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Decision No. 91502 APR 2 1980

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern Pacific Transportation Company and Carriers Listed in Exhibit A for Authority to Make Effective on California Intrastate Traffic General Increases in Local and Joint Freight Rates and Charges as Published in Tariff of Increased Rates and Charges, X-357.	Application No. 58543 (Filed December 22, 1978; amended February 9, March 1, 20, and 22, 1979)
Application of The Western Pacific Railroad Company, Sacramento Northern Railway, Tidewater Southern Railway Company, Alameda Belt Line and The Oakland Terminal Railway for Authority to Make Effective on California Intrastate 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. 58556 (Filed December 29, 1978; amended February 26, March 19, and 20, 1979)
Application of The Atchison, Topeka and Santa Fe Railway Company and Los Angeles Junction Railway Company for Authority to Make Effective on California Intrastate 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. 58623 (Filed January 24, 1979; amended February 21, March 15, 19, and 20, 1979)

Application of Union Pacific Railroad Company for Authority to Make Effective on California Intrastate Traffic General Increases in Local and Joint Freight Rates and Charges as Published in Tariff of Increased Rates and Charges, X-357.	Application No. 58687 (Filed February 16, 1979; amended March 19, 20, and 21, 1979)
Application of Burlington Northern, Inc., for Authority to Make Effective on California Intrastate 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; amended March 19 and 20, 1979)
And Related Matters.	Case No. 5432 Case No. 5438 Case No. 5439 Case No. 5441

(Appearances are listed in Appendix A.)

FINAL OPINION

By these applications, the California railroads seek to increase their intrastate freight rates to the same levels named in Tariff of Increased Rates and Charges X-357-A (TIRC X-357-A). Such increases were previously approved by the Interstate Commerce Commission (ICC) for application to interstate and foreign traffic and are generally 7 percent with some selective increases that are higher or lower, including 15 percent for sugar beets and wood chips. The increase sought herein for sugar beetswas protested

by Amstar Corporation, Spreckels Sugar Division (Spreckels), Union Sugar Division, Consolidated Foods Corporation (Union), and The California Beet Growers Association, Ltd. (Growers). The increase sought herein for wood chips was protested by Fibreboard Corporation (Fibreboard). By Interim Decision No. 90134 dated March 27, 1979, the proceedings were consolidated and the applications were granted except as follows: (1) Southern Pacific Transportation Company (SP) and Santa Maria Valley Railroad Company (SMV) were granted an interim increase of 7 percent on sugar beets, and (2) all applicants were granted an interim increase of 7 percent on wood chips. The interim increases on these two commodities were in lieu of the requested 15 percent and were made subject to possible refund, pending public hearing and final decision in the matter. A petition for rehearing and modification of Decision No. 90134 filed by Kaiser Sand & Gravel Company was dismissed at petitioner's request by Decision No. 90409 dated June 5, 1979.

The wood chip issue involves The Atchison, Topeka and Santa Fe Railway Company (AT&SF), SP, The Western Pacific Railroad Company (WP), and five short lines.[1/] The sugar beet issue involves SP, two of its subsidiaries,[2/] and SMV.

The five applications were consolidated with Order Instituting Investigation No. 41 (OII 41) which was filed April 10, 1979 and is an investigation to determine whether the Commission should establish a flexible rate program for changes in rail freight rates. Public hearing was held before Administrative Law Judge Arthur M. Mooney in San Francisco between June and

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1/ Amador Central Railroad, McCloud River Railroad, Quincy Railroad Company, Sierra Railroad Company, and Yreka Western Railroad Company, each of which is a party to one of the applications herein.

2/ Holton Inter-Urban Railway Company and San Diego & Arizona Eastern Railway Company, both of which are parties to SP's Application No. 58543.

October 1979. There were nine days of hearing on the sugar beet issue, four days of hearing on the wood chip issue, and two days of hearing on the flexible rate program issue. Briefs on the last issue were filed January 21, 1980. The decision herein is conerned with the sugar beet and wood chip issues only and is the final decision in the five applications. A separate decision will be issued in OII 41.

