

Decision No. 82696

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Southcoast )  
Freight Bureau for Authority to )  
Make Effective Increases in Local )  
and Joint Freight Rates and Charges )  
to Offset Increases in Retirement )  
Taxes. )

Application No. 54716  
(Filed March 8, 1974)

And Related Matters. )

Cases Nos. 5330, 5432,  
5433, 5436, 5437, 5438,  
5439, 5440, 5441, 5603,  
5604, 7857, 7858 and  
8808.

OPINION AND ORDER

Pacific Southcoast Freight Bureau, on behalf of the California rail carriers<sup>1</sup> participating in its tariffs, seeks authority to adjust their local and joint freight rates on California intrastate traffic by expanding from 2.6 percent to 2.8 percent the increases applicable to said rates due to increases in railroad retirement tax contributions.<sup>2</sup> Applicant asks for authority to depart from the long- and short-haul provisions of Section 460 of the Public Utilities Code and the terms of General Order No. 125 to the extent necessary to allow publication of the proposed increases in the same form as that authorized by the Interstate Commerce Commission. Applicant also requests that the proposed increases be made effective as soon as possible.

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<sup>1</sup> The rail carriers are listed in Exhibit A attached to the application.

<sup>2</sup> The expanded increases are set forth in detail in Tariff of Increased Rates and Charges X-299-A of Pacific Southcoast Freight Bureau.

Applicant states that the rates for the transportation of property by the rail carriers on intrastate traffic in California were increased by 1.9 percent effective October 22, 1973, and thereafter and in lieu of said 1.9 percent increase, by 2.6 percent effective January 1, 1974.<sup>3</sup> Applicant alleges that the January 1, 1974, increase was based upon a maximum taxable base for railroad employees of \$1,050 per month. Applicant declares that Public Law 93-233 enacted by the Congress and signed by the President became effective January 1, 1974, and had the effect of raising the maximum taxable base for railroad employees from \$1,050 to \$1,100 per month due to the interrelation between the Railroad Retirement Tax Act and Social Security legislation.<sup>4</sup> As a result thereof, applicant contends that the 2.6 percent increase must be expanded to compensate the railroads for the increased railroad retirement taxes incurred by them.

Attached to the application as Exhibits B through N in support of the sought relief are systemwide balance sheets and profit and loss statements generally effective as of September 30, 1973, of the principal rail carriers. Also attached to the application as Exhibits P-1, P-2, P-3, P-4 and P-5 are copies of the forms approved by the Interstate Commerce Commission and submitted to that commission by Southern Pacific Transportation Company, The Atchison, Topeka and Santa Fe Railway Company, Northwestern Pacific Railroad Company, Western Pacific Railroad Company and Union Pacific Railroad Company, respectively. Column (h) of said exhibits sets forth the total anticipated increase in the cost for the fourth quarter of 1973 and each quarter of 1974 adjusted to take into account maximum monthly compensation per employee of \$1,100 commencing January 1, 1974, as indicated in footnote "a" of the exhibits.

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<sup>3</sup> Decision No. 82016 dated October 16, 1973, in Application No. 54268.

<sup>4</sup> Attached to the application as Exhibit O is a copy of Public Law 93-233.

Applicant avers that, though the data and the forms submitted to the Interstate Commerce Commission reflect systemwide costs, it is clear that Congress intended that the burden of the railroads should be borne by all traffic interstate and intrastate alike. Applicant states that the Federal Railroad Retirement Tax is applicable to all traffic because it relates solely to the amount of wages paid to employees and every railroad employee is covered regardless of the nature of his work. Applicant asserts that, since there is no relationship between the tax and the location or route of transportation, it seeks the same rate of increase on California intrastate traffic as has been authorized on traffic in all parts of the country.

Findings

1. Pacific Southcoast Freight Bureau requests authority to increase California intrastate rail rates by amounts equivalent to the increases authorized by the Interstate Commerce Commission in Order in Ex Parte 299 dated February 28, 1974.

2. The authority granted by the Interstate Commerce Commission in Order in Ex Parte 299 dated February 28, 1974, was exercised by the railroads through the publication of Tariff of Increased Rates and Charges X-299-A for application on interstate rail traffic effective March 16, 1974.

3. The authority described in Finding 2 hereof established general freight rate increases of 2.8 percent on interstate traffic on March 16, 1974, subject to various exceptions and conditions set forth in Tariff of Increased Rates and Charges X-299-A.

4. The 2.8 percent increase referred to in Finding 3 hereof is in lieu of a 2.6 percent increase that was in effect prior to March 16, 1974.

5. The increases in rates and charges that will result from the application of Tariff of Increased Rates and Charges X-299-A on California intrastate traffic are justified.

6. A public hearing is not necessary.

Conclusions

1. Applicant should be authorized to establish by appropriate supplement to Tariff of Increased Rates and Charges X-299-A the increases in said tariff on California intrastate traffic.

2. Rates and charges increased pursuant to the authority granted by the order herein should be made subject to the refund provisions governing Tariff of Increased Rates and Charges X-299-A.

3. Applicant should be authorized to depart from the provisions of Section 460 of the Public Utilities Code and from the terms and rules of General Order No. 125 to the extent necessary to establish the increased rates and charges authorized herein.

IT IS ORDERED that:

1. Pacific Southcoast Freight Bureau, on behalf of the rail carriers listed in Application No. 54716, is authorized to establish for California intrastate traffic by appropriate supplement to Tariff of Increased Rates and Charges X-299-A the increases in rates and charges set forth therein.

2. All rates and charges increased pursuant to the authority contained in this order shall be subject to the refund provisions set forth in Tariff of Increased Rates and Charges X-299-A.

3. 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 publication, authority for such departure is hereby granted.

4. The authority set forth above 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; and that the filing of rates pursuant to the authority herein granted constitutes an acceptance by applicant and said carriers as a consent to this condition.

5. 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.

6. 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 and accessorial charges lower in volume or effect than those established in rail tariffs or the applicable minimum rates, whichever are lower.

7. Tariff publications required or authorized to be made by common carriers as a result of paragraph 5 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.

8. Tariff publications required to be made by common carriers, as a result of paragraph 6 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.


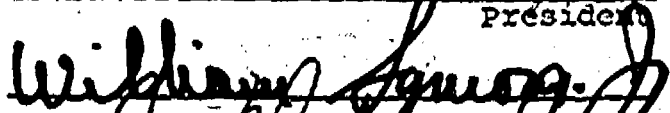



9. In making tariff publications authorized or required by paragraphs 5 through 8, inclusive, common carriers are authorized to depart from the terms and rules of General Order No. 80-Series to the extent necessary to comply with said ordering paragraphs.

10. 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.

A. 54716, C. 5432, et al. - HK

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

Dated at San Francisco, California, this 2nd day of April, 1974.

  
President  
  
  
  
  
Commissioners