

Decision No. 11886

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of
F. W. Gompf, Agent, in the name and on
behalf of all Carriers Parties to
Pacific Freight Tariff Bureau Exception
Sheet No. 1-H, C.R.C. No. 254, for Auth-
ority to Cancel Section B, Rule 105, shown
on Page 16 of the Tariff.

APPLICATION NO. 8347.

- E. W. Camp and J. E. Lyon, for Applicant
- F. P. Gregson, for Associated Jobbers of Los Angeles
- B. H. Carmichael, for Corrugated Culvert Company, and
Western Pipe & Steel Company.
- Seth Mann, for San Francisco Chamber of Commerce.
- Frank M. Hill, for Fresno Traffic Association.
- E. W. Hollingsworth, R. T. Boyd and Bishop & Bahler, for
Western Pipe & Steel Company; California Corrugated
Culvert Company; Pacific Coast Steel Company;
Columbia Steel Company; Gumm, Carle & Company, and
Steel Tank & Pipe Company.
- W. D. Wall, for Traffic Bureau San Jose Chamber of Commerce.
- W. C. Hubner, for Berger & Carter Company.
- G. J. Olsen, for Dunham, Carrigan & Hayden Company.
- G. J. Bradley, for Sacramento Merchants & Mfgs. Association.
- J. C. Sommers, for Stockton Chamber of Commerce.

BY THE COMMISSION:

O P I N I O N

This application was filed informally on September 27, 1922 under Section 63 of the Public Utilities Act, but because of objections on the part of shippers the Commission found it necessary to give the application formal consideration.

Public hearings were held before Examiner Geary in Los Angeles on January 17, 1923 and in San Francisco on January 19, 1923.

268

and the matter having been duly submitted is now ready for a decision.

It is proposed to cancel Section (b) of Rule 105, carried in Bureau Exception Sheet 1-H, C.R.C.254, and thereafter to permit Rule 29 of the current Western Classification to apply.

Rule 105, paragraph (b), provides:

"Freight charges on articles which are, or could be, loaded in a 36-ft. box or stock car, through the side door by the use of the end window thereof, will be assessed on basis of actual weight."

Rule 29 of the Western Classification, to be substituted for Rule 105 (b) of the Exception Sheet, provides in Section 3:

"Unless otherwise provided in separate description of articles, a shipment containing articles, of dimensions other than those specified in Section 3(b) of this rule, the dimensions of which do not permit loading through the center side doorway 6 feet wide by 7 feet 6 inches high, without the use of end door or window, in a closed car not more than 36 feet in length by 8 feet 6 inches wide and 8 feet high, shall be charged at actual weight and authorized rating, subject to a minimum charge of 4,000 lbs. at the first-class rate for the entire shipment."

"Unless a lower rate is otherwise provided, a shipment which contains an article exceeding 22 feet in length and not exceeding 12 inches in diameter or other dimension, see Section 3(a) of this Rule for the minimum charge where greater dimensions are involved, shall be charged at actual weight and authorized rating, subject to a minimum charge of 1,000 pounds at the first-class rate for the entire shipment."

If the application were granted, the result would be to assess a minimum charge based on 4000 pounds at the first-class rate against shipments which do not permit of loading through a center doorway 6 feet wide by 7 feet 6 inches high,

of a 36 foot car without the use of the end door or window, and to assess a minimum charge based on 1000 pounds at the first class rate for a shipment which contains articles exceeding 22 feet in length and not exceeding 12 inches in diameter, as against the present freight charges based on actual weight at the classification rate.

The adjustment of these rules has been the cause of many informal and several formal proceedings. A formal complaint, Case No. 823, was filed June 28, 1915, Schmeiser Manufacturing Company vs Southern Pacific Company, and Application No. 1835 was filed August 5, 1915 by the carriers. Both of these proceedings were dismissed without prejudice, due to the fact that the controversy was adjusted in California by the carriers publishing Rule 31-B, effective August 15, 1915 in Bureau Exception Sheet No. 1-D, C.R.C. No. 90, which rule was republished in different tariffs and finally became Rule 105-B.

Applicant introduced an exhibit reviewing the history of the rules, beginning with Western Classification No. 30, effective January 25, 1900. That exhibit showed that when bulky or long articles could be loaded into a box car by use of the end window or door thereof, the charges were assessed upon the basis of actual weight and the class rate until May 5, 1915, when the rule was amended by Supplement No. 8 to Western Classification No. 53. The rule, with some slight changes, is now Rule 29 of the Consolidated Freight Classification.

There was much testimony as to the manner of handling the bulky and long articles and, without doubt, in many instances additional expense is incurred in placing the shipments in the car, for it is necessary to lift the long articles in order to pass them through the end window or door and, frequently, the very long

articles make necessary the switching or moving of the cars at house platforms. Some of these articles must be loaded into the car in advance of other consignments because their weight makes it impossible to transport them on top of other freight without damage, and oftentimes they extend partly or completely across the side entrance of the car, necessitating the lifting of other freight through the car. Also, there is difficulty in unloading at destination, causing delay and additional expense.

Applicant's Exhibit No. 1 is a statement showing the equipment of the Atchison, Topeka & Santa Fe Railway, Southern Pacific Company, Western Pacific, Northwestern Pacific, Pacific Electric, San Diego & Arizona, Gulf, Colorado & Santa Fe and the Union Pacific.

