

Decision No. 82268

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Southcoast Freight Bureau for Authority to Make Effective on California Intra-state Traffic Increases in Local and Joint Freight Rates and Charges as Published in Tariff of Increased Rates and Charges, X-295, for Interstate Traffic to, From, and Within California.

In the Matter of the Investigation into the rates, rules, regulations, charges, allowances and practices of all common carriers and highway 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).

And Related Matters.

Application No. 54269
(Filed August 24, 1973;
amended November 16, 1973)

Case No. 5432, OSH 769
(Filed October 16, 1973)

Case No. 5330, OSH 77
Case No. 5433, OSH 47
Case No. 5436, OSH 151
Case No. 5437, OSH 255
Case No. 5438, OSH 92
Case No. 5439, OSH 193
Case No. 5440, OSH 86
Case No. 5441, OSH 280
Case No. 5603, OSH 134
Case No. 5604, OSH 39
Case No. 7857, OSH 88
Case No. 7858, OSH 164
Case No. 8808, OSH 24
(Filed October 16, 1973)

O P I N I O N

Pacific Southcoast Freight Bureau (PSFB), on behalf of the California rail carriers participating in its tariffs, seeks authority to make effective on California intrastate traffic increases in local and joint freight rates and charges as published in Tariff of Increased Rates and Charges X-295 for interstate traffic to, from, and within California. Such increases are proposed on a selective service or commodity basis and range from 2 to 5 percent. On October 16, 1973 the Commission ordered that hearings be held in the several minimum rate cases concurrently with Application No. 54269 for the purpose of determining whether common carriers should also be authorized and directed to adjust their rates maintained under the "alternative application of common carrier rates" provisions set forth in the several minimum rate tariffs of the Commission.

Application of the Tariff X-295 rate increases on interstate traffic was suspended until March 13, 1974 by the Interstate Commerce Commission (ICC) in Ex Parte 295, Increased Freight Rates, 1973. In lieu of such increases, the ICC's order in Ex Parte 295 dated August 2, 1973 authorized, pending public hearing, interim selective increases ranging from 2 to 3 percent as published in the rail carriers' Tariff of Increased Rates and Charges X-295-A. The interim increases authorized by the ICC became effective August 19, 1973.

Concurrently with the filing of Application No. 54269 the PSFB petitioned the Commission for interim ex parte authority, pending hearing on its application, to make effective on California intrastate rail traffic the increases published in Tariff of Increased Rates and Charges X-295-A now applicable on interstate rail traffic to, from, and within California. On October 19, 1973 the Union, Holly, and Spreckels sugar companies and the California Beet Growers Association (collectively referred to as the "Beet Sugar Industry") filed a reply in opposition to the interim ex parte relief sought by

applicant rail carriers. The PSFB application was amended on November 16, 1973 so as to except from the authority sought therein the carload commodity rates on sugar beets set forth in PSFB Tariff 65-N.^{1/} The PSFB now requests the Commission to grant its application, as amended, without hearing or, in the alternative, grant the previously sought interim ex parte relief pending hearing. The Sugar Beet Industry on November 26, 1973 advised the Commission that, in view of the recent amendment of Application No. 54269, it "hereby withdraws its opposition to the...application and its intention to appear as a protestant..."

Ex Parte 295-A Interim Increases

The California intrastate rail rates published in PSFB's tariffs on file with this Commission were last generally increased pursuant to Decision No. 81445 dated May 30, 1973 in Application No. 53107, as amended. Said increases in California intrastate freight rates and charges were the same as previously authorized by the ICC for interstate traffic in Ex Parte 281-B, Increased Freight Rates (1972) 341 ICC 290. The level of expenses, including labor costs employed by applicant in the proceeding leading up to Decision No. 81445, were those generally in effect as of September 30, 1972.

A verified statement prepared by the Assistant Manager, Bureau of Transportation Research, Southern Pacific Transportation Company, was attached (Exhibit E) to the PSFB petition in support of the sought interim relief. The affiant states that wages in the railroad industry nationwide, as well as those experienced by the rail carriers operating in California, have increased by:

1. 5 percent effective October 1, 1972 for all rates of pay.

^{1/} Applicant states that adjustment of the rail carload rates on sugar beets will be made the subject of a separate pleading.

2. 15 cents an hour effective January 1, 1973 and 10 cents an hour effective April 1, 1973, a total of about 5 percent for operating employees, clerks, and patrolmen.
3. Approximately 5 percent effective April 1, 1973 for shop crafts and other union employees.
4. Comparable increases have been made to non-union employees.
5. Fringe Benefits:
 - (a) Fifth week of vacation granted to employees with 25 years of service.
 - (b) Additional ninth holiday.
 - (c) Maximum hours of service for operating employees reduced to twelve.
6. Federal payroll taxes were increased as of January 1, 1973 and supplemental sick benefits became effective as of July 1, 1973.

