

ORIGINALDecision No. 70771

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
PACIFIC SOUTHEAST FREIGHT BUREAU
for authority to make effective
increases and reductions in certain
railroad rates and charges.

Application No. 48012

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 of
November 23, 1965)

AND RELATED MATTERS

Cases Nos. 5330, 5435, 5436,
5438, 5439, 5440, 5441, 5603,
5604 and 7857
(Orders Setting Hearings of
November 23, 1965)

(Appearances are listed in Appendix A)

O P I N I O N

By this application the California rail lines seek authority to cancel the class rates named in Pacific Southcoast Freight Bureau Tariff No. 255-G (Tariff 255), and to establish in their place the class rates named in Pacific Southcoast Freight Bureau Tariff No. 1016 (Tariff 1016), with certain restrictions.

Public hearing on the application was held January 13 and 14, 1966, at San Francisco before Examiner Turpen.

The rates in Tariff 255 are, with a few minor deviations, the same as the class rates in Minimum Rate Tariff No. 2. The rail

lines are required to maintain their less-carload rates at a level no lower than the Commission's minimum rates. The class rates in Tariff 1016 are generally on the level prescribed by the Interstate Commerce Commission for application within the Mountain Pacific Territory in ICC Docket No. 30416.

The class rate scales in the two tariffs differ in many respects. The Tariff 255 scale is based on ratings named in the Western Freight Classification and has several columns of rates for less-carload traffic based on different minimum weights. Tariff 1016 is based on ratings named in the Uniform Classification and has a single scale of rates for less-carload traffic. Some rates are higher in Tariff 1016 than in Tariff 255, and some are lower.

A rate expert from the Commission's staff introduced into evidence a traffic flow study made by the Commission's Transportation Division. This study included all intrastate freight shipments handled by the California railroads on one day, February 10, 1965. The study shows that only 114 shipments moved under class rates. This represented only 4.3 percent of the revenue and 0.96 percent of the total weight transported by the railroads on that day. The staff witness stated that it is apparent that only an insignificant amount of traffic moves under the class rates in Tariff 255.

A freight traffic manager of Southern Pacific Company testified on behalf of the rail lines. He explained that Tariff 255, and the Western Classification, are applicable only on California intrastate traffic and that Tariff 1016 applies generally throughout the Western states, both interstate and intrastate, except intrastate in California and Arizona. The railroads desire to have a single scale of class rates applicable throughout the territory. The witness referred to the staff's traffic flow study, and stated that 51 of the

total 114 shipments moved by Southern Pacific or its subsidiary lines. He presented an exhibit showing details and rates of these shipments at present and under the proposal. He testified that 13 of the shipments moved at minimum charges, and would be lower under Tariff 1016. Another exhibit presented by this witness showed out-of-pocket costs for seven of these shipments and in all cases the costs were substantially higher than the charges under the present rates.

In order to protect the minimum rates, the rail lines propose to publish a provision that less-carload rates in Tariff 1016 which produce charges less than those applicable under Minimum Rate Tariff No. 2 will not include pickup and delivery service. The rail lines believe that such a provision would eliminate tender of such shipments or the use of such rates by permitted carriers. Both the Commission staff and the California Trucking Association (CTA) urged that the rail lines be given continuing authority to immediately increase any such rates if it appears that traffic involving such rates should develop in the future.

An assistant general freight agent of The Atchison, Topeka and Santa Fe Railway Company explained that because of promotion of its trucking subsidiary and common identification of the name "Santa Fe", his railroad does not desire to eliminate pickup and delivery service on rail LCL rates. Santa Fe therefore proposes to provide in Tariff 1016, that on LCL shipments by Santa Fe, the rates therein will not apply, and that the rates will be found in Western Motor Tariff Bureau, Inc. Freight and Express Tariff No. 111, Freight Tariff No. 107, and Freight Tariff No. 103. These tariffs contain rates the same as those in Minimum Rate Tariff No. 2.

The rail lines also hold themselves out to establish carload commodity rates to cover carload traffic now moving on class rates provided such rates can be established on a compensatory basis.

Several ancillary proposals are involved. Exception Sheet 1-S, which governs Tariff 255, provides a special rating on returned used carriers. This provision is not contained in Tariff 1016. Southern Pacific proposes that Pacific Motor Trucking be authorized to apply this rating on returned carriers which had an outbound movement by Southern Pacific or its rail subsidiaries. Tariff 255 contains a "progressive tender rule", which permits shippers to accumulate small shipments during the day at premises leased from the carrier and ship them on one master bill at the end of the day. A similar rule (Exhibit No. 12) is proposed to be published by Pacific Motor Trucking to replace the Tariff 255 rule. The CTA requested that the minimum charge rule in Tariff 1016 be modified to provide minimum charges no lower than the flat dollar amounts named in Item No. 150 of Minimum Rate Tariff No. 2.

The California Manufacturers Association protested the application on the grounds that the Docket 30416 rates are not proper for application in California, and also due to the elimination of pickup and delivery service on some of the rates.

The freight rate structure in California is presently in a state of transition from a structure developed about thirty years ago, and largely influenced by rail tariff provisions, to a structure responsive to the current predominance of truck transportation.

This transition is largely centered presently upon revisions in the class rate structure. By Decision No. 68324, the Commission approved the major initial step in moving from a rail-oriented classification to a truck-oriented classification. Other steps involving exception tariffs and ratings either have been completed or are in process, as is the final major step in removing the last vestiges of the rail classification together with the necessary revisions of the related class rate tariffs.