Without going into the details of this elaborate exhibit, it is sufficient to call attention to the fact that the Atchison, Topeka & Santa Fe has 24401 box cars under 40 feet in length. Of these, 24211, or practically 99 per cent, are equipped with end doors or windows. The Southern Pacific Company has only a few box cars under 40 feet in length, all of which are equipped with end doors or windows; it also has 14577 box cars over 40 feet in length, and 100 per cent of these cars are equipped with end doors or windows. Of the box cars 40 feet and over in length owned by the other carriers, 94 per cent of the Western Pacific and 100 per cent of the Northwestern Pacific, Pacific Electric and Union Pacific are equipped with end doors or windows.

It would thus appear that in this Western territory there is a preponderance of cars having either end windows or end doors which can be used in the loading of the kind of freight covered by this application.

The application was protested by a number of interested shippers and the testimony of their witnesses indicated that within the State of California there is a constant and large movement of articles which, under the application of Rule 105 of the Exception Sheet, are now being transported in box cars with charges based on the actual weight and classification rate.

An exhibit was presented at Los Angeles on behalf of the shippers in Southern California illustrative of the effect the proposed change would have in the charges against bar iron susceptible of being loaded into a 36 foot box car by use of the end door or window. That exhibit showed that a bar of iron weighing 100 pounds loaded in a box car moved from Los Angeles to Victorville in the year 1916 carried a charge of 36 cents. At the present time the charge is 51 cents, and if forwarded under the proposed basis the charge would be \$7.90, an increase of \$7.39, and comparing the 4th class freight rate of 26 cents in effect in the year 1916 with the 4th class rate of 51 cents in effect today we have an increase equal to 42 per cent, but if the charges were computed upon the proposed basis the same would amount to \$7.90, or an increase of 2094 per cent.

Another illustration is in a movement of a like shipment from Los Angeles to Santa Barbara. In 1916 the charge was 26 cents, in 1923 the charge was 36½ cents, an increase of 40 per cent. If the proposed basis were established the charge would be \$6.50, or comparing 1916 with 1923, an increase of 2400 per cent. Illustrations of this character could be multiplied, but all would show practically the same result.

At the San Francisco hearing similar testimony was presented, and it will only be necessary to refer to the one situation, covering the charges on iron culvert pipe moving from San Francisco

to Dunsmuir, in box cars. Reference was made to a particular shipment weighing 325 pounds, the charges thereon being \$3.50 when forwarded in a box car. Under the proposed rule the charge would be \$46.80 or a penalty, by reason of the article being long and bulky, of \$43.30. If a like shipment were forwarded from Redding to Dunsmuir the penalty charge would be but \$17.67.

The applicant's position is that the expense is greater in loading large and bulky articles into box cars than is sustained when the same tonnage consists of ordinary sized packages, but the illustration set forth above destroys the equity of the rule; for it costs no more to load culvert pipe into a car at San Francisco and unload it at Dunsmuir than to load the same culvert pipe into a car at Redding for unloading at Dunsmuir, but as to the San Francisco shipment there would be a penalty charge for loading of \$43.30, while at Redding the penalty charge would amount to only \$17.67.

This clearly illustrates the inequity of the proposed rule, for thereunder the farther the shipment is hauled and the higher the rate the higher the penalty charge, notwithstanding the fact that the expense to the carrier in loading the long or bulky article at a given shipping station is exactly the same whether the shipment moves 1 mile or 1000 miles.

Reference might also be made to the fact that in many instances the large and bulky articles are loaded by the shippers and unloaded by the consignees. This is particularly true where the handling is at small stations having a limited number of warehouse employees and, without doubt, if the application were granted carriers would continue to transport long and bulky consignments in box cars, a perfectly proper procedure for the conservation of equipment.

We fully appreciate the fact that there is additional

expense to carriers in loading and unloading packages of unusual size, but the testimony in this proceeding does not justify the granting of the application.

The plea for cancellation of Rule 105 is primarily for the purpose of putting into effect the same regulation and charges as are now applied in connection with long and bulky articles moved in interstate traffic.

This Commission looks with favor upon uniformity, especially in rules and regulations, and in the past has not hesitated to authorize changes to conform with the regulations applying to interstate traffic or to those within adjoining States, but in this particular proceeding we cannot agree that the rule now in effect works any particular hardship on the carriers, but we do conclude that the changes proposed would redound to the great injury of California shippers.

The application should be denied without prejudice.

O R D E R

F. W. Gomph, Agent for Pacific Freight Tariff Bureau acting for carriers parties to Pacific Freight Tariff Bureau, having requested authority to cancel Section (b) of Rule 105, shown on page 16 of Bureau Exception Sheet No. 1-H. C.R.C.No.254, covering the charges to be assessed for bulky and long articles of freight, hearings having been held, testimony in favor of the application

and of protesting shippers having been heard, the matters and things connected with the application having been carefully considered, the Commission having found that the carriers have not justified the application and that the same should be denied.

IT IS HEREBY ORDERED that the said application be and the same is hereby denied without prejudice.

Dated at San Francisco, California, this 4th day of April, 1923.

C. Seavey
H. P. Randall
Dwight Matthews
Eugene D. Shaw
J. Whittier
Commissioners.