In the sugar beet phase of the proceeding, seven officers and officials of SP and an officer of SMV testified and 28 exhibits were presented in support of the sought 15 percent increase, and two officers of Spreckels, an officer of Union, and two cost consultants testified and 34 exhibits were presented on behalf of protestants. In the wood chip phase of this proceeding, two officials of WP, two officials of AT&SF, and three officials of SP testified and nine exhibits were presented in support of the sought 15 percent increase, and an official of Fibreboard and a cost consultant testified and 23 exhibits were presented on behalf of protestants.

Sugar Beets

As stated above, interstate and foreign rail rates on sugar beets are made subject in TIRC X-357-A to an increase of 15 percent in Western Territory[3/] rather than the general 7 percent increase authorized therein. The increases in this tariff were found by the ICC to be within the anti-inflationary guidelines of the Council on Wage and Price Stability. As justification to the ICC for the exception increase for sugar beets, the rail lines presented a revenue/cost ratio showing which showed a

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3/ Western Territory, as defined in Note 40, TIRC X-357-A, includes the states of Alaska, Arizona, Arkansas, California, Colorado, Idaho, Kansas, Minnesota, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming, and parts of the states of Iowa, Louisiana, Michigan, Mississippi, Missouri, Tennessee (Memphis only), and Wisconsin. It also includes Mexico and that part of Canada westerly from Armstrong and Thunder Bay, Ontario.

present revenue/variable cost ratio for sugar beets of 54.6 percent for single-line movements and 89 percent for interline movements. In its December 11, 1978 decision in this matter, the ICC encouraged carriers to further increase charges for noncompensatory or marginally compensatory commodities.

California is one of the major producers of sugar beets. They are grown at various locations in the State, primarily in the Sacramento, San Joaquin, Salinas, and Imperial Valleys, although scattered growth might be found elsewhere. While sugar beets are harvested in California generally nine months out of the year, the particular harvest season for each of the areas varies.

Spreckels has four sugar beet processing factories in California. They are located at Spreckels, which is near Salinas, Manteca, Woodland, and Mendota, and they are all served by SP. Union has only one sugar beet processing factory in California. It is located at Betteravia and is served by SMV, which connects with the SP at Guadalupe. When sugar beets are harvested, they are moved either via truck or rail from the fields to one of the processing factories for manufacture into sugar, molasses, beet pulp, and related products. Spreckels moves approximately 30 to 50 percent of its sugar beets to its processing factories by rail. Union moves approximately 95 percent of its sugar beets to its processing plant by rail. Several years ago, the Holly Sugar Company eliminated its rail beet operations. There are no other major sugar beet processing companies in California. Although there are exceptions, Spreckels, for the most part, uses truck transportation for distances of 100 miles or less and rail transportation for distances over 100 miles. Generally, for this transportation to be profitable for a trucker, it must be able to

make two round trips a day, and the limit for this is around a 100-mile haul. When a rail movement is utilized, the beets are loaded into rail cars at certain selected rail locations which are located on the SP, on the Holton Inter-Urban Railway Company or the San Diego & Arizona Eastern Railway Company, both of which connect with SP at El Centro or on the Sunset Railway, which connects with SP at Bakersfield; hence, SP is involved as an origin carrier and/or delivering carrier on all sugar beets shipped via rail to the beet processing factories in California. The movement from the field to the rail loading dump is via truck and is generally a relatively short distance. In addition to intrastate rail movements of sugar beets within California, there is also an interstate movement of this commodity from Calipatria, California, to Serape, Arizona.

