

ORIGINAL

Decision No. 70067

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
M. A. NELSON, Agent, for authority)
to increase certain charges result-)
ing from proposed amendment of)
various tariff provisions relating)
to marked capacity, lengths, dimen-)
sions and cubical capacity of cars.)

Application No. 47791
(Filed August 4, 1965)

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
Order Setting Hearing
Dated October 13, 1965

And related matters.

Cases
Nos. 5433, 5435, 5436,
5437, 5438, 5439,
5440, 5441, 5603,
5604, 7857.

- A. T. Suter, for applicant in Application No. 47791.
- Eugene E. Read, for California Manufacturers Association; Ralph Hubbard, for California Farm Bureau Federation; C. D. Gilbert, H. F. Kollmyer and A. D. Poe, for California Trucking Association; and William Mitze, for Riverside Cement Division of American Cement Corporation, interested parties.
- J. C. Matson, for the Commission staff.

O P I N I O N

This application, filed by M. A. Nelson, Agent, Pacific Southcoast Freight Bureau on behalf of the railroads operating within this State, seeks authority to amend tariffs filed with this Commission relating to marked capacities, lengths, dimensions and cubical capacities of cars.

Specifically applicant seeks to add the following to its tariff provisions:

"NOTE: When rates published in this Tariff are subject to a minimum weight based on the marked capacity of car, and the marked capacity set forth in the Official Railway Equipment Register is as shown in Column A below, the weight shown in Column B will be used instead of the marked capacity in determining the minimum weight:

<u>COLUMN A</u>	<u>COLUMN B</u>
80,000 lbs.	88,000 lbs.
100,000 lbs.	110,000 lbs.
140,000 lbs.	154,000 lbs.

Cars may not be loaded in excess of the load limit. Where the minimum weight as provided in this item exceeds 95 percent of the load limit of the car furnished, freight charges will be determined by actual weight of shipment, but not less than 95 percent of the load limit. Bills of lading must be endorsed to show the load limit of the car used."

The above proposal results in an increase in the minimum weight per shipment when such minimum weight is based upon the marked capacity of the freight car used.

Public hearing in these matters was held and the matters submitted before Examiner Mallory at San Francisco on October 25, 1965. Evidence in support of the application was adduced by an assistant freight traffic manager of Southern Pacific Company. California Trucking Association requested that if the application is granted, common carriers maintaining rates under the alternative provisions of the various minimum rate tariffs on the level of the rail rates sought to be increased, be directed to raise such rates to the level of the increased rail rates or the specific minimum rates, whichever are the lower. No one appeared in opposition to the application. Parties other than those mentioned participated through examination of applicant's witness.

The following is a summary of applicant's evidence. The purpose of the proposed publication is to increase the shipment minimum weight based upon the marked capacity of the freight car used to more nearly reflect the actual carrying capabilities of carriers' equipment. Studies made by the Association of American Railroads disclosed that a large number of railroad freight cars throughout the United States are substantially underrated from the standpoint of permissible axle loadings. In order that there may be a greater utilization of the available car supply, rail carriers have embarked upon a program of restenciling of freight cars to reflect the higher capacity found to be justified. Several years will elapse before this program will be completed.

It is not practical, nor permissible under Interstate Commerce Commission regulations, to publish in the Railway Equipment Register any change in the marked capacity of a car until such change has, in fact, been made by restenciling the car. Rail carriers are proceeding expeditiously with a nationwide program of restenciling all cars of 80,000-, 100,000- and 140,000-pound capacity, and arrangements are being made to amend the Railway Equipment Register accordingly. When all such cars have been restenciled, there will be no need for the tariff change proposed herein. All new cars, as they are placed in service, are being marked to reflect the highest permissible axle loading.

The proposed tariff amendment is currently applicable to interstate traffic of the railroads, and also to their intrastate traffic in 10 western states other than California. Prior to the establishment of the tariff provisions in other states and on interstate traffic, and before filing the instant application, the proposal was well publicized in traffic bulletins and in rate bureau

dockets. Two amendments to the original proposal were made at the request of shippers; one to cover the situation where car capacities were less than, but approached, the load limit for the cars; the other to fit the needs of cement shippers in California. It is applicant's belief that the proposed provisions are necessary to obtain more efficient utilization of equipment where the carload minimum weight is related to the marked capacity of the equipment, and will result in an increase in the available car supply to shippers.

In the circumstances, it appears, and the Commission finds that the increases in rates resulting from the proposal in Application No. 47791 are justified, and concludes that the application should be granted.

Proceedings in the minimum rate cases were consolidated with the 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. Alternatively applied railroad rates maintained by other common carriers are lower than the specific minimum rates found reasonable by the Commission and are lawful only because the alternative provisions of the minimum rate tariffs permit common carriers to meet the competition of other carriers, such as the railroads, which are authorized to maintain rates lower than the established minimum rates. The lower rail rates will be increased pursuant to the authority granted herein; therefore, common carriers should be directed to increase rates maintained under said alternative provisions to the level of the increased rail rates. The increases necessary to maintain the competitive relationships between carriers are justified.

O R D E R

IT IS ORDERED that:

1. M. A. Nelson, Agent, Pacific Southcoast Freight Bureau, on behalf of the railroads listed in Appendix A to Application No. 47791, is authorized to establish the tariff provisions proposed in said application. 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 granted shall expire unless exercised within ninety days after the effective date of this order.

3. Common carriers maintaining, under outstanding authorizations permitting the alternative use of rail rates, rates below the specific minimum rate levels otherwise applicable on the commodities and between the points for which increases are authorized in ordering paragraph 1 hereof, are authorized and directed to increase such rates, on not less than ten days' notice to the Commission and to the public, to the level of the rail rates established pursuant to ordering paragraph 1 hereof, or to the level of the specific minimum rates, whichever is lower; such increases shall be made effective not later than thirty days after the effectiveness of the increased rail rates.

4. 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

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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 7th day of DECEMBER, 1965.

Fredrick B. Hobbitt
President
John E. Natchik
George J. Crower
Augustan
William A. Bernard
Commissioners