

Decision No. 90134 MAR 27 1979

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern Pacific )	
Transportation Company and )	
Carriers Listed in Exhibit A )	Application No. 58543
For Authority to Make Effective )	(Filed December 22, 1978)
on California Intrastate Traffic )	(Amendment Filed February 9, 1979)
General Increases in Local and )	(Second Amendment Filed March 1, 1979)
Joint Freight Rates and Charges )	(Third Amendment Filed March 20, 1979)
as Published in Tariff of )	(Fourth Amendment Filed March 22, 1979)
Increased Rates and Charges, )	
X-357. )	
)	
Application of The Western )	
Pacific Railroad Company, Sac- )	
ramento Northern Railway, Tide- )	
water Southern Railway Company )	Application No. 58556
Alameda Belt Line and The Oak- )	(Filed December 29, 1978)
land Terminal Railway for autho- )	(Amendment Filed February 26, 1979)
riety to Make Effective on Cali- )	(Second Amendment Filed March 19, 1979)
fornia Intrastate Traffic Gen- )	(Third Amendment Filed March 20, 1979)
eral Increases in Local and Joint )	
Freight Rates and Charges as )	
Published in Tariff of Increased )	
Rates and Charges, X-357-A. )	
)	
Application of The Atchison, )	
Topeka and Santa Fe Railway )	
Company and Los Angeles Junction )	Application No. 58623
Railway Company for Authority )	(Filed January 24, 1979)
to Make Effective on California )	(Amendment Filed February 21, 1979)
Intrastate Traffic General In- )	(Second Amendment Filed March 15, 1979)
creases in Local and Joint )	(Third Amendment Filed March 19, 1979)
Freight Rates and Charges as )	(Fourth Amendment Filed March 20, 1979)
Published in Tariff of Increased )	
Rates and Charges X-357-A. )	
)	
Application of Union Pacific )	
Railroad Company for Authority )	
to Make Effective on California )	Application No. 58687
Intrastate Traffic General In- )	(Filed February 16, 1979)
creases in Local and Joint )	(Amendment Filed March 19, 1979)
Freight Rates and Charges as )	(Second Amendment Filed March 20, 1979)
Published in Tariff of Increased )	(Third Amendment Filed March 21, 1979)
Rates and Charges X-357. )	

Application of Burlington North- )  
 ern, Inc., 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-357-A. )

Application No. 58691  
 (Filed February 20, 1979)  
 (Amendment Filed March 19, 1979)  
 (Second Amendment Filed March 20, 1979)

And Related Matters )

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

INTERIM OPINION

In Application 58543, Southern Pacific Transportation Company (SP), Central California Traction Company, Holton Inter-Urban Railway Company, Northwestern Pacific Railroad Company, Petaluma and Santa Rosa Railroad Company, San Diego and Arizona Eastern Railway Company, Sunset Railway, and Visalia Electric Railroad Company (referred to collectively herein as SP et al.) request authority to make effective on California intrastate traffic the same freight rate increases which became effective December 15, 1978 on interstate traffic in Tariff of Increased Rates and Charges X-357-A (TIRC X-357-A), including Supplements 1 and 2 thereto.<sup>1/</sup>

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<sup>1/</sup>This tariff, and Supplements 1 and 2 thereto, are attached as Exhibits K, K-1 and K-2, respectively, to Application No. 58543 (SP et al.).

In Application 58556, The Western Pacific Railroad Company, Sacramento Northern Railway, Tidewater Southern Railway Company, Alameda Belt Line, and Oakland Terminal Railway (referred to collectively herein as WP et al.) similarly request authority to make effective on California intrastate traffic the same freight rate increases which became effective December 15, 1978, on interstate traffic in TIRC X-357-A, including Supplements 1, 2 and 3 thereto.<sup>2/</sup>

In Application 58623, The Atchison, Topeka and Santa Fe Railway Company and Los Angeles Junction Railway Company (referred to collectively herein as Santa Fe et al.) similarly request authority to make effective on California intrastate traffic the same freight rate increases which became effective December 15, 1978, on interstate traffic in TIRC X-357-A, including Supplements 1, 2, 3 and 4 thereto.<sup>3/</sup>

In Application 58687, Union Pacific Railroad Company (UP) similarly requests authority to make effective on California intrastate traffic the same freight rate increases which became effective on December 15, 1978, on interstate traffic in TIRC X-357-A, including Supplements 8, 9, 11 and 12 thereto.<sup>4/</sup>

In Application 58691, Burlington Northern, Inc., (BN) similarly requests authority to make effective on California intrastate traffic the same freight rate increases which became effective December 15, 1978, on interstate traffic in TIRC X-357-A, including current supplements thereto.