The Assistant Manager also developed the percentage ratios of employee compensation, health and welfare, and federal payroll taxes to total operating expenses, rents and taxes (excluding state and federal income taxes), and the weighted average percent increase in total expenses. A summary of the manager's computations follows:

TABLE 1

<u>Labor Costs</u>	<u>Percent of Total Expenses 1972</u>	<u>Percent Increase 9-30-72 to 8-20-73</u>	<u>Weighted Percent Increase of Total Expenses</u>
Employee Compensation	50.0	11.2	5.6
Health & Welfare	2.9	2.8	0.1
Federal Payroll Taxes	<u>5.0</u>	<u>19.6</u>	<u>1.0</u>
Total Labor Costs	57.9	-	6.7

From Table 1 it will be noted that wages and allied payroll expenses of the California rail carriers constitute approximately 58 percent of their total operating expenses for the year 1972. Of this amount 50 percent is direct rail wage costs. Table 1 also indicates that since September 30, 1972 the rail carriers total

operating expenses have increased 6.7 percent due solely to labor cost increases effective generally as of August 20, 1973. Such increase in labor costs does not reflect the increases in applicant rail carriers' railroad retirement tax contribution effective as of October 1, 1973 and January 1, 1974.^{2/} It is the 6.7 percent increase in total operating expenses which applicant rail carriers now seek interim authority to offset by applying the Ex Parte 295-A increases of 3 percent or less to their California intrastate traffic.

In Decision No. 81445 the Commission found "Applicant has demonstrated that for a projected rate year under the sought X-281-B rail rate increase the California rail lines anticipate they will experience a net railway operating deficit from their California intrastate operations of \$13,287,392." It is now evident that the interim ex parte labor cost offset rate relief sought in this proceeding will have but little, if any, effect upon either the historical or existing California intrastate operating deficit experienced by applicant rail carriers.

The Tariff of Increased Rates and Charges X-295-A has been in effect on interstate traffic since August 19, 1973. The Tariff X-295-A increases of 3 percent or less are well within the suggested guidelines of the federal Cost of Living Counsel and the policy adopted by this Commission in Resolution No. A-4157 dated August 21, 1973. The applicant rail carriers state that in the event any rates resulting from the application of the sought interim increases exceed rates subsequently approved or prescribed by this Commission after hearing, the carriers will refund the difference between the increases resulting from the application of the sought

^{2/} Increases in applicant rail carriers' rates and charges (Ex Parte 299) proposed in Application No. 54268 to offset like increases in their railroad retirement tax contributions are independent of and in addition to the increases in rates and charges sought in Application No. 54269.

X-295-A increases and any rates subsequently approved or prescribed by the Commission with 6 percent interest. Should no increase be authorized after hearing in this proceeding, the rail carriers will refund the full amount of the interim increase collected plus 6 percent interest.

On November 16, 1973 the ICC issued its final order in Ex Parte 295, Increased Freight Rates and Charges, 1973, Nationwide. In lieu of the general increases not exceeding 5 percent proposed in the rail lines' Tariff X-295, the ICC has now authorized, subject to certain additional exceptions, the nation's railroads to make permanent the prior authorized interim increases not exceeding 3 percent set forth in the rail carriers' Tariff X-295-A. A like course of action would now be appropriate in this proceeding relative to the sought increases on California intrastate traffic.

Findings

1. The Pacific Southcoast Freight Bureau, on August 24, 1973, filed Application No. 54269 requesting authority to increase California intrastate rail rates and charges by amounts not exceeding 5 percent as set forth in Tariff of Increased Rates and Charges X-295. Concurrently with the filing of Application No. 54269 the tariff bureau petitioned the Commission for interim ex parte authority, pending hearing of Application No. 54269, to increase said rail rates by amounts not exceeding 3 percent, same as previously authorized for interstate rail traffic in ICC Docket No. Ex Parte 295, dated August 2, 1973. This interstate authority was exercised by the California rail carriers through the publication of a Tariff of Increased Rates and Charges X-295-A, effective August 19, 1973. In lieu of the general increases proposed in Tariff X-295, the interim increases not exceeding 3 percent set forth in Tariff X-295-A was authorized for interstate rail traffic on a permanent basis, subject to certain additional exceptions, in ICC Docket No. Ex Parte 295 dated November 16, 1973.

2. The Pacific Southcoast Freight Bureau on November 16, 1973 amended its Application No. 54269 so as to except from the authority sought therein the carload commodity rates on sugar beets set forth in PSFB Tariff 65-N. Pursuant to such action by the PSFB the California Sugar Industry (Union, Holly, and Spreckels sugar companies and the California Beet Growers Association) withdrew its opposition to Application No. 54269, as amended.

3. To the extent that the increases sought in Application No. 54269, as amended, do not exceed the like increases previously authorized for interstate rail traffic in ICC Docket No. Ex Parte 295 dated November 16, 1973 such increases have been shown to be justified for application on California intrastate traffic.