SP uses a dedicated fleet of gondola cars for the transportation of sugar beets. They were built in the early 1940s and are used for no other purpose. When not in use they are stored. Originally, these steel gondola cars had a carrying capacity of 50 tons each, but this was increased to 70 tons in the 1950s when wood sideboards were added. The overall condition of the cars has been deteriorating over the past years because of age. SP has not rebuilt or replaced any of the cars. The only program it has undertaken is one of light running repairs, which are the necessary day-to-day repairs such as repairing a broken air hose, replacing a missing brake shoe, and the like, to keep as many as possible operational. As a result, there has been a fallout in the total number of cars available for servicing sugar beet traffic. Apparently, the number of serviceable cars has been sufficient to meet substantially all shipper demands. Cars requiring repairs are designated bad-order cars. Such cars

requiring more than light running repairs are designated heavy bad-order cars, and these are taken out of service and stored. Most heavy bad-order cars are not repaired and returned to service, and those in the worst condition are eventually sold, mainly for scrap. SP in 1978 had an average of 1,373 cars in its sugar beet fleet, including 195 heavy bad-order cars in storage. In a written stipulation filed by SP and protestants on November 2, 1979, it is stated that 50 of the sugar beet cars not in service were sold. This reduces the average fleet size to 1,323, including heavy bad-order cars.

Prior to the beginning of each sugar beet shipping season, an SP representative will meet with the shippers and develop a series of schedules tailored to the need of the shippers in order to assure a consistent flow of beets to the processing factories. All shipments for Spreckels are single-line SP shipments, and those for Union move via SP to Guadalupe where they are interchanged with SMV for the last 4.8 miles to the shipper's Betteravia factory. Once the schedules are set, the railroad yards and terminals follow through and the sugar beet trains are given priority in order to meet the schedules. As soon as the sugar beets are harvested, they commence to deteriorate or lose their sugar content, and it is imperative that there be no delay in transit in order to minimize this deterioration. Any delay in service not only exposes the railroad to claims for damages for sugar loss but also for slowing down factory operations. Most sugar beet shipments are in multi-car, single-train movements designated beet haulers. Some smaller shipments consisting of a few cars are transported as part of a freight train handling other freight also.

A substantial amount of evidence was presented by protestants regarding the condition of the sugar beet car fleet. Because of the advanced age of the cars and the reluctance of SP to make any

major repairs on this equipment, they are concerned as to whether the entire fleet will in the very near future become completely obsolete. Their witnesses asserted that: (1) sugar beets are one of the major intrastate movements handled by SP; (2) the continued operation of Spreckel's and Union's processing plants is substantially dependent upon the availability of a viable rail transportation service to meet their needs; (3) SP, as a common carrier, is required to provide transportation for the public, including protestants, and to have the necessary equipment to do so; and (4) SP should be required to make all repairs necessary to rehabilitate the cars and assure the continued availability of adequate service for protestants. The witnesses pointed out that: (1) there have been numerous meetings between representatives of the sugar beet industry and SP regarding the condition and future of the aging sugar beet cars; (2) as a result of such meetings in 1974, SP agreed to rehabilitate the fleet over a three-year period commencing in 1975, and in reliance on this 1974 commitment, the sugar beet industry agreed not to oppose an increase SP was seeking on sugar beet rates at that time; (3) this rehabilitation program never materialized; (4) there were further meetings and exchanges of correspondence between the parties on this subject, and in 1977, there was again an agreement by SP to continue its program of light running repairs and to rehabilitate the fleet over a three-year period commencing the following year; (5) this program, likewise, was never undertaken by SP, and SP has now informed the industry that it has no intent to rehabilitate the cars and will do nothing more than the light running repairs; and (6) the fleet cannot remain operational very long under SP's present program. It is their position that: (1) SP has been making money on sugar beet

traffic over the years; (2) they are captive shippers of SP for substantially all shipment moving over 100 miles; and (3) SP should be required to immediately undertake the necessary program of rehabilitation or replacement to assure an adequate supply of reliable equipment to meet the present and future needs of the sugar beet industry.

On the issue of car rehabilitation, SP's witnesses stated as follows: (1) the meetings referred to by protestants did occur; (2) it was SP's intent to rehabilitate the cars; (3) because of a recession in the railroad industry commencing in 1975, SP did not have the funds available to undertake a rehabilitation program at that time; (4) subsequent thereto, funds were budgeted for this purpose, but these funds were diverted to other purposes; (5) the 1977 program was never undertaken because of a substantial decline in sugar beet traffic resulting from a decline in the price of sugar and sugar beet acreage, a pessimistic outlook for any improvement in this condition, inflation, and the fact that it was more profitable for SP to put money into other freight cars; and (6) SP's current policy is to continue the light running repair program and not replace or rehabilitate the sugar beet fleet. Under a rehabilitation program, all essential components of a car would be rebuilt, and it is anticipated that this would extend the life of a car from 10 to 12 or more years. New equipment would have an estimate service life of 23-1/2 or more years. According to SP's cost witness, the cost of a new sugar beet car at current prices would be $39,750. There are numerous estimates in the record regarding rehabilitation cost, and they range from under $1,000 to several or more thousand dollars for each car.

