

Decision No. 59992**ORIGINAL****FILED**
PUBLIC UTILITIES COMMISSION

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

APR 19 1960

Investigation on the Commission's own)
 motion for the purpose of establishing)
 regulations governing the filing and)
 handling of requests for tariff changes)
 under the Special Tariff Docket.)

SAN FRANCISCO OFFICE

Case No. 6464

ORDER INSTITUTING INVESTIGATION AND
ESTABLISHING REGULATIONS

There was distributed to interested parties on April 15, 1959, for study and comment, a proposed general order drafted by the Commission's Transportation Division Rate Branch staff to govern the filing and handling of requests for tariff changes under the Special Tariff Docket. The transmittal letter stated that in the absence of substantial objection or request for public hearing, consideration may be given to the issuance of an ex parte order adopting the proposed regulations.

Four letters of comment were received. These letters object only to three proposed rules which relate to criteria for justifying rate increases occasioned by (a) the cancellation of obsolete rates, (b) the correction of errors, and (c) the expiration of temporary rates. One of the letters asks that these three rules not be adopted without public hearing.

Except for the three controversial rules, it appears that the parties are in agreement that the proposed regulations are satisfactory and that the issuance of a general order to govern the filing and handling of requests for tariff changes under the Special Tariff Docket, as proposed, will be constructive. The disputed rules consist essentially of statements of criteria which have been

observed and applied by the Commission for some years.¹ It clearly is desirable that regulations be issued to govern the filing and handling of requests for tariff changes under the Special Tariff Docket. It is not necessary, however, that the regulations include statements of criteria.

A general order substantially as recommended by the staff, but without the three controversial rules, will be adopted.

Anyone wishing to advocate changes in Special Tariff Docket standards, whether or not stated in the general rules, may bring the matter to the Commission's attention by filing an appropriate petition setting forth the changes sought and the reasons therefor.

Good cause appearing:

IT IS ORDERED:

1. That an investigation on the Commission's own motion is hereby instituted for the purpose of establishing regulations governing the filing and handling of requests for tariff changes under the Special Tariff Docket.

2. That the draft of proposed regulations prepared by the Commission staff, copies of which were supplied to interested parties on or about April 15, 1959, is received in evidence as Exhibit No. 1 in this proceeding.

¹

The disputed rules read as follows:

16. A request to cancel so-called "dead" or obsolete rates generally will not be granted upon a statement only that the rates have not been used. If it be shown also that there is no reasonable prospect for their future use, cancellation of the rates may be found to be justified. Absent such a showing, other sufficient justification for the resulting rate increases will be required.

17. A request to increase rates for the purpose of correcting errors will not be granted upon a showing only that the error occurred. The request must contain also an affirmative showing sufficient to support a finding that the increase is justified.

19. Requests for authority to establish reduced rates subject to expiration dates shall contain a showing sufficient to support a finding that the increase to occur upon the expiration date will be justified at that time.

3. That the four letters hereinbelow identified are received in evidence collectively as Exhibit No. 2 in this proceeding:

(a) Letter from Frederick G. Pfrommer on behalf of The Atchison, Topeka and Santa Fe Railway System, Southern Pacific Company and Western Pacific Railroad, dated June 25, 1959, and received June 26, 1959.

(b) Letter from C.R. Nickerson, Agent, Pacific Coast Tariff Bureau, dated June 26, 1959, and received June 29, 1959.

(c) Letter from W.J. Knoell, tariff issuing officer, Western Motor Tariff Bureau, Inc., dated June 29, 1959, and received June 30, 1959.

(d) Letter from C.J. Sullivan, issuing officer, Interstate Freight Carriers' Conference, Inc., dated June 30, 1959, and received July 1, 1959.

4. That General Order No. 109, which is attached hereto and by this reference made a part hereof, is adopted to become effective July 1, 1960.

5. That the Secretary of the Commission shall serve a copy of this order upon all common carriers as defined in Division 1 of the Public Utilities Code, air transportation companies, warehousemen, and wharfingers.

The effective date of Ordering Paragraph 1 shall be the date hereof; the effective date of Ordering Paragraphs 2, 3, 4 and 5 shall be twenty days after the date hereof.

Dated at San Francisco, California, this 19th day of April, 1960.

Ernest R. Long
President
J. M. Miller
W. J. Fisher
E. L. Fox
Herbert J. J. J.
Commissioners

GENERAL ORDER NO. 109

PUBLIC UTILITIES COMMISSION OF THE
STATE OF CALIFORNIA

IN THE MATTER OF REGULATIONS GOVERNING THE
FILING AND HANDLING OF REQUESTS FOR TARIFF
CHANGES UNDER THE SPECIAL TARIFF DOCKET.

(Applicable Only to Common Carriers As Defined in
Division 1 of the Public Utilities Code, Air
Transportation Companies, Warehousemen, and
Wharfingers.)

Adopted April 19, 1960, 1959 Effective July 1, 1960, 1959
Adopted by Decision No. 59992, in Case No. 6464.

