

Decision No. 68038

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Common Carrier Railroads)
 and Certain Connecting Highway Common)
 Carriers for Authority to Increase)
 Local and Joint Rail and Joint Rail-)
 Highway Freight Rate Charges.)

Application No. 42837
 Petition for Modification
 (Filed June 29, 1964)
 (Amended July 20, 1964)

In the Matter of the Investigation into)
 the rates, rules, regulations, charges,)
 allowances and practices of all common)
 carriers, highway carriers and city)
 carriers relating to the transportation)
 of any and all commodities between and)
 within all points and places in the)
 State of California (including, but not)
 limited to, transportation for which)
 rates are provided in Minimum Rate)
 Tariff No. 2).

Case No. 5432
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And Related Matters.

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SUPPLEMENTAL OPINION AND ORDER

By Decision No. 61440, dated February 7, 1961 and Decision No. 64945, dated February 13, 1963, the Commission authorized the railroads, and certain connecting highway common carriers, to increase their carload rates and switching charges by certain amounts provided that said rates and charges would not exceed those applicable on comparable interstate traffic. At the times that said decisions were issued, the Interstate Commerce Commission still had under consideration some of the proposals to make the same increases which were authorized by this Commission. Applicants were therefore authorized

to defer exercising the authorities granted by the above-mentioned decisions for certain specified periods pending the determination by the Interstate Commerce Commission. Such authorities have now lapsed and are terminated. The authorities included increases in switching charges as follows:

Amount of Increase: \$7.50 on inter-terminal or intra-terminal and \$3.00 per car on intra-plant switching when charges paid by the shippers (Tariff Reference: Item No. 165-C, Tariff of Increased Rates and Charges X-223, TEA-ER ICC No. C-170).^{1/}

On May 4, 1964, the Interstate Commerce Commission (as reported in 322 I.C.C. 560) authorized the railroads to increase the switching charges up to the level authorized by this Commission in its Decisions Nos. 61440 and 64945. Applicants here request authority to now make such increases effective on California intrastate movements. Their petition setting forth such request has been served upon all parties of record in this proceeding. No protests have been received by the Commission.

We have heretofore found that the increases in switching charges were justified. In the circumstances, we conclude that applicants should be authorized to make such increased charges effective on California intrastate movements. Further hearing herein is not necessary.

Proceedings in the minimum rate cases were consolidated with this application for the purpose of enabling the Commission to consider the effect of the proposed railroad rates upon the minimum rates and the rates of common carriers maintained at levels competitive with those of the railroads. By Decisions Nos. 61440 and 64945, common carriers maintaining rates at the level of those published by

^{1/} See Appendix A, Decision No. 61440.

applicants were directed to increase those rates to the level of the increased rail rates or the otherwise applicable minimum rates, whichever are the lower. The circumstances requiring the issuance of that directive have not changed; therefore, the proceedings in the minimum rate cases referred to above are reopened for the limited purpose of enabling the Commission to issue that directive herein in connection with the increased rates which will be authorized applicants.

IT IS ORDERED that:

1. Applicants are authorized to establish the increased rates and charges for switching proposed in Application No. 42837, and as more particularly set forth in its First Amendment to Petition For Modification filed July 20, 1964 herein. Tariff publications authorized to be made as a result of the order herein may be made effective not earlier than ten days after the effective date hereof on not less than ten days' notice to the Commission and to the public.
2. The authority herein shall expire unless exercised within sixty days after the effective date of this order.
3. Applicants are authorized to publish the increased rates and charges in the same form as that authorized by the Interstate Commerce Commission for interstate rates in Docket Ex Parte No. 223 (322 I.C.C. 560).
4. The authority herein granted is subject to the express condition that applicants will never urge before the 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. The filing of rates pursuant to the authority herein granted will be construed as a consent to this condition.

5. Common carriers maintaining, under outstanding authorizations permitting the alternative use of rail rates, rates below the minimum rates otherwise applicable are authorized and directed to increase such rates, on not less than ten days' notice to the Commission and the public, to the level of the rail rates established pursuant to paragraph 1 of this order, or to the level of the specific minimum rates, whichever is lower; and such adjustments shall be made effective not later than thirty days after the effectiveness of the increased rail rates.

6. Common carriers, in establishing and maintaining the rates authorized hereinabove, are hereby authorized to depart from the provisions of Section 460 of the Public Utilities Code to the extent necessary to adjust long- and short-haul departures now maintained under outstanding authorizations; such outstanding authorizations are hereby modified only to the extent necessary to comply with this order; and schedules containing the rates published under this authority shall make reference to the prior orders authorizing long- and short-haul departures and to this order.

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

Dated at San Francisco, California, this 13th day of OCTOBER, 1964.

Fredrick B. Holboell
President
George E. Grover
William B. Burnett

Commissioners

-4- Commissioner George E. Grover, being necessarily absent, did not participate in the disposition of this proceeding.