicle Code. Assembly Bill No. 3220 is attached. Essentially it imposes requirements on dump truck carriers hauling aggregate material to tarp or cover their loads beginning September 1, 1990 unless a study undertaken by the Commission with other key agencies determined that other measures have proven effective in reducing claims to insurance companies for damage to vehicles from aggregate spills. On March 28, 1990 the "The Tarp Bill Study" was issued. It concluded that other measures to significantly reduce damage claims due to aggregate spillage had not been effective; thus the tarping requirements of AB 3220 will remain and tarping of carriers' loads of aggregate will be required beginning September 1, 1990. Public Utilities

Code Section 3617 requires that dump truck carriers' rates be adjusted by September 1, 1990 and annually thereafter so that the net cost impact of the tarping requirements are reflected in rates simultaneously with the start of tarping. This Order Setting Hearing (OSH) is issued to gather evidence on the probable net cost impact of measures required by AB 3220 and to order the appropriate rate changes in the applicable Minimum Rate Tariffs (MRT) for dump truck carriers.

SCOPE OF INVESTIGATION AND PROCEDURE:

We must issue at least an interim opinion by September 1, 1990; our preference, however, if it is reasonably possible, is to make all needed changes to the applicable MRTs by then. Our Transportation Division has completed its assessment of the impact on carriers' rates, or the MRTs, and a summary of its proposal is being distributed in the same mailing as this OSH. Administrative Law Judge Wilson will hold a hearing for the purpose of: 1) determining whether any parties take exception to the staff's report; and to hear, 2) any other parties' evidence on the net cost impact of AB 3220 on the MRTs. We encourage parties to see if they can reach a consensus agreement on the net cost impact, and the hearing would be a forum to explore this.

Therefore, good cause appearing,

IT IS ORDERED that:

1. An Order Setting Hearing (OSH) on the Commission's own motion is issued for the purpose of determining whether MRTs for dump truck carriers need to be adjusted because of the requirements of AB 3220 which become effective on September 1, 1990, and, if so, what the net change should be.

2. A hearing on these OSHs will be held before Administrative Law Judge Wilson at 505 Van Ness Avenue, San Francisco, on June 25, 1990, at 10:00 a.m.

3. The Executive Director shall mail a copy of this OSH, to all appearances in these consolidated proceedings, and to all subscribers to the MRTs which could be affected.

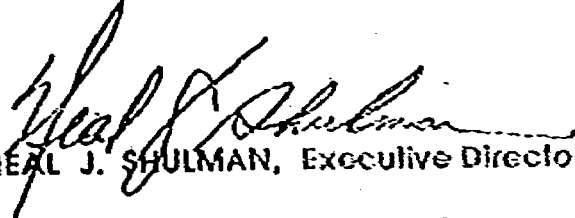
This order is effective today.

Dated MAY 22 1990, at San Francisco, California.

G. MITCHELL WILK
President
STANLEY W. HULETT
JOHN B. OHANIAN
PATRICIA M. ECKERT
Commissioners

Commissioner Frederick R. Duda,
being necessarily absent, did
not participate.

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


NEAL J. SHULMAN, Executive Director

JS

Assembly Bill No. 3220

CHAPTER 1486

An act to add Section 3617 to the Public Utilities Code, and to amend Sections 23113, 23114, and 23115 of, and to add Section 40000.16 to, the Vehicle Code, relating to vehicles.

[Approved by Governor September 23, 1988. Filed with Secretary of State September 23, 1988.]

LEGISLATIVE COUNSEL'S DIGEST

AB 3220, Katz. Vehicle loads: aggregate.

(1) Existing law requires any person who deposits, or causes or permits to be deposited, upon any highway any material likely to injure or cause damage to traffic using the highway, to remove the material from the highway, or be subject to a civil action for the cost of the removal and any other damages authorized by law.

This bill would include, among those materials, aggregate materials, as specified. The bill would authorize members of the Department of the California Highway Patrol to direct a responsible party to remove that material from a highway when it has escaped or been released from a vehicle.

(2) Existing law prohibits the movement of any vehicle on a highway unless it is constructed, covered, or loaded so as to prevent any of its contents, except water or feathers from live birds, from escaping. A violation of this provision is an infraction.

This bill would, in addition, prohibit a vehicle from transporting aggregate material, as defined, unless the material is carried in the cargo area and, on and after September 1, 1990, covered. Moreover, the cargo area may not generally contain any openings through which the material may escape. The bill would also require any vehicle used to transport that material, regardless of the degree to which the vehicle is loaded, to be equipped, as specified, to prevent spillage of the material. The bill would exempt from the cover requirements a load composed entirely of asphalt and, under specified conditions, a load composed entirely of petroleum coke material or of aggregate materials. The bill would make these requirements operative on September 1, 1990. The bill would make a violation of these requirements a misdemeanor, thereby imposing a state-mandated local program by creating a new crime.

