

Decision No. 23091.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 F. W. GOMPH, AGENT, for authority)
 to make tariff publications affect-)
 ing existing rules governing the)
 minimum charge for long and bulky)
 articles.)

ORIGINAL

Application No. 16285.

- R. C. Fyfe, E. E. Bennett, Gerald E. Duffy, R. E. Wedekind, L. N. Bradshaw and A. B. Mason for the applicant and for the California Lines members of the Pacific Freight Tariff Bureau.
- B. E. Carmichael and F. W. Turcotte, for the Lacy Manufacturing Company, the Union Tank and Pipe Company, and the Carmichael Traffic Corporation, protestants.
- Seth Mann and Hal M. Remington, for the San Francisco Chamber of Commerce, protestant.
- H. R. Brashear, for the Los Angeles Chamber of Commerce, protestant.
- R. P. McCarthy, for J. E. Baxter Company.
- W. J. Stone, for Sacramento Wholesalers and Manufacturers Association.
- E. W. Hollingsworth, R. T. Boyd and Bishop & Bahler, for Western Pipe and Steel Company, California Corrugated Culvert Company, Montague Pipe & Steel Company, Soule Steel Company, Dunn-Carle Company, W. S. Wetenhall & Company, Enterprise Foundry Company and Moore Drydock Company.
- T. E. Banning, for United States Steel Products Company, Columbia Department.
- W. C. Eubner, for A. M. Castle Company, Dunham-Carrigan & Hayden and Baker, Hamilton & Pacific Company.
- T. J. Olson, for Dunham, Carrigan & Hayden.
- E. K. Donelson, for Pioneer Rubber Mills.

BY THE COMMISSION:

O P I N I O N

This is an application filed by F. W. Gomph, as Agent for, and on behalf of, the California intrastate carriers parties to Western Classification No. 60, C.R.C. No. 412, and Pacific Freight Tariff Bureau Exception Sheet No. 1-N, C.R.C. 448, for authority under Section 63(a) of the Public Utilities Act to cancel Rule 1 of Supplement No. I to Western Classification No.

60, and Rule 60 of Pacific Freight Tariff Bureau Exception Sheet No. 1-N. The cancellation of these two rules will permit Rule 29 of Western Classification No. 60 to apply in lieu thereof, creating both increases and reductions in the charges.

Public hearings were held before Examiner Geary at Los Angeles and San Francisco and the matter duly submitted.

The rules sought to be abolished relate to the minimum charges for the transportation of long or bulky articles, particularly with respect to articles exceeding 22 feet but not exceeding 36 feet in length and not exceeding 12 inches in diameter, and to bulky articles 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.

The discontinuance of Rule 1 (now applying within California only) will establish by Section 3(b) of the proposed Rule 29 a minimum charge based on 1000 pounds at the first-class rate for articles exceeding 22 feet in length but not exceeding 12 inches in diameter and not exceeding 36 feet in length. This charge will also apply on articles exceeding 36 feet in length if they can be bent in such a manner as to permit of their loading into a 36-foot car. Under Rule 1 now in effect the minimum charge is not restricted to articles loaded in 36-foot cars (In the Matter of the Suspension of Rule 85-A, 30 C.R.C. 372).

Rule 60 of the Exception Sheet now provides for actual weight on articles which are or could be loaded in a 36-foot box or stock car by use of the side door or through the end window thereof. Rule No. 60 also provides a minimum weight of 5000 pounds at the first-class rate for shipments loaded on open

cars, for each car used. The result of the cancellation of Rule 60 will be to abolish the actual weight privilege when long and bulky shipments can be loaded into 36-foot closed cars and to establish in lieu thereof charges on the basis of minima of 1000 pounds or 4000 pounds at the first class rate depending upon the size of the article. Articles which are loaded on open cars will have the minimum charge decreased from 5000 to 4000 pounds at the first-class rate where only a single car is used, and increased from 5000 to 7500 pounds at the first class rate for each car where more than one car is used.

Applicants contend it is not their purpose to effect any material increase in revenue by the proposed changes but they do desire to place in effect adequate and uniform charges to compensate for the transportation of shipments which because of their length or bulk are difficult and expensive to handle. The proposed changes, however, will as explained by protestants' testimony and their exhibits result in some substantial increases on California intrastate traffic. As illustrative of the adjustment it is shown by Exhibit No. 9 that under the present rules the charges for the transportation of a 4-inch iron I beam 40 feet long weighing 308 pounds from San Francisco to Santa Rosa is \$3.55. Under the proposed rule this charge would be increased to \$14.20. Other increases of the same nature would also occur if the application were granted.

While it is apparent from the record that applicants incur an expense in handling long and bulky articles greater than that incurred in handling ordinary freight, they made no attempt to show with a reasonable degree of certainty that the increased charges would be reasonable for the service performed. The application is based more on a desire to make Rule 29, now in effect on interstate traffic and intrastate traffic in other states,

uniform for all traffic. However desirable uniformity may be, we cannot approve a rule resulting in abnormal increases simply to attain this end. Under Section 63(a) of the Public Utilities Act the burden of justifying the increases is placed upon applicants. They have failed to sustain the burden. The application will be denied.

O R D E R

This application having been duly heard and submitted, full investigation of the matters and things involved having been had, and basing the order on the findings of fact and the conclusions contained in the opinion which precedes this order,

IT IS HEREBY ORDERED that the above application be and it is hereby dismissed.

Dated at San Francisco, California, this 18th day of November, 1930.

C. L. Seaman

Leon W. Kelly

Thos. J. Curtis

H. J. Carr
Commissioners.