The record shows that the Western Classification has not been kept fully up-to-date due to its extremely limited application. It is clear that the negligible amount of traffic moving under the class rates in Tariff 255 does not warrant the maintenance of separate scales of class rates by the railroads for intrastate and interstate traffic.

The Commission finds that:

1. The finding made in Decision No. 31606 that rail carriers are not the rate-making class of carriers in the transportation of LCL traffic in the State and that highway carriers are the rate-making class in the transportation of such traffic is still true and correct and is hereby affirmed.

2. The classification ratings, rules and regulations in Western Classification No. 78, and Exception Sheet No. 1-S, have not been maintained in keeping with changing transportation conditions, and have become and now are outmoded and inappropriate for continued use by rail carriers in this State.

3. The classification ratings, rules and regulations in Uniform Freight Classification No. 7 are maintained in keeping with current transportation conditions, and are just and reasonable for use by rail carriers in this State.

4. The publication of Pacific Southcoast Freight Bureau Tariff No. 1016, governed by Uniform Freight Classification No. 7, in lieu of Pacific Southcoast Freight Bureau Tariff No. 255-G, governed by Western Classification No. 78, and Exception Sheet No. 1-S, will be an appropriate step in the development of a freight rate structure in this State in which rail carrier rates and highway carrier rates are governed by classification ratings, rules and regulations best suited to each class.

5. The establishment of a "floor" under which pickup and delivery service will not be performed is reasonable in order to preserve the integrity of the Commission's minimum rates.

6. The minimum charges in Tariff No. 1016 should be no lower than those named in Minimum Rate Tariff No. 2.

7. The adoption of rates named in Western Motor Tariff Bureau tariffs by The Atchison, Topeka and Santa Fe Railway Company on less-carload shipments in lieu of those named in Tariff No. 1016 is reasonable.

8. The publication by Pacific Motor Trucking Company of provisions relating to returned empty carriers and progressive tender of shipments is reasonable.

9. The increases in rates and charges resulting from the tariff changes approved herein are justified.

10. The ultimate purposes of the pending transition in class rate structures generally require provisional authority to the rail applicants to permit tariff changes during the transitory stages.

The Commission concludes that the application should be granted with the modifications as set forth in the above findings.

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 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 or to the level of the specific minimum rates, whichever is lower. The increases necessary to maintain the competitive relationships between carriers are justified.

O R D E R

IT IS ORDERED that:

1. Pacific Southcoast Freight Bureau, on behalf of the railroads and highway common carriers listed in Exhibit A of Application No. 48012, is authorized to cancel the all-rail and joint rail-motor class rates contained in Pacific Southcoast Freight Bureau Tariff 255-G and participation in the governing classification and exception sheet, and to establish in lieu thereof on all-rail traffic the class rates named in Pacific Southcoast Freight Bureau Tariff 1016 along with its governing classification, subject to the following conditions:

- (a) Provision shall be made that any rates less than the Commission's minimum rates shall not include pickup and delivery service.
- (b) The applicant carriers are granted authority, to expire two years after the effective date of this order, to publish, and are directed to publish, such further amendments to Pacific Southcoast Freight Bureau Tariff 1016, or to establish such other tariff revisions, as may become necessary to maintain their rates and charges on less-carload traffic at a level no lower than the minimum rate order in the event that traffic involving such rates may develop in the future.
- (c) Minimum charges shall be not less than those provided in Item No. 150 of Minimum Rate Tariff No. 2.

2. The Atchison, Topeka and Santa Fe Railway Company is authorized, on less-carload traffic, to adopt the rates named in the

following tariffs of the Western Motor Tariff Bureau, Inc.: Freight and Express Tariff No. 111, Cal. P.U.C. 15; Freight Tariff No. 107, and Freight Tariff No. 103.

3. Pacific Motor Trucking Company is authorized to publish rules as proposed pertaining to return of used carriers and progressive tender.

4. 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.

5. 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 paragraphs 1, 2 and 3 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 such ordering paragraphs, now or in the future, 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.

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 24th day of May, 1966.

Fredrick B. Hallock
President
George L. Grover
Morgan
Commissioners

Commissioner William M. Bennett, being necessarily absent, did not participate in the disposition of this proceeding.

APPENDIX A

LIST OF APPEARANCES

Gary S. Anderson and Leland E. Butler, for applicant.

John T. Reed and Eugene A. Read, for California Manufacturers Association; E. J. Langhofer, for San Diego Chamber of Commerce, protestants.

Arlo D. Poe, J. C. Kaspar and H. F. Kollmyer, for California Trucking Association; John McDonald Smith, for Pacific Motor Trucking Co.; V. A. Bordelon, for Los Angeles Chamber of Commerce; Ralph Hubbard, for California Farm Bureau Federation; E. F. Westberg, for California Retailers Association; R. C. Fels, for Furniture Mfgs. Assn. of Calif., and Calif. Lamp & Shade Assn.; C. J. Van Duker, for United Shippers Assn.; Gordon Larson, for American Can Company; C. H. Costello, for Continental Can Co., Inc.; H. W. Haage, for National Can Corp.; A. E. Norrbom, Pete J. Antonino and Marion O. Wood, for Rheem Mfg. Co.; R. A. Morin, for Fibreboard Paper Products Corp.; G. B. Fink, for The Dow Chemical Co.; Gordon A. Rodgers, for Union Carbide Corp.; W. J. Haener, for Shell Oil Co.; Richard Canham, by Frank Davis, for Standard Oil Co. of Calif.; J. R. McNicoll, for E. J. Lavine & Co.; Larry Borden, for Safeway Stores, Inc.; Earl L. Mallard, for California & Hawaiian Sugar Refining Corp; interested parties.

John R. Laurie and R. A. Lubich, for the Commission staff.