

Decision No. 642

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of)
 carriers parties to Pacific Freight Tariff)
 Bureau Exception Sheet L-C, C.R.C. No.70,)
 of F. W. Gomph, Agent, for permission to) Application No. 291
 alter classification, so as to increase)
 rates and charges.)

- A. P. Matthew, for the Western Pacific, the Southern Pacific, and the Santa Fe Companies
- P. P. Hastings, for the Pacific Freight Tariff Bureau
- H. G. Toll, for the Southern Pacific Company
- Archibald Gray, for the Western Pacific Railway Company
- G. D. Squires, for the Southern Pacific Company
- William R. Wheeler and Seth Mann, for the Traffic Bureau of the Chamber of Commerce of San Francisco
- Warren Gregory, for the American Can Company
- Henry P. Dimond, for the Cannery
- F. M. Hill, for the Fresno Traffic Association.

O P I N I O N

LOVELAND, Commissioner.

This is an application by the carriers parties to Pacific Freight Tariff Bureau Exception Sheet No.1-C, C.R.C. No.70, to the Western Classification, to make changes in classification on various articles which changes, if permitted, will result in the increase of rates for the transportation of such commodities.

The Commission required the carriers to print the present classification requirements and the proposed changes, together with such reasons as are calculated to justify the proposed changes.

We will consider the items which it is proposed to change in the order in which they appear in the Exception Sheet.

Item No. 1 - Agricultural Implements:- It is proposed to increase the minimum weight on agricultural implements from 20,000 to 24,000 pounds, which latter minimum weight is that prescribed by the Western Classification.

The Commission has received some protest with reference to Harvesters but we do not understand that the carriers contemplate any change in the minimum weight on Harvesters which is published in Item #3 of the Exception Sheet. Interested shippers present at the hearing expressed a willingness to have the minimum weight on agricultural implements increased from 20,000 to 24,000 pounds.

We believe that it is to the interest of shipper and farmer alike to have equipment loaded to its full efficiency, and in view of the fact that shippers offer no objections and on the contrary acquiesce in the change, the proposed change will be approved.

Item No. 27 - Cans, Tin, Carloads:- The present item carries minimum weights for various sized cars, as outlined below, at Class "C" rating:

	<u>Capacity</u>	
	<u>Less than 5 Gallons</u>	<u>5 Gallons and over</u>
Cars of 28 ft. or less in length, inside dimensions.....	10,000 lbs.	8,500 lbs.
Cars over 28 ft. but not over 34 ft. in length, inside dimensions.....	13,500 "	11,000 "
Cars over 34 ft. but not over 40 ft. in length, inside dimensions.....	15,500 "	11,500 "
Cars over 40 ft. but not over 45 ft. in length, inside dimensions.....	-----	12,250 "
Cars over 45 ft. but not over 50 ft. in length, inside dimensions.....	-----	13,000 "

Minimum charge of \$5.00 per car, except when Class Rate governed by the Current Western Classification makes less, in which case the Current Western Classification governs.

It is proposed to cancel this item and allow the straight Western Classification rating to apply, which is 4th Class, minimum carload weight 14,000 pounds, subject to Rule 6-B. This rule provides a scale of minimum weights, according to the size of the car used, and in case of tin cans will be as follows:

