

Decision No. 89495 OCT 3 1978

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Southcoast )  
Freight Bureau for Authority to )  
Make Effective on California In- )  
trastate Traffic General Increases )  
in Local and Joint Freight Rates )  
and Charges as Published in Tariff )  
of Increased Rates and Charges, )  
X-349. )

Application No. 58153  
(Filed June 16, 1978)

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 carriers<sup>1</sup> participating in its tariffs, requests authority to make effective on California intrastate traffic the same freight rate increases which became effective June 17, 1978, on interstate traffic in Tariff of Increased Rates and Charges X-349.<sup>2</sup>

<sup>1</sup>The common carriers are listed in Exhibit A attached to the application and Appendix A of this order.

<sup>2</sup>The increases which are contained in Tariff of Increased Rates and Charges X-349 and Supplements 1, 2, 3 and 4 to said tariff, are set forth in Exhibits Q, R, S, T and U 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 four percent. Though it is anticipated that approximately \$4,712,320 in yearly gross revenue would accrue to the 32 rail common carriers involved, Exhibits V-1 through V-13, attached to the application, indicate that the carriers would still experience losses in excess of \$5,129,527 on California intrastate traffic for the ensuing year under the proposed rates. We make no finding on this representation.

The Interstate Commerce Commission (I.C.C.) in its Order Ex Parte No. 349, served July 27, 1978, held that an investigation should be instituted into the lawfulness of the rates of 10 commodities.<sup>3</sup> The first seven of these commodities were investigated in Ex Parte No. 343 - Nationwide Increased Freight Rates and Charges - 1977, These commodities were selected because of their apparently high revenue/cost ratios. The carriers' own submission and various protests demonstrate the continued existence of unusually high ratios.

---

<sup>3</sup>These commodities are: newsprint paper; sodium alkalies; industrial gases; sulphuric acid; rubber, natural or synthetic; manufactured iron or steel; recyclables; soda ash; plastic materials and iron and steel pipe - Western Territory only.

The ordering paragraph (X-349, July 27, 1978) contained the following provisions:

"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 resulting from the application thereof and any 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 May 4, 1978, with a provision for interest at 6.66 percent."

This Commission in D. 89194, signed August 8, 1978, notified some of the common carriers parties to this rate increase proceeding that ad valorem tax reductions<sup>4</sup> which will accrue to each carrier shall be credited in a "Tax Initiative Account". By this order, all rail common carrier respondents (listed in Appendix A) are so notified. Also, the Commission shall control the disposition of said tax reductions, and the account will be maintained until December 30, 1980. The purpose of the above order is to ensure that all ad valorem tax reductions will be passed through to the customers of each respondent utility.

The application was listed on the Commission's Daily Calendar of June 20, 1978. 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. 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

---

<sup>4</sup>Differences between the ad valorem taxes paid in the fiscal year 1977-78 and the ad valorem taxes paid for the fiscal year 1978-79.

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-349, including provisions for refunds if subsequent increases, after study, are less than those presently approved.

2. All rates hereafter collected by each and every rail respondent (named in Appendix A) shall be collected subject to refund as to the amount included in such rates which reflect ad valorem taxes subject to provisions of Article XIII-A of the California Constitution.

3. Concurrently, each and every rail respondent (named in Appendix A) shall establish a Tax Initiative Account. The account shall include the differences between the ad valorem taxes paid in the fiscal year 1977-78 and the ad valorem taxes for the fiscal year 1978-79 (beginning July 1, 1978). It shall also include any identifiable taxes, licenses or fees imposed by local governments to offset losses in revenues resulting from adoption of Article XIII-A. The account shall be charged with any reduction (credit entry if any increase) in revenues attributable to changes in rates from advice letter filings made for the purpose of passing on to ratepayers the effects of Article XIII-A on ad valorem tax expense. The respondents shall not transfer the balance in this account, or any portion thereof, without obtaining written approval of the Commission. The account shall terminate on December 31, 1980. The ultimate disposition of the balance in this account shall be as the Commission shall direct.

4. 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

A. 58153, C. 5432, et al - FS

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.

5. 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.

6. 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.

7. 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.

8. 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 said paragraph 1.

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

10. 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 80-Series to the extent necessary to comply with said ordering paragraphs.

11. 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.

12. The Executive Director of the Commission shall cause service by mail of this order to be made upon all respondents listed in Appendix A attached hereto.

A. 58153, C. 5432, et al - FS\*

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

Dated at San Francisco, California, this 31<sup>st</sup> day  
of OCTOBER, 1978.

Robert Bateman

President

William Lyons Jr.

Yveson L. Spitzer

Richard R. Howell

Clare J. DeWitt

Commissioners

\*

APPENDIX A

Alameda Belt Line

Almanor Railroad Company

Amador Central Railroad Company

Arcata & Mad River Railroad Company (The)

Atchison, Topeka & Santa Fe Railway Company (The)

Burlington Northern

California Western Railroad

Camino, Placerville and Lake Tahoe Railroad Company

Central California Traction Company

Harbor Belt Line Railroad

Holton Inter-Urban Railway Company

Los Angeles Junction Railway Company

McCloud River Railroad Company

\*Miles & Sons Trucking Service

Modesto & Empire Traction Company

Northwestern Pacific Railroad Company

Oakland Terminal Railway (The)

\*Pacific Motor Trucking Company

Petaluma and Santa Rosa Railroad Company

Quincy Railroad Company

Sacramento Northern Railway

San Diego & Arizona Eastern Railway Company

\*Santa Fe Trail Transportation Company (The)

Santa Maria Valley Railroad Company

Sierra Railroad Company

Southern Pacific Transportation Company

Stockton Terminal & Eastern Railroad

Sunset Railway

Tidewater Southern Railway Company

Trona Railway Company

Union Pacific Railroad

Ventura County Railroad Company

Visalia Electric Railroad Company

Western Pacific Railroad Company (The)

Yreka Western Railroad Company

\*Trucking companies - not rail respondents

(END OF APPENDIX A)