(3) Existing law prohibits a vehicle transporting anything to a dump site for disposal from being driven or moved upon a highway unless the load is totally covered, as specified. Existing law exempts from that requirement highway maintenance vehicles operated by, or under contract with, any local authority or the state, which transport specified material to a dump site for disposal.

This bill would delete the exemption for these highway

maintenance vehicles, thereby imposing a state-mandated local program by making a violation of the covering requirement a new crime as to those vehicles previously exempted and by requiring local agencies to provide and use vehicle covers.

(4) The bill would require the Public Utilities Commission, prior to July 1, 1989, and annually thereafter, to review dump truck carrier rates in view of these load requirements.

(5) The bill would require the Public Utilities Commission to conduct a study funded by existing resources of the commission, relating to equipment requirements in the bill, as specified, and to report the results to specified committees of the Legislature on or before April 1, 1990. The bill would make legislative declarations relating to the study.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

The people of the State of California do enact as follows:

SECTION 1. Section 3617 is added to the Public Utilities Code, to read:

3617. The commission shall, on or before September 1, 1990, and annually thereafter, review the rates established or approved for dump truck carriers pursuant to Section 3662 and adjust those rates to fully reflect costs incurred or reduced by those carriers in compliance with the procedures, equipment, and actions mandated by Sections 23113 to 23115, inclusive, of the Vehicle Code.

SEC. 2. Section 23113 of the Vehicle Code is amended to read:

23113. (a) Any person who drops, dumps, deposits, places, or throws, or causes or permits to be dropped, dumped, deposited, placed, or thrown, upon any highway or street any material described in Section 23112 or in paragraph (4) of subdivision (b) of Section 23114 shall immediately remove the material or cause the material to be removed.

(b) If the person fails to comply with subdivision (a), the governmental agency responsible for the maintenance of the street or highway on which the material has been deposited may remove the material and collect, by civil action, if necessary, the actual cost of the removal operation in addition to any other damages authorized by law from the person made responsible under subdivision (a).

(c) A member of the Department of the California Highway Patrol may direct a responsible party to remove the aggregate material described in paragraph (4) of subdivision (b) of Section 23114 from a highway when that material has escaped or been

released from a vehicle.

SEC. 3. Section 23114 of the Vehicle Code is amended to read:

23114. (a) No vehicle shall be driven or moved on any highway unless the vehicle is so constructed, covered, or loaded as to prevent any of its contents or load other than clear water or feathers from live birds from dropping, sifting, leaking, blowing, spilling, or otherwise escaping from the vehicle.

(b) (1) Aggregate material shall only be carried in the cargo area of a vehicle. The cargo area shall not contain any holes, cracks, or openings through which that material may escape, regardless of the degree to which the vehicle is loaded, except as provided in paragraph (2).

(2) Every vehicle used to transport aggregate materials, regardless of the degree to which the vehicle is loaded, shall be equipped with all of the following:

(A) Properly functioning seals on any openings used to empty the load, including, but not limited to, bottom-dump release gates and tailgates.

(B) Splash flaps behind every tire, or set of tires, regardless of position on the truck, truck tractor, or trailer.

(C) Center flaps at a location to the rear of each bottom-dump release gate as to trucks or trailers equipped with bottom-dump release gates. The top of the center flap shall not be lower than the adjacent tire or set of tires, and the bottom of the center flap shall extend to within five inches of the pavement surface.

(D) Fenders which completely cover the tops of tires not already covered by the truck, truck tractor, or trailer body.

(E) Complete enclosures on all vertical sides of the cargo area, including, but not limited to, tailgates.

(F) Shed boards designed to prevent aggregate materials from being deposited on the vehicle body during top loading.

(c) (1) On and after September 1, 1990, in addition to subdivisions (a) and (b), no vehicle shall transport any aggregate material upon a highway unless the material is covered.

(2) Vehicles transporting loads composed entirely of asphalt material are exempt only from the provisions of this section requiring that loads be covered.

(3) Vehicles transporting loads composed entirely of petroleum coke material shall not be required to cover their loads if they are loaded using safety procedures, specialized equipment, and a chemical surfactant designed to prevent materials from blowing, spilling, or otherwise escaping from the vehicle.

(4) Vehicles transporting loads of aggregate materials shall not be required to cover their loads if the load, where it contacts the sides, front, and back of the cargo container area, remains six inches from the upper edge of the container area, and if the load does not extend, at its peak, above any part of the upper edge of the cargo container area.

(5) The requirements of this subdivision shall become operative on September 1, 1990.

(d) For purposes of this section, "aggregate material" means rock fragments, pebbles, sand, gravel, cobbles, crushed base, asphalt, and other similar materials.

SEC. 4. Section 23115 of the Vehicle Code is amended to read:

23115. (a) No vehicle loaded with garbage, swill, cans, bottles, wastepapers, ashes, refuse, trash, or rubbish, or any other noisome, nauseous, or offensive matter, or anything being transported to a dump site for disposal shall be driven or moved upon any highway unless the load is totally covered in a manner which will prevent the load or any part of the load from spilling or falling from the vehicle.