Cars of 33 ft.6 in. and under in length, inside dimensions.....	12,740 lbs.
Cars over 33 ft.6 in. to and including 34 ft. 6 in. in length, inside dimensions.....	13,160 "
Cars over 34 ft.6 in. to and including 35 ft. 6 in. in length, inside dimensions.....	13,580 "
Cars over 35 ft.6 in. to and including 36 ft. 6 in. in length, inside dimensions.....	14,000 "
Cars over 36 ft.6 in. to and including 37 ft. 6 in. in length, inside dimensions.....	14,420 "
Cars over 37 ft.6 in. to and including 38 ft. 6 in. in length, inside dimensions.....	14,840 "
Cars over 38 ft.6 in. to and including 39 ft. 6 in. in length, inside dimensions.....	15,260 "
Cars over 39 ft.6 in. to and including 40 ft. 6 in. in length, inside dimensions.....	15,680 "
Cars over 40 ft.6 in. to and including 41 ft. 6 in. in length, inside dimensions.....	16,100 "
Cars over 41 ft.6 in. to and including 42 ft. 6 in. in length, inside dimensions.....	16,520 "
Cars over 42 ft.6 in. to and including 43 ft. 6 in. in length, inside dimensions.....	16,940 "
Cars over 43 ft.6 in. to and including 44 ft. 6 in. in length, inside dimensions.....	17,360 "
Cars over 44 ft.6 in. to and including 45 ft. 6 in. in length, inside dimensions.....	17,780 "
Cars over 45 ft.6 in. to and including 46 ft. 6 in. in length, inside dimensions.....	18,200 "
Cars over 46 ft.6 in. to and including 47 ft. 6 in. in length, inside dimensions.....	18,620 "
Cars over 47 ft.6 in. to and including 48 ft. 6 in. in length, inside dimensions.....	19,040 "
Cars over 48 ft.6 in. to and including 49 ft. 6 in. in length, inside dimensions.....	19,460 "
Cars over 49 ft.6 in. to and including 50 ft. 6 in. in length, inside dimensions.....	19,880 "

The canning industries protested vigorously against the changes proposed by the carriers in the item above referred to. We called on the carriers for detailed statements of all shipments of cans which moved during years 1911-12, and while it is impossible to determine accurately the amount of revenue involved in the proposed changes we believe it safe to assume that if the changes requested are permitted to become effective it will result in increased revenue to the carriers amounting to at least \$25,000.00 per annum.

Carriers seek to justify the increased rate on grounds that the present rates are non-compensatory; that the traffic is not bearing its just share of the burden of operation. The canners, however, point out that these rates while in many cases appearing to be low cover movements upon which the carriers subsequently received another movement and that the cans shipped to the canneries are immediately filled with fruit and reshipped to

other destinations, thereby providing the carriers the additional rates provided for canned goods of various kinds.

Unquestionably in many instances the carriers receive an inadequate revenue for the transportation of cans, particularly to nearby points or to points where the class rates have been borne down by water competition. For instance, we find many cars moving to Stockton for approximately \$9.00 per car; to Oleum \$5.00 per car; to Sunnyvale, Santa Clara and San Jose for \$7.75 per car; to Richmond for \$5.00 per car; to Sacramento for \$12.65 per car. The rates to a number of other points might be mentioned but we believe the above sufficiently illustrates our point; and we further believe that no fair minded man will contend that all of the rates we have mentioned yield the carriers a fair return for the service they perform. At the same time we notice movements to other points where the revenue accruing to the carriers under the present rates appears to be adequate. For example, - we note a large number of cars moved from San Francisco to Gonzales, a distance of 135 miles, at a rate of \$4.60 per ton; the average revenue per car being slightly over \$50.00. We believe in this case the revenue per ton per car mile is, to say the least, adequate, and the carriers have not justified any increase in this instance.

A review of the records of various commodities handled by the carriers indicates that on but eight out of thirty commodities did the Southern Pacific Company receive as great revenue per car for handling freight distances 100 to 150 miles as it did on shipments of cans San Francisco to Gonzales, and in these eight instances where the revenue was approximately the same or greater than that derived from the cans the cars were loaded two and three times as heavy.

We cite these facts to substantiate our belief that in many cases the carriers receive adequate revenue for the transportation of cans under present rates.

It is apparent that the application with reference to tin cans cannot be disposed of by the application of any particular classification rating. In some instances we are frank to concede the revenue derived from the present classification rating is too low and in some cases it would appear to be the reverse; and while we will deny the application of the carriers to publish changes in line with their application we will entertain an application to publish specific commodity rates and will invite all interested shippers to participate in a discussion, which we hope will tend to the establishment of just and reasonable rates on shipments of cans which we feel is not possible by the application of any general provision of the classification.