Cost and revenue evidence was presented on behalf of SP and SMV by SP's assistant manager of the Bureau of Transportation Research and on behalf of protestants by the president of a transportation consultant firm that specializes in cost and economic studies and presentations. There are basic differences between the two witnesses on cost concepts and philosophies. The railroad study is based on a fully allocated cost concept; whereas, protestants' study is based primarily on a variable cost concept. Basically, variable costs are those costs that vary with the volume of traffic, and fully allocated costs include variable costs plus constant costs which are those fixed expenses that are independent of the volume of traffic. Under the SP witness' full cost method, all of the carrier's costs are assigned to all of the carrier's traffic. For the sugar beet transportation, this would include all of the variable costs attributable thereto plus an apportionment of constant costs. Both witnesses based their studies on the ICC Rail Form A approach and used the Rail Form A average 1977 costs for SP except in those instances where either had developed specific costs for certain cost components. The SP witness indexed the Rail Form A average costs he used to January 1, 1979 wage and price levels; whereas, protestants' witness updated these costs to reflect wage and price levels as of October 1, 1978 and explained that his reason for selecting this date was because TIRC X-357-A covers cost increases generally up to October 1, 1978 and only some labor cost increases up to January 1, 1979.

The witnesses did not use traffic volume and data for the same year in their respective studies. The rail witness based his cost study on traffic volume data for the year 1978 developed from SP's files; and according to his exhibit, 17,679 carloads and 1,237,530 tons of sugar beets were transported during 1978 and the empty car return ratio was 2.04. Protestants' consultant based

his study on data from his clients' files for the year 1977; and according to his exhibit, 27,160 carloads and 1,915,417 tons of sugar beets were transported in 1977 and the empty car return ratio was 2.00. Protestants took exception to SP's use of the year 1978 for traffic data. According to various witness for protestants: (1) the sugar beet acreage and rail traffic for each prior year was substantially higher than in 1978; (2) 1978 was an exceptionally depressed year for sugar beets due to drought conditions, competition of other crops for acreage, and low sugar prices; (3) based on accurate forecasts and actual experience during the first part of 1979, sugar beet acreage will substantially increase in 1979 and projected rail traffic volume for the year is 25,573 carloads and 1,793,370 tons; and (4) it is anticipated that this increased trend will continue in future years. In his cost study, the SP witness included the current cost of debt and equity capital as an expense and used the 10.6 percent adopted by the ICC in 1978 in Ex Parte 353 for the combination of debt and equity in making this determination, and he pointed out that since the equity portion of this cost is paid from after-income tax funds, it was necessary to state this portion on a before-tax basis of 17.24 percent. Protestants' consultant, on the other hand, used embedded interest rates for developing the cost of capital in his variable cost showing, and he asserted that the computation of return on equity capital is a judgment matter and such subjective determinations have no place in a proper cost finding. Both witnesses also used different bases for developing car ownership costs, switching costs, car maintenance and repair costs, empty return ratios, operating mileages, costs assignable to SMV, and clerical expenses. The railroad witness used interest on the

scrap value of the fully depreciated cars as his car ownership cost and based repair and maintenance costs on a five-year repair cost average plus overhead; whereas, the consultant used a depreciation factor based on original cost plus the cost of the sideboards for the cars and the Association of American Railroad (AAR) averages for developing repair and maintenance costs. The railroad witness developed mileages from timetables or actual routes traversed; whereas, the consultant used SP Distance Table mileages which are the shortest distances between points. The consultant was of the opinion that the SP witness overstated switching costs, empty return ratios, costs assignable to SMV, and clerical costs and made, what he considered, appropriate adjustments in these costs.