4. The increases found justified herein are in conformity with the goals of the Federal Economic Stabilization Program and this Commission's Resolution No. 4157 dated August 21, 1973.

5. The rates and charges of highway common carriers and other common carriers published and maintained on the level of the present railroad carload rates are insufficient, unreasonable, and not justified by transportation conditions to the extent such rates and charges are both lower than the increased rail carload rates and below the applicable minimum rates.

Conclusions

1. Pacific Southcoast Freight Bureau on behalf of the California rail carriers listed in Application No. 54269, as amended, should be authorized to establish by appropriate tariff supplement the same increases on California intrastate traffic as now authorized for interstate traffic in ICC Docket No. Ex Parte 295 dated November 16, 1973, except on shipments of sugar beets moving under the rail carload commodity rates provided for sugar beets in PSFB Tariff 65-N.

2. Common carriers maintaining rates based on rail rates should be authorized and directed to increase those rates to the level of the increased rail rates or the level of the otherwise applicable minimum rates, whichever is lower.

3. Common carriers maintaining rates based on rail rates which have been canceled or changed should be required to adjust their rates to conform to the changed rail rates or to the minimum rates otherwise applicable.

4. Applicant and common carriers should be authorized to depart from the provisions of Section 460 of the Public Utilities Code and from the terms and rules of General Orders Nos. 80-Series and 125 to the extent necessary to establish the increased rates authorized or required herein.

5. To the extent not authorized herein Application No. 54269, as amended, should be denied.

O R D E R

.IT IS ORDERED that:

1. Pacific Southcoast Freight Bureau, on behalf of the rail carriers listed in Application No. 54269, as amended, is authorized to establish by appropriate tariff supplement the same increases in California intrastate rates and charges as now authorized for interstate traffic by order of the Interstate Commerce Commission dated

November 16, 1973 in Ex Parte 295, Increased Freight Rates and Charges, 1973, Nationwide, except that such increases shall not apply to the carload commodity rates for sugar beets named in Pacific Southcoast Freight Bureau Tariff 65-N.

2. Tariff publications authorized to be made as a result of the foregoing authority shall be filed not earlier than the effective date of this order and may be made effective not earlier than five days after the effective date hereof on not less than five days' notice to the Commission and to the public, and said authority shall expire unless exercised within sixty days after the effective date of this order. To the extent that departure from the terms and rules of General Order No. 125 is required to accomplish such publications, authority for such departure is hereby granted.

3. The authority set forth herein is granted subject to the express condition that applicant and the carriers on whose behalf it is participating herein 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 constitutes an acceptance by applicant and said carriers as a consent to this condition.

4. Common carriers maintaining, under outstanding authorization permitting the alternative use of rail rates, rates below the specific minimum rate levels otherwise applicable are authorized and directed to increase such rates to the level of the rail rates established pursuant to the authority granted in paragraph 1 hereof or to the level of the otherwise applicable specific minimum rates, whichever is lower. To the extent such common carriers have maintained such rates at differentials above previously existing rail rates, they are authorized to increase such rates by the amounts authorized in paragraph 1 hereof, provided, however, that such increased rates may not be lower than the rates established by the rail lines pursuant to the authority granted in paragraph 1 hereof, nor higher than the otherwise applicable minimum rates.

5. Common carriers maintaining, under outstanding authorization permitting the alternative use of rail rates, rates based on rail rates which have been changed or canceled and which are below the specific minimum rate levels otherwise applicable are hereby directed to increase such rates to applicable minimum rate levels and to abstain from publishing or maintaining in their tariff rates, charges, rules, regulations, and accessorial charges lower in volume or effect than those established in rail tariffs or the applicable minimum rates, whichever are lower.

6. Tariff publications required or authorized to be made by common carriers as a result of paragraph 4 hereof may be made effective not earlier than the fifth day after the publication by applicant made pursuant to the authority granted in paragraph 1 hereof, on not less than five days' notice to the Commission and to the public; and such tariff publications as are required shall be made effective not later than thirty days after the effective date of the tariff publications made by applicant pursuant to the authority granted in said paragraph 1.

7. Tariff publications required to be made by common carriers, as a result of paragraph 5 hereof, may be made effective not earlier than the effective date of this order on not less than five days' notice to the Commission and to the public and shall be made effective not later than thirty days after the effective date of this order.

8. In making tariff publications authorized or required by paragraphs 4 through 7, inclusive, common carriers are authorized to depart from the terms and rules of General Order No. 80-Series to the extent necessary to comply with said ordering paragraphs.

9. Applicant and common carriers, in establishing and maintaining the rates authorized hereinabove, are 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.

10. To the extent not authorized herein Application No. 54269, as amended, is denied.

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

Dated at San Francisco, California, this 18th day of DECEMBER, 1973.

William L. Sturgeon, Jr. President

[Signature]

[Signature] Commissioners

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate

-11- in the disposition of this proceeding.

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