

ORIGINAL

Decision No. 77601

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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 in
Decision No. 76030, dated
August 12, 1969

And Related Matters.

Cases Nos.
5330, 5433, 5435, 5436, 5437,
5438, 5439, 5440, 5441, 5603,
5604, 6008, 7857, 7858, 7783
and 8808
Order Setting Hearing in
Decision No. 76030, dated
August 12, 1969

Richard S. Kopf, for Southern Pacific Transportation Company, respondent, and Pacific Southcoast Tariff Bureau, interested party.

Richard W. Smith, H. F. Kollmyer and A. D. Poe, for California Trucking Association; John T. Reed, for California Manufacturers Association; Philip K. Davies, for State of California, Department of General Services; Bill Farris, by Philip K. Davies, for the County of Los Angeles; and M. A. Passman, by Philip K. Davies, for University of California, Berkeley; Douglas V. Hart, for the County of Los Angeles; Leon R. Peikin, for RCA Corporation; and Asa Button, for Spreckels Sugar Company, interested parties.

John F. Specht, for the Commission staff.

O P I N I O N

By Decision No. 76335, dated February 20, 1970, in these proceedings, the Commission directed the staff to prepare for

consideration of the parties to these proceedings recommended rules concerning the handling and filing of rate quotations for the transportation of property performed for the State or for county or municipal governments under Section 530 of the Public Utilities Code, to implement the Commission's conclusions set forth in said decision.

Proposed rules prepared by the Commission's Transportation Division were distributed to interested parties, following which public hearing was held before Examiner Mallory on June 30, 1970, and the proceedings herein were submitted.

The proposed rules prepared by the staff were introduced into evidence by a transportation analyst (Exhibit A-1). Generally, these rules require that rate quotations by common carriers to the State, and to county and municipal governments be filed; that said quotations contain rates no lower than the lowest minimum rate or published common carrier rate in effect at the time of filing; and that formal application be made for approval of rates lower than the lowest available existing minimum rate or common carrier rate. Suggested minor changes in language made by respondent and interested parties were adopted by the witness.

A transportation analyst employed by the State of California, Department of General Services, presented Exhibit A-2, containing suggested amendments to the proposed rules in Exhibit A-1, which would permit, pending hearing, the rates proposed in formal applications to be made effective on a temporary basis. The witness testified that in many instances the movement under the proposed reduced rate would begin before public hearing could be held and the request acted upon by the Commission. The witness pointed out that should the Commission determine after hearing that the temporary

rate was not justified, the common carrier proposing said rate could be ordered to collect, retroactively, the rate which otherwise would have been applicable. The witness indicated that procedures similar to those pertaining to applications under the Shortened Procedure Tariff Docket as set forth in Article 7 of the Commission's Rules of Procedure would be satisfactory to the Department of General Services if the protest period was shortened to 10 days.

There were no objections by other parties to the adoption of the rules proposed by the staff, nor were any objections made to the additions and amendments proposed by the representative of the Department of General Services. Said staff proposals, amended to provide for the assessment of proposed reduced rates pending formal approval by the Commission, should be adopted herein.

In the circumstances, the Commission finds the rules to govern the filing of rate quotation statements for transportation by common carriers for the State, county or municipal governments pursuant to Section 530 of the Public Utilities Code, as set forth in Appendix A hereto, will be reasonable and are necessary and adequate for the administration and enforcement of the provisions of said Section 530. The Commission concludes that the General Order set forth in Appendix A should be adopted to become effective November 1, 1970.

O R D E R

IT IS ORDERED that:

1. General Order No. 132, as set forth in Appendix A to the order herein, applicable to all common carriers regulated under Part 1 of the Public Utilities Code, is hereby adopted to become effective November 1, 1970.

2. The Secretary of the Commission shall cause a copy of General Order No. 132 to be served by mail forthwith to each common carrier regulated under Part I of the Public Utilities Code.

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

Dated at San Francisco, California, this 11th day of AUGUST, 1970.

Reginald Chairman
William J. ...
...
... Commissioners

Commissioner J. P. Vukasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

APPENDIX A

GENERAL ORDER NO. 132

PUBLIC UTILITIES COMMISSION OF THE
STATE OF CALIFORNIA

Rules Governing The Filing of Rate Quotation
Statements For Transportation by Common
Carriers For The State, County or
Municipal Governments Pursuant
To Section 530 of The Public
Utilities Code

Adopted August 11, 1970, Effective November 1, 1970.

(Decision No. 77601, Case No. 5432 et al.)

RULE 1 - DEFINITIONS

- 1.1 "Statement" means a rate quotation statement issued by or on behalf of a common carrier for the transportation of property for the State, or for county or municipal governments at reduced rates.
- 1.2 "Common Carrier" means any carrier of property named in Section 211 of the Public Utilities Code.