(b) This section does not prohibit a rubbish vehicle from being without cover while in the process of acquiring its load if no law, administrative regulation, or local ordinance requires that it be covered in those circumstances.

This section does not apply to any vehicle engaged in transporting wet waste fruit or vegetable matter, or waste products from a food processing establishment.

SEC. 5. Section 40000.16 is added to the Vehicle Code, to read:

40000.16. A violation of Section 23114, relating to preventing the escape of materials from vehicles, is a misdemeanor, and not an infraction.

SEC. 6. The Public Utilities Commission, in conjunction with the Department of the California Highway Patrol, the Department of Insurance, and the Department of Transportation, shall conduct a study to determine if the equipment requirements in subdivision (b) of Section 23114 of the Vehicle Code have been effective in reducing vehicle damage claims resulting from aggregate materials dropping, sifting, blowing, spilling, or otherwise escaping from vehicles carrying aggregate materials. The commission shall report the results of the study to the Chairpersons of the Assembly and Senate Transportation Committees on or before April 1, 1990.

It is the intent of the Legislature to repeal the requirements in Section 23114 that were added by the act enacting this section, which would otherwise require aggregate materials vehicles to be covered, if the study determines that there has been significant reduction in damage claims. It is also the intent of the Legislature that if there is a determination made that there has been a significant reduction in damage claims that the Department of the California Highway Patrol shall not enforce subdivision (c) of Section 23114 Vehicle Code until January 1, 1991.

The study required by this section shall be funded from the existing resources of the Public Utilities Commission.

SEC. 7. Section 4 shall become operative on September 1, 1990.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district

will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Moreover, pursuant to Section 17579 of the Government Code, the legislature finds that there is no mandate contained in this act which will result in costs incurred by a local agency or school district for any other new program or higher level of service which would require reimbursement pursuant to Section 6 of Article XIII B of the California Constitution and Part 7 (commencing with Section 17500) of Division 4 or Title 2 of the Government Code.

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ORIGINAL FILED
EX-3
PUBLIC UTILITIES COMMISSION

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

MAY 22 1990

Order instituting investigation of
PACIFIC POWER AND LIGHT COMPANY
electric rates and charges for
electric service.

SAN FRANCISCO OFFICE
O. I. 90 85 833

ORDER INSTITUTING INVESTIGATION

On January 26, 1990, Pacific Power and Light Company (PP&L) filed Application (A.) 90-01-055 requesting authority to decrease base rate revenues for electricity by \$1.625 million for test year 1991.

Without prejudging the issues which may arise in A.90-01-055, we institute this investigation so we have a procedural forum and vehicle to act fully on recommendations on revenue requirement, rates, practices and other aspects of PP&L's operations which may be beyond the confines of the relief requested in A.90-01-055. The opening of such investigatory proceedings, for consolidation with utilities' general rate applications, is customary. It is appropriate, in order to utilize fully the extensive general rate case review, to have such consolidated proceedings. The evidentiary record developed in A.90-01-055 and this consolidated OII, taken together, shall be the common record to support any findings or orders in connection with this investigation.

Accordingly, and on authority of Public Utilities Code Section 729, we will institute an investigation into the rates, charges and practices of Pacific Power and Light Company. This investigation will be consolidated with A.90-01-055 for hearing and decision.

Therefore, IT IS HEREBY ORDERED that:

1. Pursuant to Public Utilities Code Section 729, an investigation into the rates, charges and practices of the Pacific Power and Light Company is hereby instituted.
2. This investigation is consolidated with A.90-01-055 and the record in that proceeding will form the basis of the Commission's investigation.
3. A public hearing in this matter shall be held before an Administrative Law Judge of the Commission at a time and place to be determined, at which time and place all interested parties may appear and be heard.
4. The Executive Director is directed to cause a certified copy of this order to be served by certified mail on PP&L and to cause a certified copy of this order to be served by mail on each party of record in the PP&L's general rate case, A.90-01-055.

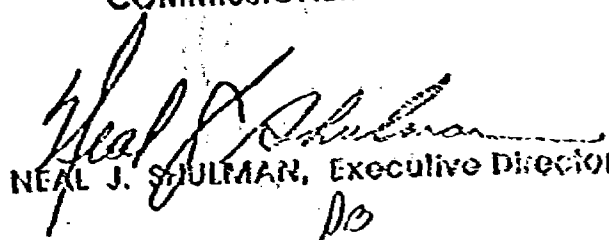
This order is effective today.

Dated MAY 22 1990 at San Francisco, California.

G. MITCHELL WILK
President
STANLEY W. HULETT
JOHN B. OHANIAN
PATRICIA M. ECKERT
Commissioners

Commissioner Frederick R. Duda,
being necessarily absent, did
not participate.

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


NEAL J. SOULMAN, Executive Director