Item 38 - Coke, carloads:- It is proposed to increase the minimum weight from 30,000 to 40,000 pounds.

As before stated, we believe it to the interest of all concerned to load cars as heavily as possible; and this feature of the application will be granted.

Item 46 - Ferris Wheel Outfits:- It is proposed to eliminate the note which reads as follows: "On intra-state traffic within California the aggregate charge should not exceed that which would accrue by use of 3rd Class rate at actual weight, observing carload minimum weight of 16,000 pounds". At present ferris wheel outfits move under Class "B", minimum weight 20,000 lbs., in connection with the provision previously quoted, and the elimination of the note will have little or no effect on the rates to be paid by shippers; consequently the application will be granted.

Item 52 - Forms, Tools and Material for Constructing Concrete Pipe:- It is proposed to eliminate that portion of this item which provides for one-half of 5th Class on these articles when returned to original shipping point, via the same route as the original outbound movement. No objection was made

to this change and the carriers state that little or no business is moving under this provision.

Under all the circumstances we believe the application should be granted.

Item 53 - Fresh Fruit and Vegetables:- It is proposed to increase the minimum weight on these commodities from 24,000 to 26,000 pounds and the carriers in justification of the proposed change assert that these commodities are handled at very low class rates and can be readily loaded to minimum of 26,000 lbs.

The carriers in their application call attention to the fact that the minimum weight on interstate traffic is 26,000 pounds and state that there is no commercial reason why a lower minimum should apply on intra-state traffic.

The Commission does not concede that all of the class rates in the State are reasonable, nor do we see what bearing the minimum weight of 26,000 pounds on interstate shipments has on this application. Shipments destined to interstate points move in refrigerator cars and are loaded at packing houses where it is always possible to load this amount in a car. Shipments moving locally within the State are consigned principally to canneries and are loaded at depots and non-agency stations. When a farmer has a contract with a cannery to ship a certain tonnage of fruit it is to his interest to get it loaded and started to the cannery as soon as possible. Weather conditions enter into the situation very materially, and in the early and latter part of the shipping season it is not always possible for a farmer to load even 24,000 pounds. The records furnished by the carriers demonstrate very clearly that the great majority of cars are loaded far in excess of 24,000 pounds, or even 26,000 pounds which the carriers now suggest as a minimum weight.

I am satisfied that the only reason a farmer does not ship more than 24,000 pounds at any one time in a car is because the fruit is not ready. In warm weather the fruit grower must

got his car under way to the cannery without delay and when train time arrives a car in the process of loading must be shipped regardless of the fact that it may not contain all the farmer desires to ship or amounts to 24,000 pounds. Therefore, I do not agree with the applicants statement that there is no commercial necessity for a lower minimum than 26,000 pounds. I do not believe the increasing of the minimum weight from 24,000 pounds to 26,000 pounds on green fruit will materially increase the loading, because the statements furnished clearly show that cars have been loaded regardless of minimum weight restrictions and it is my belief that whenever a car is loaded with less than 24,000 pounds that it is impossible for the shipper to load any more than the actual weight in the car and get the same started on its way to the cannery without running risk of loss by decay. It would appear from the records that over 80% of the cars are now loaded with between 30,000 and 50,000 pounds of fruit and that but an insignificant number carry less than 26,000 pounds. Therefore, if this application is granted, the carriers will gain nothing in the way of increased loading and the fruit grower who must load his cars according to weather conditions, labor conditions, and many other elements, and whom, we believe, has no desire to ship cars of less than the present minimum weight, is obliged to carry an extra burden of 2,000 pounds.

Under all the circumstances I do not believe this application should be granted.

Item 59 - Grapes, Wine:- Present classification 80% of Class "C" and it is proposed to change this to Class "D". The bulk of this traffic moves under commodity rates and interested shippers acquiesce in the change; the carriers having agreed to publish commodity rates equal to 80% of Class "C" wherever movement developed.

This application will be granted.

Item 61 - Fruit Peelings and Parings:- Present classification rating is 80% of Class "E", which it is proposed to change to

Class "B".