RULE 2 - FILING OF STATEMENTS

- 2.1 All common carriers subject to Section 530 of the Public Utilities Code shall file with the Commission all statements for transportation of property to be performed for the State, or for county or municipal governments at reduced rates.
- 2.2 Statements shall be filed with the Commission in triplicate, in one package, under one letter of transmittal, and shall be delivered or addressed to:

Public Utilities Commission of
the State of California
State Building
Civic Center
San Francisco, California 94102

If a receipt is desired, the letter of transmittal shall be sent in duplicate, one copy of which will be stamped "received" and returned as a receipt.

2.3 Statements shall be filed on not less than five (5) days' notice to the Commission and to the public.

RULE 3 - FORM AND CONTENT

3.1 Each statement shall contain an effective date which date shall not be less than five (5) days after the date received by this Commission in its San Francisco Office, and an expiration date. No expiration date shall be longer than two years after the effective date of the statement.

3.2 Statements naming rates for transportation of commodities for which minimum rates have been established shall contain rates no lower than:

- (1) The minimum rates established by this Commission for highway permit carriers; or
- (2) Rates specifically authorized to be established by highway permit carriers or common carriers which are lower than the established minimum rates; or
- (3) The published carload rates of rail carriers and the published rates of vessel carriers.

3.3 Each statement shall contain the tariff authority for the stated rates.

3.4 Where minimum rates have not been established for highway permit carriers any level of rates may be proposed. Each of such statements filed shall contain specific reference to the Commission's decision and/or tariff authority that minimum rates have not been established for the transportation involved.

RULE 4 - RATES BELOW AUTHORIZED LEVELS

4.1 If a common carrier desires to issue a statement naming rates below level of rates described in Rule 3.2, a formal application must be filed with the Commission for authority in accordance with the Commission's Rules of Practice and Procedure (Decision No. 72329, as amended, in Cases Nos. 4924 and 7234), as indicated below:

- (a) Article 2 - Rules 2, 3 and 7.
- (b) Not subject to other provisions of Article 2 nor provisions of Article 4 or Article 6.

4.2 Applications and protests thereto also shall conform to the requirements of Rule 5 hereof.

RULE 5 - FILING OF FORMAL APPLICATIONS

5.1 Verification or Certification and Signatures. The original of each application shall be verified under oath or certified under penalty of perjury, and shall be signed by the applicant, a responsible officer thereof, or by an agent to whom power of attorney has been given. Applications concerning joint rates shall be signed by or on behalf of all carriers participating therein.

5.2 Contents. Applications shall state clearly and concisely the authority or relief sought and:

- (a) The legal name, mailing address and telephone number of the applicant. If the carriers are numerous, and constitute all the participants of the specified tariff, they may be identified by reference to the tariff.

- (b) The present rates, charges or rules and those proposed to be established.
- (c) Clearly, specifically, and in detail, the justification in support of each authority sought (including cost data where applicable).
- (d) The position of interested parties regarding the application insofar as known to applicant.

5.3 Copy of Application Upon Request. Applicant shall promptly furnish a copy of the application to each interested party making a written request therefor to applicant.

5.4 Processing and Notice. Applications shall be listed in the daily calendar.

The listing shall identify the applicant and the type of application and briefly state the authority sought and the date of filing. Action on an application shall be withheld for ten days subsequent to the first date of listing in said calendar.

5.5 Protests. Anyone interested may file a protest which shall:

- (a) State the protestant's full name, mailing address and telephone number.
- (b) State the facts constituting the grounds for protest and show how protestant is affected and why the proposed reduced rate may not be justified.
- (c) State the names of each applicant or its attorney or agent upon whom a copy of the protest is being served pursuant to Rule 5.6.

- (d) Be verified under oath or certified under penalty of perjury and be signed by protestant or its attorney.
- (e) Be addressed to the California Public Utilities Commission, State Building, San Francisco, California 94102.
- (f) Be forwarded so as to reach the Commission not later than the tenth day following the listing of the application in the daily calendar.

5.6 Service. One copy of each protest shall simultaneously be served upon each applicant or its attorney or agent. Service shall be made personally or by deposit in the United States mail of a sealed envelope with first class postage prepaid, containing a true copy of the documents to be served and addressed to the party to be served at the last known address of such party.

5.7 Copy of Protest Upon Request. Protestant shall promptly furnish a copy of the protest to each party making a written request therefor to protestant.

RULE 6 - AUTHORIZATIONS

6.1 Authorization Without Hearing. The Commission may grant the application without hearing, if it deems that the justification furnished in the application shows that the proposed reduced rate will be reasonable, and provided no protest has been filed.

6.2 Temporary Authority Pending Hearing. Should a protest be filed, the Commission may allow the proposed rates to go into effect, pending a decision after hearing. If, after hearing, the Commission concludes that the proposed rates are not reasonable, the proponents thereof will be required to adjust charges on shipments moving prior to the effective date of the Commission's order after hearing to the level of the charges applicable under the lowest rate permissible under Section 3.2.

The effective date of this order shall be November 1, 1970.

Approved and dated at San Francisco, California,
this 11th day of AUGUST, 1970.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

William W. Dunlop
WILLIAM W. DUNLOP, Secretary