

Decision No. 55897**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)	
of certain railroads for authority)	Application No. 38310
to increase demurrage charges and)	
changes in demurrage rules.)	

John McDonald Smith and Robert A. Thompson,
for applicant;
L. E. Osborne, for California Manufacturers
Association, interested party;
John W. Mallory, for the Commission's staff.

O P I N I O N

By the above-entitled application, filed August 2, 1956, by H. R. Hinsch, Agent of Central Territory Railroads Tariff Bureau, on behalf of the railroads operating in California, authority is sought to increase intrastate demurrage charges and rules to the same extent as applicable to interstate. On June 26, 1956, tariffs containing increased demurrage charges on interstate traffic were filed with the Interstate Commerce Commission to become effective September 1, 1956. Following protests, the Interstate Commerce Commission instituted its I. & S. Docket No. 6646 and suspended the proposed schedules until March 31, 1957. The suspension was voluntarily extended until June 30, 1957. It was agreed that no action would be taken on the application herein until the interstate matter was settled. By amendment filed June 20, 1957, applicant amended his California intrastate proposal to conform with the findings in the I.C.C. order issued May 27, 1957.

Public hearing was held before Examiner Carter R. Bishop on September 18, 1957, at San Francisco.

After a rail freight car is delivered to a shipper for loading or to a consignee for unloading two days are allowed in which to

release the car to the railroad. After that time, a charge, called demurrage, is assessed for each additional day the car is retained. According to the manager of the Pacific Car Demurrage Bureau, demurrage charges have been recognized as being, in part, a penalty for undue detention of cars and, in part, compensation for use of the car for nontransportation purposes. The present demurrage charges are \$3 per car per day for the first four days following the two free days and \$6 per day thereafter. Saturdays and Sundays are not counted. Instead of paying the straight demurrage charges, shippers may enter into an average agreement, whereby each car which is released during the first 24 hours of free time earns a credit. For each of the first four days a car is held after the free time, one debit accrues. If held longer, regular demurrage is then assessed. At the end of the month the credits are balanced against the debits, excess debits being charged for and excess credits canceled.

Applicant's original proposal was to increase the charges to \$4 for each of the first two days after the free time, \$7 for each of the next two days, and \$10 for each subsequent day, and to include Saturdays and Sundays after the second chargeable day. The average agreement would provide that no more than two debits on one car could be offset with credits. These increased charges, as published for interstate application, were the ones suspended and investigated by the Interstate Commerce Commission in its I. & S. Docket No. 6646. The report in that proceeding found that the demurrage charges should not exceed \$4 for each of the first four days after the free time and \$8 per day thereafter, and that the existing maximum of four debits which might be offset by credits should be continued in the average agreement. Schedules in

conformity with the aforesaid report became effective as to interstate traffic on July 1, 1957, and the application herein was amended to correspond to the interstate publication.

The Bureau manager testified that over the past few years the percentage of cars held beyond the free time has been increasing, the national average for the first five months of the year going from 15.64 percent in 1954, to 17.36 percent in 1955, and 20.18 percent in 1956. According to an exhibit introduced by the witness, the total amount of demurrage charges assessed at California stations increased from approximately \$549,000 for the first six months of 1949 to over \$1,000,000 for the corresponding period of 1957. These figures include both interstate and California intrastate cars. The manager further testified that although the present basic demurrage charges have been in effect since 1949, I.C.I.C. service orders have temporarily increased the demurrage charges during periods of extreme car shortage. According to the witness, the temporary higher charges substantially reduced car detention while in effect.

Although the basic purpose of demurrage is not to provide revenues, the witness said, when a car is unduly detained it is only proper that the railroad be paid for the use of the car to recover continuing expenses, such as per diem,¹ or car ownership costs. He said that the per diem rate has increased from \$1.50 in 1949 to \$2.75 at present, and that the average cost of standard freight cars has increased from \$4,594 in 1949, to \$7,888 now.

¹ Per diem is the daily rate paid by one railroad to another railroad while the latter's freight cars are on the lines of the former.

The witness stated that approximately 30 percent of freight cars detained in California involve intrastate shipments and that when the interstate and intrastate demurrage rules and charges are different, a complicated bookkeeping system is necessary to make certain the proper charges are assessed. He cited especially the difficulties involved with credits and debits under an average agreement. The witness stated that many shippers and consignees have expressed their desire to have the interstate and intrastate rules and charges comparable.

The Pacific Car Demurrage Bureau gave wide publicity to the proposed changes. Notice of the hearing was sent by the Commission's Secretary to approximately 125 shippers and others believed to be interested. No one appeared in opposition to the granting of the application.

It is clear from the record that increases in California intrastate demurrage charges are necessary to promote more efficient use of the railway freight car pool. It appears, also, that such increases are justified by the advances which have been experienced since 1949, in the per diem rate and in car ownership costs. Additionally, the record demonstrates the desirability of maintaining like demurrage charges and rules on intrastate and interstate traffic.

Upon consideration of all the facts and circumstances of record, the Commission is of the opinion and hereby finds that the proposed increased demurrage rules and charges are justified. The application, as amended, will be granted. As the corresponding interstate charges are already in effect, applicant will be authorized to amend his tariff on not less than five days' notice.

O R D E R

Based upon the evidence of record and upon the conclusions and findings set forth in the preceding opinion,

IT IS HEREBY ORDERED that H. R. Hinsch, Agent, on behalf of the railroads named in Appendix A of Application No. 38310, be and he is hereby authorized to amend, on not less than five days' notice to the Commission and to the public, the demurrage rules and charges as proposed in Exhibit A of Application No. 38310, as amended.

IT IS HEREBY FURTHER ORDERED that the authority herein granted shall expire unless exercised within sixty days after the effective date of this order.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 3rd day of December, 1957.

[Signature]
President

[Signature]

[Signature]

[Signature]

[Signature]
Commissioners