Like a number of other items which it is proposed to change the carriers desire to discontinue the practice of providing a classification based on a certain percentage of a class rate. This is in line with instructions from the Interstate Commerce Commission to either discontinue the practice or publish a full line of rates on each commodity. The carriers have indicated a willingness to publish commodity rates on fruit peelings and parings at the request of interested shippers; therefore this application will be granted.

Item 64 - Hay and Straw, including Bean Straw, compressed in bales, and Cactus Leaves dried, in packages, carloads:- In this item the carriers propose to make certain changes in minimum weights, and they are authorized to make such changes in minimum weights as were authorized by the Commission in its decision in Case No. 259 involving this same question.

Item 77 - Lime Rock:- Present classification 80% of Class "B", which the carriers propose to cancel. Shippers made no objection to the cancellation of this provision inasmuch as commodity rates lower than 80% of Class "B" are now published from all shipping points.

The application will be granted.

Item 78 - Live Stock:- Carriers propose to change this item, first to eliminate the provision of 80% of Class "B" applying on sheep, hogs and goats, and substitute therefor Class "B"; second, that sheep, calves, goats, lambs or kids, in less than carload lots, will not be accepted unless crated. We do not believe it reasonable that carriers should be required to handle less than carload lots of these animals unless they are properly crated.

The carriers have provided a lower minimum weight on live stock when shipped under Class "B" rating which overcomes the increase from 80% of Class "B" to Class "B". Therefore this is but a technical advance ^{and} the application will be granted.

Item 79-1:- Live Stock:- This item provides for reduction in minimum weights on sheep, hogs and goats when shipped under Class "B" rating, referred to in connection with Item 78, and will be granted.

Item 84 - Merry-go-round Outfit:- the item at present carries a note similar to the provision for the movement of Ferris Wheels, as per Item 46. The carriers desire to eliminate that note which provides for the alternate use of 3rd Class at 16,000 pounds minimum weight, Class "B" minimum 20,000 pounds, and to maintain but one provision, i.e., Class "B" 20,000 pounds.

For the same reasons that we approved Item 46 we will approve this Item; it appearing that it will make little or no difference to the shippers.

Item 85 - Milk and Cream:- Proposed changes were withdrawn and will not be considered.

Item 93-1 - Ore, Concentrates, Copper Matte and Oxide of Copper:- The present item provides for less than carload shipments and classification based on a certain percentage of Class "C" rate according to the amount and value of ore shipped. It is proposed to change this item to 4th Class on less than carload shipments which, in some cases, would bring about an increase in rate. Certain changes are also proposed in carload classification, according to the valuation, but these changes do not effect any business inasmuch as carriers now provide specific commodity rates from producing points to the smelters.

The application to change this item will be granted.

Item 110 - Salt:- The present minimum carload weight is 30,000 pounds, which it is proposed to increase to 40,000 pounds.

+ No objection appearing in the proposed change and considering also the fact that many of the shipments now move under commodity rates at a minimum of 40,000 pounds, the application will be granted.

Item 111 - Sea Grass or Sea Weed:- Present classification

on these articles in Exception Sheet is 1st Class less than carload, 5th Class carloads.

The carriers propose to cancel these provisions inasmuch as there is no movement whatever and the application will be granted.

Item 112 - Seed, Flax:- Present classification in Exception Sheet Class "D", which it is proposed to cancel because of no movement.

The application will be granted.

Item 113 - Seed, Garden or Beet, in packages, returned to original shippers:- Exception Sheet at the present provides half rates on shipments of garden and beet seed returned to original shippers, which the carriers desire to cancel, and seek to justify the proposed change on the ground that the Interstate Commerce Commission has stated that carriers cannot lawfully apply upon the same kind of freight returned to shippers a lower rate than upon the same commodity outbound.