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<sup>2/</sup> The tariff, and supplements 1, 2 and 3 thereto, are attached as Exhibits K, L, M and N, respectively, to Application 58556 (WP et al.).

<sup>3/</sup> Supplement 4 is attached as Exhibit A to Application 58623 (Santa Fe et al.).

<sup>4/</sup> Supplements 8, 9, 11 and 12 are included in Exhibit A to Application 58687 (UP).

SP et al., WP et al., Santa Fe et al., and UP subsequently amended their applications to include current supplements to TIRC X-357-A.

In support of the relief, applicants submitted exhibits including summaries of earnings on a depreciated rate base for the period on which they base their justification for the increases. Said exhibits also show the amount of additional gross revenue estimated to result from the proposed increases based on the amount of involved (intrastate) traffic handled during 1977, adjusted to the Ex Parte 349 level. The percentages by which such additional estimated revenues exceed the gross revenues on the estimated involved traffic handled during the calendar year are stated in the applications to be approximately 9.23 percent for SP et al., approximately 9.0 percent for WP et al., approximately 7.33 percent for Santa Fe et al., approximately 8.5 percent for UP and approximately 7 percent for BN.

All applicants have requested that the order herein be effective as of its date and that permission be granted to make the proposed increases effective one day after said effective date.

Almanor Railroad Company, Amador Central Railroad Company, The Arcata & Mad River Rail Road Company, California Western Railroad Company, Camino, Placerville and Lake Tahoe Railroad Company; Harbor Belt Line Railroad, McCloud River Railroad Company, Miles & Sons Trucking Service, Modesto & Empire Traction Company, Pacific Motor Trucking Company, Quincy Railroad Company, Santa Maria Valley Railroad Company, Sierra Railroad Company, Stockton Terminal & Eastern Railroad, Trona Railway Company, Ventura County Railroad Company and Yreka Western Railroad Company have petitioned to intervene in the applications. These carriers request authority to increase their local and joint intrastate freight rates to the same extent as the applicants. Henceforth, such intervenors will be considered applicants herein.

Applications 58543, 58556, 58623, 58687 and 58691 were listed on the Commission's Daily Calendar of December 26, 1978, January 3, 1979, January 25, 1979, February 21, 1979, and February 22, 1979, respectively. Amstar Corporation, Spreckels Sugar Division; Union Sugar Division, Consolidated Foods Corporation; and The California Beet Growers Association, Ltd., have filed a protest in Application 58543 in opposition to the proposed increase by SP in the amount of 14 percent in rates for the transportation of sugar beets. Fibreboard Corporation has filed a protest in Applications 58543, 58556 and 58623 in opposition to the proposed increase by applicants therein in the amount of 14 percent in rates for the transportation of wood chips.<sup>5/</sup> No other objections to the granting of the applications have been received.

Supplement 8 to TIRC X-357-A, effective February 25, 1979, on interstate traffic, makes extensive changes in the tariff, including an increase of one percentage point in certain commodity rates. Applicant UP states that this supplement was filed "pursuant to the Interstate Commerce Commission's suggestion, on page four of its order, that additional increases be requested to replace anticipated revenue lost due to holddowns imposed by that Commission."

The petition of United States railroads, including applicants herein (except those which are switching carriers only), to the Interstate Commerce Commission for authority to increase interstate freight rates nationwide was approved by that commission, based on a general finding of revenue requirement.<sup>6/</sup> TIRC X-357-A was substituted

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<sup>5/</sup> The original increases of 14 percent proposed for rates for transportation of sugar beets and wood chips were changed to 15 percent by Supplement 8 to TIRC X-357-A, effective on interstate traffic on February 23, 1979.

