

**ORIGINAL**Decision No. 60074

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 PACIFIC SOUTHCOAST FREIGHT BUREAU )  
 for authority under Section 460 of )  
 the California Public Utilities Code )  
 to establish nonintermediate rates )  
 on bulk cement in 5-car lots from )  
 northern California cement origins )  
 to Eureka. )

Application No. 42117

John MacDonald Smith, for applicant.  
Kenneth M. Robinson and S. A. Moore, for  
Permanente Cement Co.; W. G. Higgins,  
 for Pacific Cement and Aggregates, Inc.;  
Eugene A. Feise, for Calaveras Cement  
 Co.; D. H. Boardman, for Riverside  
 Cement Co., Division American Cement  
 Co.; R. D. Toll, A. D. Poe and J. X.  
Quintrall, for California Trucking  
 Assns., Inc., interested parties.  
John Laurie, for the Commission staff.

O P I N I O N

By this application filed April 6, 1960, Pacific South-coast Freight Bureau, on behalf of carriers parties to it, seeks authority under Section 460 of the Public Utilities Code to establish certain nonintermediate rates on bulk cement in 5-car lots from cement plants in northern California to Eureka. Public hearing was held April 18, 1960 before Examiner Jack E. Thompson at San Francisco and the matter was submitted on that date.

Permanente Cement Company plans the construction of a facility at Eureka for the distribution of cement in that territory. It has acquired land on the waterfront in downtown Eureka for that purpose. The construction has been deferred pending a determination by the company of whether cement in bulk will be received at the facility from rail cars or by barge. If this application is granted,

Permanente, at a cost of about \$112,000, will construct the facility so as to provide for the unloading of cement from rail cars. If the application is denied, Permanente will construct the plant so as to take delivery of cement from barges. The construction cost of such a facility would be around \$282,000.

Southern Pacific Company, and its subsidiary, Northwestern Pacific Railroad Company, are the only railroads involved in this matter. It is their desire to retain the present traffic in cement from Permanente to Eureka as well as enjoy any additional traffic that might result from the construction of the distribution plant at Eureka. They are of the opinion that once the capital expenditure is made for the taking of delivery of cement by barge the traffic will be lost to them.

Permanente has facilities at the Port of Redwood City for the loading of bulk cement into vessels. It regularly transports cement in bulk from its plant at Permanente to the port. It owns and operates 35 trains of a tractor and two cement hopper trailers for that purpose. An affiliate of Permanente operates vessels on the high seas and on inland waters in Washington and Oregon. The record shows that under present circumstances and conditions Permanente could reasonably expect to conduct a proprietary truck-barge operation in the transportation of bulk cement from its plant at Permanente to Eureka at a cost of not greater than 20 cents per 100 pounds. The evidence clearly shows that Permanente is ready, willing and able to conduct such proprietary operation. Under the circumstances, the competition faced by the railroads is not conjectural.

The scale of rates, subject to a 5-car minimum, was developed by applicant by setting forth a 20-cent rate from Permanente and relating that rate to the differential in rates for

the transportation of bulk cement from all northern California cement origins to Santa Rosa. Applicant stated that this was done in order to maintain the present competitive relationship among the cement producers in northern California in the markets in that area. Concurrently with the proposed establishment of rates on shipments in 5-car lots, applicant intends to establish certain single-car maximum application rates on cement, in bulk, from those origins to Eureka. The latter, which are not in issue in this proceeding, will be intermediate in application.

The proposed 5-car rates would be applicable only via Southern Pacific Company, Schellville, Northwestern Pacific Railroad Company. On that route the intermediate destination points taking a higher rate extend from Subeet on the Southern Pacific to Russ on the Northwestern Pacific. Applicant, however, publishes lower rates from the origin points to Santa Rosa via San Francisco. In actual fact, therefore, the higher rated intermediate points, in the main, will be north of Santa Rosa. The assistant freight traffic manager of the Southern Pacific Company testified that there was no movement of cement in bulk over its lines destined to points north of Santa Rosa and south of Eureka. The traffic manager of Permanente Cement Company testified that all shipments from its plant to points north of Santa Rosa and south of Eureka are made by truck.

Applicant presented evidence showing that the proposed rates will provide in excess of the out-of-pocket costs of providing the service.

No one opposed the establishment of the proposed rates. Applicant requested authority to publish the rates on less than 30 days' notice.

After investigation and upon careful consideration of the facts and circumstances of record, the Commission is of the opinion

and finds that this is a special case within the meaning of Section 460 of the Public Utilities Code, and that applicant, on behalf of the common carriers parties to it, should be authorized to establish rates less for a longer than for a shorter distance for the transportation of bulk cement in 5-car lots from Permanente, San Leandro, Kentucky House, Redwood City and Davenport to Eureka over the route Southern Pacific Company from origin to Schellville and thence Northwestern Pacific Railroad Company to Eureka, subject to the limitations and conditions which will be prescribed in the order that follows.

O R D E R

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

IT IS ORDERED:

1. That Pacific Southcoast Freight Bureau is authorized to establish, on not less than ten days' notice to the Commission and to the public, the rates for the transportation of cement in bulk in lots of five cars or more when shipped on one calendar day, from one consignor to one consignee, on one bill of lading, as more particularly set forth in its application filed in this proceeding, provided that concurrently therewith, applicant establishes, also on not less than ten days' notice to the Commission and to the public rates on single-car movements as more particularly set forth in said application.

2. That, other than expressly provided for, the authority granted herein does not waive any of the requirements of Tariff Circular No. 2 relative to the construction and filing of tariff publications and further, that unless exercised within sixty days

after the effective date of this order, the authority granted herein shall expire.

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

Dated at San Francisco, California, this 9th day of May, 1960.

*Robert M. Page*  
 President

*John L. Mitchell*

*William H. ...*

*E. J. ...*

*Theodore J. ...*  
 Commissioners