As a general proposition, it may be said that the applicants contentions in this regard are to a certain extent correct. There are, however, some very good reasons why the carriers should deviate from established practice in connection with shipments of seed returned to original shippers. Unless seed which is unsold in stores throughout the State is returned to the seed grower for testing it is natural that the storekeeper will continue to sell this seed regardless of the fact that it may fail altogether to produce a crop. It is to the carriers interests, as well as to the farmers and storekeepers, that after each season unsold seed should be returned to the seed grower, thereby eliminating the liability of stale seed being sold the public.

Protestants testified that one firm had invested \$50,000.00 in facilities to ship seed, the unsold portion of which would be returned in the box at the end of each season; that to permit the cancellation of half rate for return movements of unsold seed

would have a disastrous effect on their business.

It may be claimed that there is discrimination in favor of seed shippers unless similar concessions are made to all other classes of returned shipments. In this we cannot agree, for the reason that the discrimination, if it exists at all, could not possibly be considered undue.

Considering all of the circumstances and conditions the application will be denied.

Item 114 - Seed, Mustard:- Present Exception Sheet carries a provision for Class "B" rating, which carriers desire to cancel because of no movement of mustard seed other than wild mustard, and the fact that wild mustard seed is carried as Class "B" in the Western Classification no harm can come from the proposed change - which will be permitted.

Item 117 - Shells, Clam, Oyster and Mussel:- Exception Sheet at present provides 80% of Class "E" on these commodities, which the carriers desire to cancel and permit straight Western Classification rating upon Class "E" to apply. The carriers stipulate, however, that they will publish commodity rates on basis of 80% of Class "E" wherever there is a movement; and under these circumstances the change will be permitted.

Item 122 - Spermaceti:- Exceptions to Western Classification at present provide less than carload 3rd Class - carloads 5th Class, which the applicants desire to cancel because of no movement by freight train service. For this reason change will be permitted.

Item 134 - Tule:- Exceptions to Western Classification provide Class "E" on this commodity, which applicants desire to cancel on the ground that there is no movement, and if any movement develops carriers stipulate that they will publish specific commodity rates to cover based on Class "E".

Under these circumstances the application is granted.

Item 137 - Water, Mineral:- At present exceptions to

Western Classification provide one-half of 1st Class on less than carload shipments in certain territory and includes the free return of empty containers. The carriers propose to change this rating from 4th Class and to eliminate provisions for the free return of empty containers.

We know of no reason why the classification should be different on mineral water in one part of the State than in another. Neither do we believe empty containers should be returned free in case of mineral water shipments and charges made on empty containers which were used in the transportation of other commodities. Change will be permitted.

Item 138 - Water, Distilled:- The provisions for this commodity are the same as for mineral water mentioned in Item 137; and for the same reasons outlined in permitting change in that item changes will be permitted in this item.

Item 140 - Wheat, Poisoned, in double sacks:- The present classification rating on this commodity is 3rd Class less than carload and 4th Class on carloads, which the carriers desire to cancel and permit Western Classification rating to apply which are the same as outlined above, with the exception that shipments must be made in boxes.

We believe this a reasonable requirement in order to prevent poisoned wheat becoming scattered around car floors; and the application will be granted.

I recommend the following order:

O R D E R

The carriers parties to Pacific Freight Tariff Bureau Exception Sheet No. 1-C, CRC No. 70, having filed with this Commission an application to make certain changes in said Exception Sheet, which changes would result in increasing the rates for the transportation of freight, and a regular hearing having been

held.

IT IS HEREBY ORDERED that the application of the carriers parties to Pacific Freight Tariff Bureau Exception Sheet No.1-C, C.R.C.No. 70, are hereby authorized to make changes in the classification as outlined in application filed with this Commission and covering Items Nos. 1-38-46-52-59-61-77-78-79-1-84-93-1-110-111-112-114-117-122-134-137-138-140.

Application to make changes in Items Nos. 27-53-85 and 113 are denied.

Permission is hereby granted to correct Item No. 64 in accordance with decision of this Commission in Case No.259.

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

Dated at San Francisco this

6th

day of

May

1913.

H. S. Loveland
W. S. Gordon
Edwin O. Edgerton