<sup>6/</sup> Order of the Interstate Commerce Commission dated November 6, 1978, in Ex Parte 357. An action involving this proceeding has been filed in the U.S. Court of Appeals, 7th Circuit, The Fertilizer Institute et al. v. U.S. et al., No. 78-2595.

for the original TIRC X-357, which would have provided an eight percent increase, with exceptions. The stated purpose of reducing the amount of increase was to comply with the President's anti-inflation standards as announced in his white paper of October 24 and published in proposed form by the Council on Wage and Price Stability on October 31, 1978.<sup>7/</sup>

Applicants have satisfied the requirements of Resolution M-4704<sup>8/</sup> by reference to the prior finding of the Interstate Commerce Commission and to testimony of a representative of the Council on Wage and Price Stability before that Commission to the effect that TIRC X-357-A conforms to the price standards. We shall accept and rely upon this finding by the Interstate Commerce Commission.

Increases requested in commodity rates for transportation of wood chips and sugar beets are the subject of protests.<sup>9/</sup> There is no need to delay the entire proceedings pending adjudication of these matters. As an interim measure, applicants will be permitted to increase their commodity rates for transportation of wood chips and sugar beets not exceeding seven percent above the present (X-349) rate level, subject to possible refund in whole or in part upon further order of the Commission.

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<sup>7/</sup> The standards, in proposed form, appeared in the Federal Register on November 7, 1978 (at 43 FR 51938) and the final standards appeared on December 28, 1978 (at 43 FR 60772).

<sup>8/</sup> Resolution M-4704, adopted January 30, 1979, requires all utilities and regulated entities requesting general rate increases to show whether the sought increase complies with the Voluntary Wage and Price Standards. Those applications which were filed prior to January 30, 1979, were amended to address this topic.

<sup>9/</sup> Increases for commodity rates on wood chips are named in Item 941-Series and those on sugar beets are named in Item 810-Series, TIRC X-357-A. It does not appear that any applicant other than SP, nor any intervenor other than SMV, transports sugar beets to any significant extent within this State. It also does not appear that UP or BN, which were not named in the Fibreboard Corporation protest, transport wood chips to any significant extent within this State.

FINDINGS

1. Applicants seek to increase their intrastate freight rates and charges to the levels named in TIRC X-357-A.
2. Applicants' present intrastate freight rates and charges were authorized by Decision 89495, dated October 3, 1978, as amended by Decision 89656, dated November 9, 1978.
3. The applications show that the proposed increases would produce an additional annual gross revenue of approximately \$8,314,913 for SP et al., \$273,000 for WP et al., \$1,873,837 for Santa Fe et al., \$167,596 for UP and \$3,000 for BN.
4. The Interstate Commerce Commission has approved the increases contained in TIRC X-357-A for application to interstate traffic nationwide and has found the increase to conform to the price standards set forth by the Council on Wage and Price Stability.
5. TIRC X-357-A generally provides for an increase of seven percent, with exceptions.
6. Notices of the filing of the applications appeared on the Commission's Daily Calendar.
7. Protests have been received in objection to proposed increases in commodity rates for the transportation of wood chips and sugar beets.
8. An increase to the levels named in TIRC X-357-A in applicants' freight rates and charges, other than commodity rates for the transportation of wood chips and sugar beets, is justified and should be granted.
9. An interim increase of seven percent, subject to possible refund, in applicants' commodity rates for the transportation of wood chips and sugar beets is justified and should be granted pending public hearing regarding these matters.
10. Limited authority to depart from the provisions of Section 461.5 of the Public Utilities Code should be granted.
11. Limited authority to depart from the terms and rules of General Orders 80-Series and 125-Series should be granted.

12. Carriers which have petitioned to intervene should be allowed to do so.
13. A public hearing is not necessary at this time.
14. The ensuing order should be made effective on the date hereof.

CONCLUSION

We conclude that the applicants should be granted the relief specified herein.

INTERIM ORDER

IT IS ORDERED that:

1. Subject to paragraphs 2 and 3 hereof, each applicant is authorized to establish by appropriate tariff supplements the same increases in California intrastate rates and charges under the same conditions as now authorized for interstate traffic as set forth in Tariff of Increased Rates and Charges X-357-A, including current supplements thereto.
2. The increase in commodity rates for the transportation of wood chips shall be seven (7) percent. The increase shall be subject to public hearing with possible refund, with interest, upon further order of the Commission.
3. The increase in commodity rates for the transportation of sugar beets by applicants Southern Pacific Transportation Company or Santa Maria Valley Railroad Company shall be seven (7) percent. The increase shall be subject to public hearing with possible refund, with interest, upon further order of the Commission.
4. Tariff publications authorized to be made under authority granted herein 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.
5. To the extent that departure from the terms and rules of General Order 125-Series is required to accomplish the tariff publications authorized herein, authority for such departure is hereby granted.



