

ORIGINAL

Decision No. 82889

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 General Increases in Local and Joint Freight Rates and Charges as Published in Tariff of Increased Rates and Charges, X-303.

Application No. 54552
(Filed January 4, 1974;
amended January 28, 1974)

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, OSH 796
(Filed April 2, 1974)

And Related Matters.

Case No. 5330, OSH 85
Case No. 5433, OSH 53
Case No. 5436, OSH 165
Case No. 5437, OSH 271
Case No. 5438, OSH 98
Case No. 5439, OSH 210
Case No. 5440, OSH 92
Case No. 5441, OSH 297
Case No. 5603, OSH 150
Case No. 5604, OSH 45
Case No. 7857, OSH 103
Case No. 7858, OSH 176
Case No. 8808, OSH 29
(Filed April 2, 1974)

INTERIM OPINION AND ORDER

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-303 for interstate traffic to, from, and within California. Such increases are proposed on a selective service or commodity basis and approximate 5 percent. On April 2, 1974 the Commission ordered that hearings be held in the several minimum rate cases concurrently with Application No. 54552 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.

By its order in ICC Docket No. Ex Parte 303 dated February 20, 1974, the Interstate Commerce Commission (ICC) granted the rail carriers interim authority to establish rate increases not to exceed 4 percent (except for disposition of fractions) subject to maximums no higher than proposed in Ex Parte 303. Said authorized increases may not be applied to recyclable materials.

The California intrastate rail rates published in PSFB's tariffs on file with this Commission were last generally increased pursuant to Decision No. 82016 dated October 16, 1973 in Application No. 54268 and Decision No. 82268 dated December 18, 1973 in Application No. 54269. Said increases in California intrastate freight rates and charges were the same as previously authorized by the ICC for interstate traffic in Ex Parte 295, Increased Freight Rates (1973) and Ex Parte 299-A, Increased Freight Rates (1973).

Exhibits R-1, R-2, R-7, R-8, and R-9 attached to the amendment to the application contain summaries of 1972 California intrastate revenues adjusted to Ex Parte 303 level and expenses, and adjusted to January 1, 1974 levels of the principal rail carriers. The exhibits disclose operating losses as follows:

Southern Pacific Transportation Company	\$13,495,276
Northwestern Pacific Railroad Company	639,270
Union Pacific Railroad Company	555,840
The Atchison, Topeka and Santa Fe Railway Company	3,442,539
The Western Pacific Railroad Company	1,774,914

Findings

1. PSFB on January 4, 1974 filed Application No. 54269 and on January 28, 1974 filed an amendment thereto requesting authority to increase California intrastate rail rates and charges by approximately 5 percent as set forth in Tariff of Increased Rates and Charges X-303.

2. By its order in ICC Docket No. Ex Parte 303 dated February 20, 1974, the ICC granted rail carriers interim authority to establish rate increases not to exceed 4 percent (except for disposition of fractions) subject to maximums no higher than proposed in Ex Parte 303. Said authorized increases may not be applied to recyclable materials.

3. To the extent that the increases sought in Application No. 54552, as amended, do not exceed the like increases previously authorized for interstate rail traffic in ICC Docket No. Ex Parte 303 dated February 20, 1974 such increases have been shown to be justified for application on California intrastate traffic.

4. 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. PSFB, on behalf of the California rail carriers listed in Application No. 54552, 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 303 dated February 20, 1974.

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-303.

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. 54552, 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 February 20, 1974 in Ex Parte 303, Increased Freight Rates and Charges, 1974, Nationwide.

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-303.

3. Tariff publication 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, regulations, 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.

11. A public hearing shall be scheduled in these proceedings for the receipt of evidence herein and full disposition thereof.

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

Dated at San Francisco, California, this 21st
day of MAY, 1974.

William L. Stinson
President
William L. Stinson
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Commissioners

Commissioner Thomas Moran, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner D. W. Holmes, being necessarily absent, did not participate in the disposition of this proceeding.