

Decision No. ~~238~~ 238

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In the Matter of the Application of
 the Pacific Freight Tariff Bureau, F.
 W. Gomph, Agent, dated July 22, 1912,
 wherein request is made to make the
 minimum charge for any single less
 carload shipment of explosives, as
 described under that head in current
 Western Classification and current
 Exception Sheet, double first-class
 rate for 100 lbs., but not less than
 \$1.00.

Application No. 205.Appearances.

Geo. D. Squires, appearing in behalf of
 Southern Pacific Company;
 H. G. Toml, appearing in behalf of
 Southern Pacific Company;
 G. L. Goin, appearing in behalf of
 Atchison, Topeka & Santa Fe Railway Company;
 F. W. Gomph, appearing for Pacific Freight
 Tariff Bureau;
 R. E. Rennie, Sales Manager, Giant Powder
 Company;
 W. A. Simonton, Asst. Traffic Manager, Du
 Pont Powder Company;
 W. H. Shilling, Giant Powder Company.

LOVELAND, Commissioner.

O P I N I O N.

This is an application by the members of Pacific Freight
 Tariff Bureau through their agent, F. W. Gomph, to make the minimum
 charge for any single less carload shipment on explosives as de-
 scribed under that head in current Western Classification and cur-
 rent Exception Sheet, double first class rate for 100 lbs., but not
 less than \$1.00. The rate at present is double first class on actual
 weight with minimum of 25¢. The application to change it to double
 first class rate for 100 lbs. with minimum of \$1.00 is based upon
 the following facts as set forth in the testimony of Geo. W. Inge
 of the Southern Pacific Company, testifying for applicant. Since
 the promulgation of regulations by the Interstate Commerce Commis-
 sion, which took effect several years ago, carriers throughout the
 country have been making every effort to handle shipments of ex-
 plosives in a safe manner to conform to the Interstate Commerce

Decision No. 238

Commission's regulations. To do that they have to select the very best cars possible, usually of large capacity and to especially prepare them by making repairs, stopping up all cracks at the doors and in any other part of the car by nailing 1x2 or 1x5 strips of board all around the inside of the door and over all cracks in the car to keep out sparks, seeing that no nails are projecting anywhere into the car, in addition to which each shipment has to be segregated from other shipments and stayed or braced with heavy pieces of timber so that each shipment will remain stationary on the floor of the car.

Many other kinds of merchandise such as oils, acids and chemicals cannot be loaded in cars with explosives so that witness claimed that practically explosives had to be transported exclusively in cars to themselves. Shipments from manufacturers of explosives are confined to one day in the week at which time at present six carloads are sent out, two moving to Oakland, two to Sacramento and two to Stockton. In addition to these cars which are moved from Hercules and Giant on San Francisco Bay, one moves each week from Powder Works and occasionally one from the Trojan Powder Works and from the Clipper Gap Works; also from the large distributing magazine at Los Angeles. Two cars move each week to Los Angeles and are there transferred into 15 or 20 other cars for shipment to final destination. At these points to which explosives move in carloads they are distributed to other cars, it usually requiring 30 to 40 cars for the movements from San Francisco, and 15 to 20 from Los Angeles, so that shipments may reach their destination. At such points where carload shipments from manufacturers are distributed into other cars in L.C.L. shipments, each L.C.L. shipment has to be stayed or braced as above set forth.

The witness testified that the average tonnage per week is about 36 tons from all the factories around San Francisco and that the total revenue was about \$565., the cars making an aggregate of about 5,000 miles before such shipments reached their final

destination. It was the opinion of the witness that the change asked for in the application would not result in an increase of revenue to the road with which he was connected, but he believed that the granting of the application would result in a reduction of the small shipments in a few months from 15% to 20%, thereby reducing the risk of explosion and other dangers attending this transportation. Witness testified that it was a well known fact that the expense of handling L.C.L. shipments of explosives is many times greater than the revenue which the railroads derive from it. I regard this as important for reasons which will appear later in this opinion.

Under cross-examination by Mr. Rennie of the Giant Powder Company and by Mr. Simonton of the Du Pont Powder Company, it was developed that while oils, acids and chemicals could not be shipped in a car with L.C.L. shipments of explosives, certain other kinds of merchandise such as dry goods, boots, shoes, etc., could be, and it was also brought out that on shipments from factories such staying and bracing as was necessary to comply with the Law was done by the shippers.

