

Decision No. 39796

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the application of)
Pacific Freight Lines and Pacific)
Freight Lines Express for authority)
to publish in their tariffs of rates)
and charges a rule providing for)
assessment of charges on the basis)
of arbitrary weights based on cubic)
displacement of shipments of light)
and bulky articles.)

ORIGINAL

Application No. 27829

Appearances

Wallace K. Downey, for applicants.

I. L. Longworth, for Southern California Freight Lines
and Southern California Freight Forwarders,
interested parties.

Emuel J. Forman, W. G. O'Barr, G. H. Matthews, V. O.
Conaway, F. H. Powers and Harold E. Smith, for
various shippers and organizations, as protestants.

O P I N I O N

Pacific Freight Lines and Pacific Freight Lines Express are common carriers engaged in the transportation of property by motor vehicle, principally within southern California. By this application they seek authority under Section 63(a) of the Public Utilities Act to revise a tariff rule governing charges for the transportation of "light and bulky" articles, and under Section 24(a) of the Act to maintain the revised rule while retaining temporarily a less restrictive rule in connection with joint rates. The proposed revision would result in increased charges.

The application was submitted at a public hearing held before Examiner Bryant at Los Angeles on October 9, 1946, and is ready for decision.

Both the present rule and the proposed rule provide that transportation charges on articles having less than a specified weight per cubic foot shall be assessed on the basis of a designated number of pounds per cubic foot. The present rule is applicable only to articles measuring in excess of 64 cubic feet per shipment, and provides that charges on such articles will be applied on a minimum basis of 8 pounds for each cubic foot of space occupied. Under the proposed amendment the methods of measurement would be set forth more specifically, the 64-foot qualification would be removed, and the weight basis would be increased from 8 pounds to 15 pounds for each cubic foot of displacement.¹

The traffic manager and the secretary-treasurer for the applicant carriers testified in support of the proposed change. These witnesses declared that the applicants were burdened with the necessity of transporting quantities of articles which were excessively light and bulky. Numerous examples were given of commodities having such low densities that only a small fraction of the weight-carrying

1

The present rule, and the proposed rule as amended at the hearing, are as follows:

Present (Item 85-F, formerly Item 63 series, Local and Joint Freight Tariff No. 7, C.R.C. No. 2 (series of C. G. Anthony) of E. J. McSweeney, Agent.)

Light and bulky articles measuring in excess of 64 cubic feet per shipment, weighing less than 8 pounds per cubic foot of space occupied, charges will be assessed by applying the class or commodity rate applicable on a basis of 8 pounds for each cubic foot of space occupied.

Proposed:

(a) Light or bulky articles, which weigh less than 15 pounds per cubic foot of displacement (when displacement is calculated as shown below) shall be assessed charges by applying the class or commodity rate applicable (but not to exceed the first-class rate) at an arbitrary weight of 15 pounds to the cubic foot so displaced, except that this rule shall not apply when charges based on actual weight at class or commodity rate applicable thereto exceed charges under this rule.

(b) In measuring round or irregularly shaped articles, in order to determine displacement, use rectilinear straight lines conforming to the greatest outside dimensions, e.g. computation of displacement of tanks would be the diameter times the diameter times over-all length.

(c) This rule shall apply to all traffic handled, without exception.

capacity of the vehicles could be loaded although the vehicles were filled to maximum space capacity. It was asserted that such shipments were undesirable from a revenue-producing standpoint, and were apparently shunned by classes of carriers which were free to accept or reject traffic. Both witnesses declared that the applicants, as common carriers obligated to accept all freight tendered, were receiving an increasingly larger proportion of the undesirable light-weight articles. They stated that some shippers apparently gave to applicants only the bulky freight which other carriers would not handle, and that contract carriers frequently tendered to applicants all shipments of light and bulky articles, retaining the more desirable freight for themselves.