SP's fully allocated cost showing (Exhibit 34) is stated on two separate bases, (1) on a present fleet basis and (2) on a replacement fleet basis. It developed its replacement fleet cost as follows: (1) the present $39,750 cost for wood chip cars with drop bottom doors was used as the per-car cost; (2) it was determined that it would require 611 such cars to transport the 1978 traffic volume; (3) ownership cost was based on a 23.5-year life and a 10.6 percent composite cost of capital; and (4) repair costs were based on average Rail Form A costs. The following table summarizes the costs and revenues developed by SP on these two bases for its 1978 test year at the X-349 level of rates which were in effect prior to the 7 percent interim increase authorized by Decision No. 90134 and at the full 15 percent increase sought herein:

	X-349 Level	X-357-A Level
Through Revenue	$ 6,944,832	$ 7,986,557 1/
Full Allocated Cost and Revenue Need:		
Present Fleet 2/	7,517,113	7,517,113
Replacement Fleet	10,605,428	10,605,428
Net Contribution (Loss):		
Present Fleet 2/	(572,281)	469,444
Replacement Fleet	(3,660,596)	(2,618,871)
Revenue-Cost Ratio:		
Present Fleet	.92	1.06
Replacement Fleet	.65	.75

1/ 15% higher than X-349 level.

2/ Based on salvage value of cars.

The protestant cost witness' variable cost showing (Exhibit 37) is stated on a present fleet basis only and is based on the traffic volume he developed for 1977, his analysis of updated costs, and the X-349 rates. Following is a summation of the variable cost and revenue data he calculated.

Revenue	$10,750,377
Total Variable Expenses	8,099,854
Revenue Contribution 1/	2,650,523
Ratio-Revenue to Variable Costs	133%

1/ This is the contribution to constant costs and profit.

The consultant stated that: (1) with the 7 percent interim increase, the revenue to variable cost ratio would be 139 percent; (2) SP's variable cost to revenue ratio for all freight transported in 1977 was 123 percent; and (3) this clearly indicates that at the X-349

rate level, sugar beet transportation was making an above-average contribution to constant costs and profits. The witness asserted that by using the SP witness' updated fully allocated cost method based on present fleet and using the 1977 traffic volume, revenue would exceed the fully allocated costs at the X-349 level of rates by 4 percent and at the interim 7 percent increase level by 8 percent. He pointed out that for SP's system operations for 1977, fully allocated costs exceeded revenue by 3 percent.

Various other witnesses for SP and for the protestants presented evidence regarding car repair costs, the future of the present sugar beet fleet, and various other economic considerations. The evidence presented by each of the parties varied considerably and was based on different considerations. As stated above, it is protestants' contention that 1979 traffic volume will be considerably higher than 1978 and will continue to increase in the future. In this regard, SP pointed out that the May 1979 Sugar and Sweetener Report of the U.S. Department of Agriculture estimated that the 207,000 sugar beet acreage in 1978 would increase to 215,000 in 1979, an increase of approximately 4 percent only.

As stated above, the SP cost witness and the protestants' cost consultant each advocated different methods of developing cost components and different concepts for determining whether the sought 15 percent increase is justified. The cost presentation by each of the two witnesses and cost data presented by other witnesses have all been carefully reviewed and weighed. Based on this review of all the cost data of record, we are of the opinion that SP and SMV have sufficiently justified an increase in the sugar beet rates and that their cost showing is acceptable for the purposes of this proceeding. The argument by protestants that it was inappropriate for SP to use 1978 traffic volumes for its test year is not persuasive.