6. The authority set forth herein is granted subject to the express condition that applicants 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 of this condition by applicants.

7. 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 established by applicants herein 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 applicants herein pursuant to the authority granted in paragraph 1 hereof, nor higher than the otherwise applicable minimum rates.

8. 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.

9. Tariff publications required or authorized to be made by common carriers as a result of paragraph 7 hereof may be made effective not earlier than the fifth day after the publication by applicants 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 applicants pursuant to the authority granted in said paragraph 1.

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

11. In making tariff publications authorized or required by paragraphs 7 through 10, 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.

12. Applicants 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.

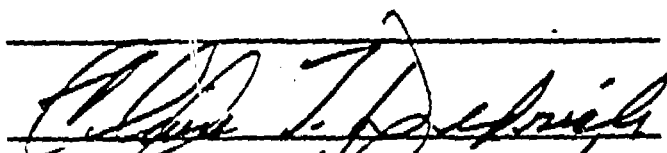
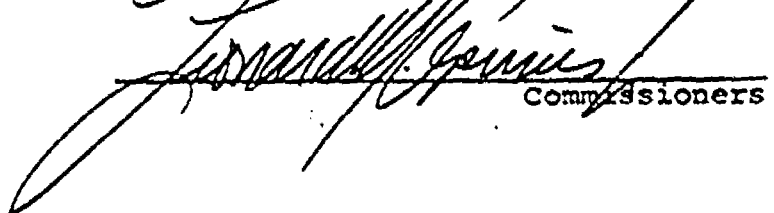
13. The Executive Director of the Commission shall cause service by mail of this order to be made upon all applicants (including intervenors), protestants, and interested parties listed in Appendix A hereto.

A. 58543 et al. - FS

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 27<sup>th</sup>  
day of MARCH, 1979.

  
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President

  
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Commissioners

Commissioner Vernon E. Sturgeon, being  
necessarily absent, did not participate  
in the disposition of this proceeding.

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

## APPENDIX A

### Part 1: Applicants

Alameda Belt Line  
Atchison, Topeka and Santa Fe Railway Company (The)  
Burlington Northern  
Central California Traction Company  
Holton Inter-Urban Railway Company  
Los Angeles Junction Railway Company  
Northwestern Pacific Railroad Company  
Oakland Terminal Railway (The)  
Petaluma and Santa Rosa Railroad Company  
Sacramento Northern Railway  
San Diego and Arizona Eastern Railway Company  
Southern Pacific Transportation Company  
Sunset Railway  
Tidewater Southern Railway Company  
Union Pacific Railroad Company  
Visalia Electric Railroad Company  
Western Pacific Railroad Company (The)

### Part 2: Intervenors

Almanor Railroad Company  
Amador Central Railroad Company  
Arcata and Mad River Rail Road Company (The)  
California Western Railroad  
Camino, Placerville and Lake Tahoe Railroad Company  
Harbor Belt Line Railroad  
McCloud River Railroad Company  
Miles & Sons Trucking Service  
Modesto and Empire Traction Company  
Pacific Motor Trucking Company  
Quincy Railroad Company  
Santa Maria Valley Railroad Company  
Sierra Railroad Company  
Stockton Terminal and Eastern Railroad  
Trona Railway Company  
Ventura County Railroad Company  
Yreka Western Railroad Company

### Part 3: Protestants

Amstar Corporation, Spreckels Sugar Division  
California Beet Growers' Association (The)  
Fibreboard Corporation  
Union Sugar Division, Consolidated Foods Corporation

APPENDIX A

Part 4: Interested Parties

California Farm Bureau Federation  
California Manufacturers Association  
California Trucking Association  
Lily Division of Owens-Illinois  
Pacific Southcoast Freight Bureau  
Santa Fe Trail Transportation Company (The)

(END OF APPENDIX A)