

Decision No. 52285 /**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 certain railroads and connecting high-)
 way common carriers and water lines) Application No. 32219
 for authority to increase local and)
 joint freight rates and charges (1951))

SUPPLEMENTAL OPINION AND ORDER

Decision No. 49290, 53 Cal. P.U.C. 4 (1953), in this proceeding authorized the applicant California rail lines and their connecting highway and water carriers to establish a general increase of 15 percent in their intrastate carload freight rates and charges. This authorization was made subject to specified exceptions and limitations paralleling a similar authorization of the Interstate Commerce Commission in Ex Parte ¹ 175, Increased Freight Rates, 1951 for interstate traffic. Among the specified limitations are (1) restriction of the application of the increase to the period ending December 31, 1955, and (2) provision that the increases authorized shall be applied only as percentage increases in the amount of the total freight charges as shown by the freight bills. The authority pertaining to intrastate traffic was issued following a report of the Interstate Commerce Commission in a proceeding instituted under Section 13(4) of the Interstate Commerce Act. ² In the report the Interstate Commerce Commission found, among other things, that there should be applied to the then existing California intrastate rates and charges, with certain exceptions, "the same respective increases as are and for the future may be maintained by the respondents on like interstate traffic between points in California under our authorization in Ex Parte No. 175."

¹ Interstate Commerce Commission report and order of April 11, 1952, 284 I.C.C. 589, as amended by order of July 29, 1953, 289 I.C.C. 395.

² California Intrastate Railroad Freight Rates and Charges, 289 I.C.C. 767.

The railroads of the United States requested the Interstate Commerce Commission and similarly the railroads of California requested this Commission, (1) to eliminate the expiration date imposed upon the increase authority and (2) to eliminate the provision that the increases authorized shall be applied as percentage increases in the amount of the total freight charges as shown by the freight bills.³ The Interstate Commerce Commission, after hearing, has granted the full relief sought as to interstate traffic.

The applicant railroads supplied interested parties with copies of the supplemental application filed with this Commission. No objection to its being granted has been received.

In establishing the 15 percent surcharge in 1953 the Commission stated:

"We take official notice of the provisions of the Interstate Commerce Act affecting intrastate transportation, of the Interstate Commerce Commission proceedings identified as its Docket No. 31219 and of its report in that docket finding that the sought further increase in intrastate rates is justified and would be established by its order unless permitted by the California Commission within 30 days."
(Decision No. 49290, supra.)

Our 1953 decision, therefore, was made in recognition of the fact that unless this Commission authorized the increased rates they would be prescribed by order of the Interstate Commerce Commission pursuant to Section 13 of the Interstate Commerce Act, and that the issuance of such an order would have deprived this Commission thereafter of its jurisdiction over the rates in question.

³ The petition of the California railroads was filed August 16, 1955, in Third Supplemental Application No. 32219 with the request that action be withheld until, and restricted to, the action taken by the Interstate Commerce Commission in its docket Ex Parte No. 175, Increased Freight Rates, 1951. The Interstate Commerce Commission issued its order October 17, 1955.

The instant supplemental application seeks only to remove the expiration date of the rate increase previously authorized on a temporary basis. In view of all the circumstances, this Commission is of the opinion that the authority sought in the supplemental application should be granted. No change in present freight rates and charges will result except to the extent caused by the disposition of fractions in incorporating the present surcharge into the rates. This is a matter in which a public hearing is not necessary. The authority will be granted. Necessary relief from tariff circular rules, and authority to depart from the long and short haul provisions of the State Constitution and the Public Utilities Code, is likewise warranted and will be granted.

Therefore, good cause appearing;

IT IS HEREBY ORDERED:

(1) That applicants be and they are hereby authorized to publish on not less than five days' notice to the Commission and to the public, in the same form as that authorized by the Interstate Commerce Commission, the increases in freight rates and charges presently authorized by Decision No. 49290 of November 3, 1953, in this proceeding, to apply in connection with rates per 100 pounds, per ton, per car, or per other unit of transportation, in lieu of surcharges to the amount of the freight bill, and concurrently to cancel the surcharges authorized by Decision No. 49290 supra, now scheduled to expire December 31, 1955. To the extent departure from the terms and rules of Tariff Circular No. 2 of this Commission is required to accomplish such publication, authority for such departure is hereby granted.

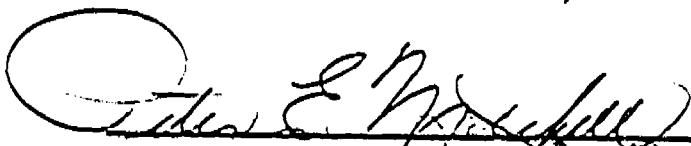
(2) That applicants be and they are hereby authorized to depart from the provisions of Article XII, Section 21, of the Constitution of the State of California and of Section 460 of the Public Utilities Code to the extent necessary to effect the adjustments herein authorized.


(3) That the authority herein granted is subject to the express condition that applicants will never urge before this Commission in any proceeding under Section 734 of the Public Utilities Code, or in any other proceeding, that the opinion and order herein constitute a finding of fact of the reasonableness of any particular rate or charge, and that the filing of rates and charges pursuant to the authority herein granted will be construed as consent to this condition.

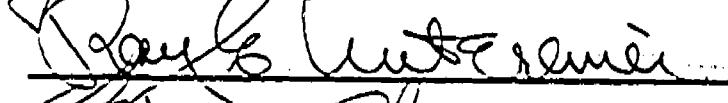
(4) That the authority herein granted shall expire unless exercised within ninety days after the effective date of this order.

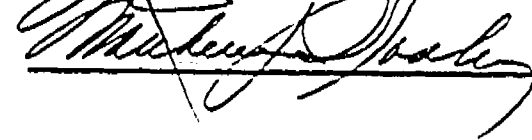
This order shall become effective twenty days after the date hereof.

Dated at San Francisco, California, this 29th day of November, 1955.



President






Commissioners

Commissioner.....Exc. Hardy....., being necessarily absent, did not participate in the disposition of this proceeding.