In General

Rule 1. - These regulations are designed to permit economical and prompt processing of requests for tariff changes, under the Special Tariff Docket, by public utility common carriers, airlines, warehousemen, and wharfingers.

Rule 2. Such requests may not be processed under the Special Tariff Docket unless they are:

- (a) of narrow scope as to commodities, geographical points, or otherwise;
- (b) not adverse to the interest of other parties;
- (c) not of general interest; and
- (d) noncontroversial.

Rule 3. Other requests shall be prepared and filed in conformity with the Commission's Rules of Practice and Procedure and will be dismissed without prejudice if filed under the Special Tariff Docket.

Rule 4. Special Tariff Docket requests and orders are open to public inspection.

Rule 5. The provisions of this general order supersede provisions of General Orders Nos. 61, 79 and 80, and Tariff Circular No. 2 relating to the filing of Special Tariff Docket requests.

Form

Rule 6. Requests shall be on paper approximately 8½ inches by 11 inches in size, and the original and three copies shall be filed with the Commission.

Rule 7. One request shall be filed for each proposed tariff adjustment. It is not required that separate requests be made for each kind of relief sought. However, requests seeking more than one kind of relief shall contain the required justification for each type of relief sought.

Rule 8. The original of each request shall be verified under oath or certified under penalty of perjury, and shall be signed by the owner or responsible officer of the company, or by an agent to whom power of attorney has been given.

Rule 9. Requests concerning joint rates or fares shall be signed by or on behalf of all carriers participating therein.

Contents

Rule 10. The request shall state the correct name of the carrier or utility seeking the authority. If the carriers or utilities are numerous, and constitute all of the participants in a specified tariff, it will be sufficient to identify them by reference to the tariff.

Rule 11. The request shall state clearly and concisely the authorization or relief sought; shall cite the statutory provision or other requirement under which authorization or relief is sought; and, if rate or rule changes are proposed, shall show the present rates, fares, charges or rules which are proposed to be changed, and the rates, fares, charges or

rules proposed to be established. This information may be contained in exhibits attached to the request.

Rule 12. The request shall state clearly, specifically and in detail, the justification in support of each authority sought.

Rule 13. Notification of other carriers, shippers or other parties is not required. However, notification given to interested parties may be an additional factor in justification of the sought authority, provided the request contains a list of the parties notified and includes a statement concerning their views. (See Rule 4.3 of General Order No. 105-A for exception to this rule.)

Contents - Particular Situations

Rule 14. In order to insure sufficient time for tariff examination prior to the effective date, the Commission generally will not authorize tariff amendments on less than five days' notice. Shorter notice will be authorized only when the request shows clearly that an emergency exists.

Rule 15. Request for authority to establish reduced rates based upon the lawfully established rates of competing carriers shall contain a complete reference to the rates of the competing carriers, citing tariff and item numbers.

Rule 16. If a reduced rate filed in error is corrected before it becomes effective, no increase is involved. Requests seeking authority to make such corrections on less-than-statutory notice need not show justification, but shall

describe the inadvertence and identify the published and intended rates.

Rule 17. Requests for authority to discontinue operations will not be considered on the Special Tariff Docket unless it be shown that (a) there are no present patrons, and (b) no certificate or prescriptive operative right is involved.

Processing

Rule 18. Special Tariff Docket requests will be considered as expeditiously as practicable and will be granted in whole or in part, subject to such conditions as the Commission may specify, or denied or dismissed, upon basis of the material contained in the request and in the Commission's official tariff files.

Rule 19. Amendments to requests will be received only if filed in sufficient time for consideration prior to Commission action upon the request.

Rule 20. When a request has been denied and it is desired to offer additional justification as basis for reconsideration, the matter shall be prepared and submitted as a new request.

Rule 21. Denials or dismissals on the Special Tariff Docket are without prejudice to the consideration of any application which later may be filed in accordance with the Commission's Rules of Practice and Procedure.

Rule 22. The item of tariff or supplement issued pursuant to a Special Tariff Docket order shall bear reference to

such order in substantially the following form:

"Authorized by Cal.P.U.C. Order No. _____"

Form

Rule 23. The following skeleton form of request is illustrative as to general form only. The content of particular requests will vary depending upon the subject matter.

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
SPECIAL TARIFF DOCKET REQUEST

The request of (exact legal name, and the address, of each applicant) respectfully shows:

1. An order is requested (here state clearly and consisely the specific authorization sought).

2. This application is based upon the following facts and circumstances: (here, and in succeeding numbered paragraphs or attached exhibits, set forth the specific facts required by the applicable rules, together with additional facts and circumstances deemed to be material).

I hereby certify under penalty of perjury that the foregoing is true and correct.

Signature: _____

Title: _____

Dated at _____, California, this _____ day
of _____, 19__.

This General Order issued by order made at San Francisco,
California, this 19th day of April, 1960.

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

By

R. J. Pajalich, Secretary