Attorney for applicant called especial attention to pamphlet No. 6 of the Bureau of Explosives, which contains a detailed description of how cars should be prepared to move explosives, and stated that said pamphlet was filed with the application. He also filed the Rules and Regulations of the Canadian Pacific Railway covering the transportation of explosives, gun powder, etc. as an exhibit in the case, reading from same to show that the minimum charge for the transportation of single or small shipments for high explosives on that road was \$5.00.

In opposition to the application, Mr. Rennie asked permission to introduce several communications received from dealers in explosives in less than carload lots, and also from many carload buyers, giving their opinion as to the effect that the granting of this application would have on their business.

With reference to the Canadian Pacific Railway Tariff, Mr.

Rennie explained that the government of British Columbia makes special provisions for the placing of explosives in the hands of the farming community so as to obtain the benefit of the carload prices on explosives from the manufacturers and in turn give the consumer the benefit of the carload ^{cost} plus actual carload freight, so that the minimum mentioned while appearing in the tariff is practically not operative.

Mr. A. W. Eibeshutz, who is the proprietor of a store in Inyo County, testified in opposition to the granting of the application, stating that it would injure his business by inducing the small buyer to purchase in larger quantities direct from the manufacturer.

After a careful consideration of the testimony and of all of its circumstances attending this application, I am convinced that this Commission cannot consent to certain features of the application. In the multitudinous rates which railroads have to make to transact their business, it is not to be expected that each particular movement considered apart by itself will yield something over the cost of carriage.

This Commission has frequently been asked by the carriers for permission to make rates which considered alone were not compensatory for the reason that the putting in of such rates would result in future movement of tonnage for the carrier. To permit carriers to make a rate of double first class on 100 lbs. of explosives with minimum of \$1.00 would I believe in many instances result in the rate being absolutely prohibitory. The following examples will illustrate this:

The first-class rate from Giant and Hercules to Tonopah is \$2.50; Double first-class would be \$5.00 which would be what any shipper would have to pay on any quantity less than 100 pounds if this application were granted. From Giant and Hercules to Chilcoot, double first-class would be \$2.10; to Altares \$3.14; to McCloud

\$2.54; Dutch Flat \$1.36; Florissant \$1.94; Montague \$2.54; Hornbrook \$2.66; Owenyo \$4.00. On shipments from Los Angeles, double first-class would be as follows: To Daggett \$1.72; to Kelso \$2.76; to Leastalk \$3.00; to Nipton \$3.04. On the other hand it is clear to my mind that the minimum of 25¢ on actual weight is too low and in many cases does not pay the cost of preparing the car, and staying, bracing and handling the shipments.

It was testified that this tariff with a 25¢ minimum on actual weight had been in existence probably 20 years. While it has been held by the Interstate Commerce Commission that the long continuance of a rate does not offer an insuperable objection to advancing it when such advance is clearly justifiable, nevertheless the fact that the carriers have had this rate for that length of time without asking to change it is worthy of consideration. Explosives are used by miners and by farmers and such use in a majority of cases probably produces other movement of tonnage for carriers, which fact may possibly account for the long continuance of the present tariff and minimum.

Under all the circumstances of the case I have arrived at this definite conclusion.

1. That we cannot permit the rate to be double first-class on a minimum of 100 lbs.
2. That the minimum of 25¢ on actual weight is too low, and I therefore recommend that the Pacific Freight Tariff Bureau be given permission to publish for the members of that Bureau a tariff governing the movement of explosives based on double first-class on actual weight with a minimum of 50¢ to each carrier participating in the movement, and that the following Order issue.

O R D E R .

WHEREAS, the Pacific Freight Tariff Bureau through its agent, F. W. Gomph, has made request for its subscribers that the

minimum charge for any single less carload shipment of explosives as described under that head in Current Western Classification and Current Exception Sheet, double first-class rate for 100 pounds but not less than \$1.00.

AND WHEREAS, after a careful investigation of all the circumstances at the hearing of this case it appears to the Commission that the rate which applicant asks permission to make on explosives would be unreasonable and prohibitory,

AND WHEREAS, on the other hand it appears that considering the expense of preparing cars to move shipments of explosives and the danger attending such movement, that the present minimum of 25¢ with double first-class rate is too small.

IT IS HEREBY ORDERED, that applicant be granted permission to publish and put into effect for the members of the Pacific Freight Tariff Bureau, a tariff governing movement of explosives as defined in Current Western Classification and Current Exception Sheet of double first-class with minimum of 50¢ for each carrier participating in the haul.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission.

Dated at San Francisco, California, this 25th day of September, 1912.

John M. Eschleman
H. W. Loveland
W. Gordon
Max Thelen
Edwin C. Edgerton
Commissioners.