

ORIGINAL

Decision No. 72612

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Petition of)
Campbell Soup Company for suspension)
of Tariffs of Pacific Southcoast)
Freight Bureau, Tariff 300, Item)
342-B, 10th Revised Page 206-C, re)
application of Minimum weights in)
cars 50'6" in length & in cars ex-)
ceeding 50'6".)

(I & S) Case No. 8641
(Filed June 1, 1967)

ORDER DENYING PETITION FOR
SUSPENSION AND INVESTIGATION

By petition filed June 1, 1967, Campbell Soup Company seeks suspension and investigation of the minimum weight provisions governing the 110,000-pound rates for the transportation of foodstuffs from and to points in California by various rail carriers.¹ These provisions are published to become effective June 14, 1967.

Petitioner operates twenty manufacturing plants at various locations throughout the United States and is engaged in manufacturing various canned foods at its plant in Sacramento. It predominantly uses railroad service to distribute its products and pays all transportation charges for such service. The carriers operate in California under the jurisdiction of the Commission for the transportation of property by railroad under tariffs also on file with the Commission.

Petitioner alleges that historically, when large freight cars have become available, the trend has been toward lower freight

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These provisions are set forth in Item 3420, 10th Revised Page 206-C, of Pacific Southcoast Freight Bureau Tariff 300 of W. O. Gentle, Tariff Publishing Officer.

rates subject to higher minimum weights. Petitioner avers that this trend is reflected in the present rates on canned foodstuffs based on minimum weights ranging from 30,000 to 110,000 pounds from and to points in the area herein involved. Petitioner declares that each minimum weight has an applicable rate that is graded to provide shippers with an incentive to load heavier carloads and provide carriers with compensatory per-car earnings.

Petitioner contends that this trend is not reflected under the provisions in question as minimum weights of 110,000 and 135,000 pounds would respectively govern the rates when the canned foodstuffs are transported in cars "not over 50 feet 6 inches" (50-foot cars) and "over 50 feet 7 inches but not exceeding 60 feet 10 inches" (larger cars) and such rates would be the same for both minimum weights. Petitioner states that, when a larger car is supplied by the carrier in lieu of a 50-foot car, the shipper would be penalized by having to pay the same rate for an additional 25,000 pounds that may or may not be available for loading in the car. Petitioner indicates that the carrier would indirectly be provided with an increase in freight charges that was not anticipated by the shipper.

Petitioner points out that the lower minimum weight would not be applicable when it orders a 50-foot car and the carrier, for its own convenience, supplies a larger car. Petitioner asserts that it could not expect its customers to accommodate it with an increase in orders to enable it to load the larger car to capacity on such short notice and that it would have to absorb the expected additional penalty charge or instruct its plant at Sacramento not to accept such larger cars. Petitioner declares that the proposed minimum weight provisions would discriminate between shippers and would enable the carriers to favor certain shippers with smaller cars.

Reply was filed by W. O. Gentle, Tariff Publishing Officer, Pacific Southcoast Freight Bureau, for and on behalf of the rail carriers (respondents).²

Respondents allege that the proposed minimum weight provisions are not unlawful nor unreasonable and that the use of cars over 50 feet 7 inches in length is not presently permitted under the 100,000-pound scale of rates (sic). As a result thereof, respondents aver that the shipper is penalized by having to use the higher scale of rates based on a minimum weight of 80,000 pounds. Respondents contend that the proposed tariff amendment was not intended to preclude the use of the lower scale of rates when shipments of canned foodstuffs require the use of larger cars but to correct the aforementioned penalty provision and at the same time provide more efficient utilization of these larger cars and improve car supply. Respondents assert that the majority of the California canning industry stressed that correction of the present minimum weight provisions was necessary in order to permit shippers to use the lower 110,000-pound scale of rates on shipments which required larger cars. Respondents state that petitioner acknowledges the availability of more 50-foot equipment than 60-foot equipment and indicate that it has been their experience that larger cars have only been furnished in the past when such larger cars have been ordered. In a tight car situation, respondents declare that it is reasonable to assume that the limited number of 60-foot cars would be tendered only to those shippers able, willing and capable of making use of them.

Respondents request that the petition for suspension be denied.

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Reply did not conform with the requirements of the Commission's General Order No. 113-A in that it was not received within five days after service of the petition for suspension.

The Commission is of the opinion and finds that the minimum weight provisions herein in issue have not been shown to be provisions which should be suspended pending a hearing to determine their lawfulness. The petition for investigation and suspension will be denied without prejudice to the consideration of any complaint which may be filed concerning the reasonableness of such provisions.

IT IS ORDERED that:

1. The petition of Campbell Soup Company filed on June 1, 1967, in this proceeding is hereby denied without prejudice.

2. Copies of this order shall be forthwith served upon petitioner and upon The Atchison, Topeka & Santa Fe Railway Company, Southern Pacific Company, The Western Pacific Railroad Company, The Denver & Rio Grande Western Railroad Company and Pacific Southcoast Freight Bureau.

3. This proceeding is hereby discontinued.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 9th day of June, 1967.

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

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

[Handwritten Signature]

President
[Handwritten Signature]

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Commissioners