While a rate that returns only variable costs may not be unreasonably low, a rate that returns something above fully allocated costs is not necessarily excessive. A railroad, the same as any other commercial enterprise, is in business to make a profit, and it needs some contribution from earnings above total costs to achieve this goal. As stated, we are of the opinion that the cost evidence developed and the test year selected by the railroads is not unrealistic. We note that the ICC has found that the 15 percent increase for sugar beets is justified for interstate and foreign commerce and that increases on certain commodities, including the sugar beets, above the average TIRC X-357-A level are necessary to bring about a healthy economic condition for the nation's railroads. The protestants herein also protested the 15 percent increase authorized by the ICC. Apparently, their showing before the ICC was, in many respects, substantially similar to their showing herein. Based on SP's rate of return on net investment in transportation property of 1.62 percent for the year 1978, it is certainly not unrealistic to authorize a maximum reasonable rate here. The sought 15 percent increase is certainly within the zone of reasonableness for setting rates for sugar beets.

We do agree with protestants that it is SP's responsibility as a rail common carrier to continue to have a sufficient and viable supply of rail cars to meet their transportation needs. Sugar beet growing and processing is a significant industry in California and is dependent on rail service for a substantial amount of its transportation. For many years, the growers, processors, and SP have worked closely together to assure adequate schedules and car supplies for rail sugar beet movements. This industry has been and now is one of SP's and SMV's major sources of intrastate rail traffic.

As the record shows: (1) a dedicated fleet of SP rail cars is used to transport sugar beets; (2) these rail cars are constructed and designed for the limited purpose of hauling sugar beets and are not used by the railroads for hauling other traffic; (3) this equipment was built in the latter 1940s and, other than adding wood sideboards in the 1950s to increase carrying capacity, little or no major repairs of this equipment have been undertaken by SP; (4) while SP has indicated to the shippers several times in the 1970s that it intended to undertake a program of rehabilitation of these cars, it has, for various reasons, never done so and has no present intent of initiating such a program; and (5) based on the present age of the equipment and SP's reluctance to do anything more than light running repairs for it, a number of the cars have become unserviceable and have been sold for scrap, and the future ability of the fleet to continue to meet the transportation needs of the shippers for any reasonable period of time is doubtful if not nonexistent. SP should be required to take the steps necessary, either by initiating a rehabilitation, replacement, or some other appropriate program, to assure that sufficient equipment in reasonable condition is available to meet the present and future rail transportation needs of sugar beet shippers in California.

We will authorize SP and SMV to increase their intrastate rates on sugar beets to the full TIRC X-357-A 15 percent sought herein in lieu of the interim 7 percent granted by Ordering Paragraph 3 of Interim Decision No. 90134. Having so determined, the possible refund provision of the interim decision is moot. We will also direct SP to: (1) immediately undertake and complete within a three-year period a program of rehabilitation or replacement of its sugar beet fleet or some other appropriate measures to assure that it has sufficient equipment in reasonable condition to meet the present and future needs of sugar beet shippers, and (2) submit

to the Commission, within 90 days after the effective date of this order, the plan that it will undertake to achieve this goal. The plan should indicate the time periods for completion of each phase of the rehabilitation and replacement program. In the event that SP does not comply with either or both of these two directives, an investigation order will be issued to determine what appropriate action should be taken by the Commission. In addition, we place SP on notice that the granting of increases on sugar beets in subsequent ex parte rail increase proceedings is conditioned on the taking of appropriate steps to maintain such rolling stock in satisfactory condition.

Wood Chips

Wood chips are the residue of sawmills and other lumber manufacture. There are two movements of this commodity in California. One is an intrastate movement to Fibreboard's plant at Antioch, and the other is an interstate movement to the Port of Sacramento for shipment out of the state. As stated above, the major rail movement of wood chips in California is by SP, AT&SF, and WP and by several short-line railroads. The three major carriers have operated a substantial number of wood chip cars for many years.