The traffic manager testified that applicants had formerly for some years maintained a rule imposing a minimum of 15 pounds per cubic foot as now sought, and that reduction to 8 pounds was made several years ago as the result of what was now considered to be an error in managerial judgment. He did not recall the circumstances or reasons involved in the reduction. He pointed out that other highway carriers maintain cubic-foot rules based upon various weights, such as 8 pounds, 12-1/2 pounds, 15 pounds, and even more. This witness explained that the weight of 15 pounds was now sought by applicants because it approximated the average weight capacity per cubic foot of the semi-trailers used in line-haul movement, because it was "generally the weight that most of the carriers used," and because applicants formerly published a 15-pound rule.

Applicants did not undertake to introduce cost estimates or other evidence to indicate specifically that transportation charges accruing under the present 8-pound rule were insufficient, or that those resulting from the proposed 15-pound rule would be reasonable.

The traffic manager had no opinion of how much additional gross revenue would accrue to the two carriers under the proposed rule. He declared "This eight pounds per cubic foot is no protection at all on these L.C.L. shipments," and "It is a matter of judgment rather than actual cost."

Protestants undertook to show, through cross-examination of applicants' witnesses and some direct testimony and argument of their own, that the proposed rule was impracticable, could not feasibly be applied with uniformity, would result in excessive charges in some cases, would be discriminatory in its application, and would impose an impossible burden upon shippers endeavoring to check their transportation charges.

The protestants questioned, for instance, that applicants' employees would be able to determine by inspection of shipments passing over the freight platforms which ones should be measured for cubic dimensions. ² They doubted that it would be feasible to measure physically a sufficient number of shipments to avoid numerous errors in applying or failing to apply the cubic-foot rule. They thought that the difficulties would be increased by the necessity of calculating the displacement of round or irregularly shaped articles according to "rectilinear straight lines conforming to the greatest outside dimensions." Applicants' traffic manager insisted, however, that there would be no difficulty in determining which shipments to measure and which ones not to measure; that all "light and bulky" articles would be measured; that such articles were being measured already for the purpose of applying the 8-pound cubic-foot rule, and no greater difficulty would be encountered in applying the proposed 15-pound rule.

For the purpose of showing that the proposed rule would have

² The record shows that in Los Angeles the two applicant carriers bill about 5,000 shipments a day, and transfer about 2,000 additional shipments daily.

the effect of establishing excessive and unreasonable charges, one shipper witness introduced statements showing average classification ratings assigned to items of various weights per cubic foot, and showing ratings prescribed or approved by the Interstate Commerce Commission for a number of selected commodities of known average density. He pointed out that imposition of the magnified weight of 15 pounds per cubic foot under the proposed rule would be comparable in effect to raising the classification ratings materially on articles affected thereby, or to making substantial increases in the rates and charges on such articles.

Shipper witnesses declared that it was not practical to require measurement of articles for cubic displacement in order to calculate transportation charges. One traffic manager testified that in his opinion the proposed rule would create a considerable handicap to his company in the shipping of merchandise and the paying of transportation bills. He said that, with elimination of the present qualification under which density is a rate factor only on shipments measuring in excess of 64 cubic feet, it would be necessary to measure every package tendered to the applicant carriers in order to bill customers for transportation charges immediately after shipment. He estimated that for his company "It would take a staff of better than twice as many shipping clerks to do the job." A representative of the Los Angeles Chamber of Commerce argued that the rule would entail extra labor both on the part of carrier personnel and shipper personnel in order to ascertain charges by physically measuring shipping containers on each consignment of light and bulky articles. He declared also that most shippers and receivers of freight via rail and highway carriers do not measure shipments to ascertain their cubic volume, because it entails extra time and expense and is an extraordinary procedure for overland transportation; consequently, the shippers and receivers are usually not in position to verify the correctness of freight bills submitted by highway carriers when charges have been

computed on cubic measurement.

