

ORIGINAL

Decision No. 88416 JAN 24 1978

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific South-)
coast Freight Bureau for Author-)
ity to Make Effective on Cali-)
fornia Intrastate Traffic General)
Increases in Local and Joint)
Freight Rates and Charges as)
Published in Tariff of Increased)
Rates and Charges, X-343)

Application No. 57736
(Filed December 9, 1977)

And Related Matters)

-) Case No. 5432
-) Case No. 5433
-) Case No. 5436
-) Case No. 5437
-) Case No. 5438
-) Case No. 5439
-) Case No. 5440
-) Case No. 5441
-) Case No. 5603
-) Case No. 5604
-) Case No. 7857
-) Case No. 7858
-) Case No. 8808
-) Case No. 9819
-) Case No. 9820

OPINION AND ORDER

Pacific Southcoast Freight Bureau, on behalf of California common carriers¹ participating in its tariffs, requests authority to make effective on California intrastate traffic the same freight rate increases which became effective November 30, 1977, on interstate traffic in Tariff of Increased Rates and Charges X-343.²

¹ The common carriers are listed in Exhibit A attached to the application.

² The increases which are contained in Tariff of Increased Rates and Charges X-343 and Supplements 1, 2 and 4 to said tariff, are set forth in Exhibits Q, R, S and T attached to the application.

In support of the relief sought applicant common carriers submitted exhibits, including a summary of earnings on a depreciated rate base for the period upon which they base their justification for the increases. Said exhibits also show the amount of additional gross revenues estimated to result from the proposed increases based on the amount of involved traffic handled during the preceding calendar year. The percentage by which such estimated revenues exceed the gross revenues based on the amount of involved traffic handled during the calendar year is approximately 4 percent. Though it is anticipated that approximately \$5,936,000 in yearly gross revenue would accrue to the 35 common carriers involved, Exhibits U-1 through U-11, attached to the application, indicate that the carriers would still experience losses in excess of \$2,309,000 on California intrastate traffic for the ensuing year under the proposed rates. We make no finding on this representation.

The Interstate Commerce Commission (ICC) in its Order Ex Parte No. 343 held that an investigation should be instituted into the lawfulness of the rates of several commodities.³ In a subsequent order describing the investigation, the ICC stated the following:

"In the event any increases resulting from the application of this tariff exceed the increases subsequently approved or prescribed by the Commission, the carriers will be required to refund the difference between the increase increases which may subsequently be approved or prescribed by the Interstate Commerce Commission with interest as specified in Section 15(8)(e). Respondents' master tariff contains an appropriate 'Provision for Refund' in the form required by our order served September 29, 1977, with a provision for interest at 6.25 percent."

Applicant, by letter, has indicated no objection to the inclusion of a similar provision in an order of the California Public Utilities Commission.

³ The commodities are: newsprint paper; sodium alkalies; industrial gases; sulphuric acid; rubber, natural or synthetic; manufactured iron or steel; and recyclables.

The application was listed on the Commission's Daily Calendar of December 14, 1977. No objection to the granting of the application has been received.

In the circumstances, the Commission finds that applicant's proposal is reasonable and justified to the extent indicated in the ensuing order. A public hearing is not necessary. The Commission concludes that the application should be granted.

IT IS ORDERED that:

1. Pacific Southcoast Freight Bureau, on behalf of the common carriers listed in the application, is authorized to establish by appropriate tariff supplements the same increases in California intrastate rates and charges under the same conditions as authorized by orders of the Interstate Commerce Commission as set forth in Tariff of Increased Rates and Charges X-343, including provisions for refunds if subsequent increases, after study, are less than those presently approved.

2. Tariff publications authorized to be made as a result of the foregoing authority shall be filed not earlier than the effective date of the order and may be made effective not earlier than one day after the effective date hereof on not less than one day's 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 terms and rules of General Order 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 the condition.

4. Common carriers maintaining, under outstanding authorizations 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 authority granted 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 authorizations permitting the alternative use of rail rates, rates based on rail rates which have been changed or cancelled 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 tariffs 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.

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, shall be filed 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 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 461.5 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.

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

Dated at San Francisco, California, this 2nd day
of JANUARY, 1978.

Robert Batemanich
President
William S. Lyons, Jr.
Veron L. Sturgeon
Charles P. Gault
Clare L. Sedwick
Commissioners