The shipper representatives were generally of the view that applicants have a problem in the handling of excessively light and bulky commodities, and that such articles should bear their fair share of the transportation cost. The objections were not directed to reasonable increases in the rates or ratings on light and bulky commodities, but to the manner in which applicants seek to effect such increases. All of the shipper representatives recommended that the authority herein sought be denied, that cubic-foot rules be eliminated from consideration, and that the applicants undertake to obtain the necessary revenue through the establishment of classification exceptions, commodity rates, or other provisions which would name specifically the articles on which each rate would apply. It was applicants' response to these recommendations that (1) they had found it to be virtually impossible to change the classification ratings directly, (2) it would be expensive and impracticable to make studies of the cost of transporting various articles for the purpose of establishing specific classification exceptions or commodity rates, and (3) any ratings established for specified articles would not reflect the fact that commodities of identical description may vary considerably in weight per cubic foot.³

A senior rate expert of the Commission's staff, while neither favoring nor opposing the authority herein sought, testified concerning a tariff study he had made of cubic-foot rules maintained by highway carriers in this state. He stated that the tariffs of many such carriers contain cubic-foot rules in great variety, and that the rules differ both as to penalties to be assessed and as to the conditions under which they are to be applied. This witness declared that he found tariff provisions for the use of constructive

³ It was testified, for example, that shipments of rockwool ranged from two pounds per cubic foot to six pounds per cubic foot, and that there would be similar variations in connection with desks, airplane parts, sheet-iron sinks, and many other commodities.

weights ranging from 5 pounds to 20 pounds per cubic foot. He asserted that, in his opinion, all of the rules which he had examined were objectionable from the standpoint of tariff construction or application. He thought that some means should be provided to see that the carrier is adequately compensated for space occupied in the vehicles by light and bulky articles, but did not believe that any of the cubic foot rules provided a satisfactory solution to the problem. The witness was of the view that the situation could well be taken care of by classification changes, but said that he had not made a sufficient study to offer any specific recommendation.

The issues in this proceeding relate solely to transportation charges. Applicants declare that they have been increasingly "burdened" with an undue proportion of low-density shipments, and "have become the dumping ground of the shipper," but it was not suggested that common carriers may do otherwise ~~than accept all ship-~~ments tendered within the scope of their undertaking. Presumably applicants would find all shipments equally desirable if they believed that the tariff rates provided comparable compensation for the services required. The question, then, is whether the present tariff charges provide insufficient remuneration for the transportation of articles having relatively low densities; and, if so, whether the higher charges which would result from application of the proposed revised rule would be justified.

The record is replete with extreme examples of excessively "light and bulky" articles which applicants have been called upon to transport. Except for unsupported assertions of applicants' traffic manager, there is virtually no probative evidence to show that transportation charges resulting from the proposed 15-pound rule would be reasonable. The record does not show the percentage or amount of in-

creased charges which would accrue on any shipment or group of shipments, how the resulting charges would compare with those maintained for transporting similar weight or bulk of commodities not affected by the rule, or any other information from which the propriety of the charges might be adequately judged.

Applicants declared that the preparation of detailed studies of the relative cost of transporting articles of varying densities would be time-consuming, extravagant, and virtually impossible under existing conditions. Assuming the study of absolute costs to be impracticable, it might have been feasible, for example, for applicants to have shown the revenues accruing under present and proposed tariffs for the transportation of representative shipments of articles having densities of less than 15 pounds per cubic foot, compared or contrasted with revenues which would accrue under the tariff for handling a similar cubic volume of representative articles having greater densities. Such a showing would not involve any study of absolute costs, but would tend to establish the reasonableness or unreasonableness of charges resulting from the present and proposed rules through means of rate and revenue comparisons. No basis appears on the present record for finding that the proposed increased charges have been justified.

The record indicates that general rules designed to superimpose a system of arbitrary weights per cubic foot upon a system of transportation rates stated in cents per 100 pounds may be objectionable from the standpoint of practical application, and may be productive of charges which are unreasonable, discriminatory, or otherwise unlawful. It discloses that highway carriers maintain various cubic-foot rules, including some which are similar to applicants' present provision and some which are similar to the rule herein proposed. None of these rules have heretofore received the

consideration or approval of this Commission in any formal proceeding. It will be our purpose to give specific consideration to the application and effect of such rules published in the tariffs of common carriers of this state.

The application will be denied.

O R D E R

A public hearing having been had in the above entitled application, and based upon the evidence received at the hearing and upon the conclusions and findings set forth in the preceding opinion,

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

The effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 23rd day of December, 1946.

Harold P. Kule
Justice F. Casanova
Francis B. ...
Joseph H. Powell
A. J. ...
 Commissioners