The Fibreboard plant at Antioch manufactures paperboard products. It was constructed in the latter 1940s. At first, logs were to be transported to the mill to be used for the wood fibre in the manufacturing process. However, shortly after the plant commenced operations, it became apparent that wood chips could be used in place of logs, and over the years, wood chips have completely replaced logs. Initially, the rail lines had no special equipment for moving wood chips, and they added sideboards to gondola cars

and removed roofs from obsolete box cars for this transportation. Rates were established in the 1950s from various origins on a unit basis. A unit is 200 cubic feet. This original modified equipment was capable of carrying approximately 3,600 cubic feet which is 18 units. Subsequently, the railroads placed new gondola-type equipment specially designed for transporting wood chips in service, including 23, 30, and 37 unit cars placed in service by SP in 1958, 1960, and 1965, respectively. This equipment does not have the special capabilities required for sugar beet hauling. In 1961, Fibreboard installed a rotary car turner at a cost of one-half million dollars to unload cars by turning the car upside down. This dumper is operated 24 hours a day, seven days a week to speed up the release of loaded cars. In 1967, a new Forest Service regulation required that nets be placed over the open wood chip cars to prevent the wood chips from blowing off along the rail roadway and creating a fire hazzard. Fibreboard rolls up these nets and maintains a supply of new ones for the cars as needed. Approximately, 60 percent of the wood chips received by Fibreboard are via rail carrier, and the balance is via truck. Generally, truck shipments are not over 150 to 200 miles, and there are many rail shipments within this distance also.

It is the position of the applicants that: (1) wood chips are a low-rated commodity; (2) in accordance with the admonishment by the ICC to make upward adjustments in depressed rates, they requested and were granted the 15 percent increase in the X-357-A proceeding for interstate and foreign shipments; (3) the same increase should be granted by this Commission for intrastate traffic; and (4) the sought 15 percent increase is clearly justified. Protestant Fibreboard does not take any real exception to an

increase on wood chips which does not exceed the general 7 percent stated in TIRC X-357-A; however, it strongly objects to the full 15 percent increase sought by applicants. In this connection, Fibreboard asserted that: (1) with the new larger capacity equipment the rail lines are adding to their wood chip fleets, their average earnings per car are increasing with little, if any, increase in car costs, and none of this has ever been passed on to the shipper in the form of rate reductions; (2) it does all that it can to expedite the unloading and return of rail cars to the carriers and to assist them with car records and advance car orders for suppliers; (3) while there have been holddown exceptions below the general average increases for various commodities in prior ex parte increase proceedings, wood chips have always taken the full increase; (4) in the instant proceeding, general lumber rates are subject to only an 8 percent increase; and (5) based on its cost analysis, either no or certainly no more than a 7 percent increase is justified.

Applicants in their Exhibit 14 and Fibreboard in its Exhibit 61 summarized the results of their revenue and cost studies for wood chips from the same 17 California origins to Fibreboard's plant at Antioch. The exhibits show the weighted average revenue with the proposed 15 percent increase and cost per car for this transportation and the resultant revenue to cost ratios calculated by each. Some of the 17 origins are served by one of the three major railroads and others are served by one of the short-line carriers. Most of this is interline traffic. Only traffic which is originated and delivered by AT&SF is single-line traffic. Fibreboard is served by AT&SF only, and for traffic for which SP or WP is a line-haul carrier, the interchange between SP

or WP with AT&SF is at Stockton. Applicants' exhibit is based on the variable cost and fully allocated cost they developed at both embedded interest and at a current cost of capital which they computed at 17.2 percent. Fibreboard's exhibit is based on the variable cost and fully allocated cost it developed at embedded interest only. The average weighted revenue per car, including the sought 15 percent, developed by applicants in their Exhibit 14 is $549.82 and by Fibreboard in its Exhibit 61 is $559.45, which is approximately 1.8 percent higher than applicants' calculation. The following comparison sets forth the weighted average cost per car and revenue to cost ratio developed by applicants in Exhibit 14 and by Fibreboard in Exhibit 61 on the various bases shown:

	Weighted Ave. Cost per Car		Revenue/Cost Ratio (%)	
	Exh. 14	Exh. 61	Exh. 14	Exh. 61
Variable Cost with:				
Embedded Interest	$415.81	$379.92	132.2	147.3
17.2% Capital Cost	496.61	*	110.7	*
100% Allocated Cost with:				
Embedded Interest	523.93	487.28	104.9	114.8
17.2% Capital Cost	629.50	*	87.3	*

* Not shown in Exhibit 61.

The basic cost data developed on a test year basis by applicants is summarized in detail in Exhibit 65, and that developed by Fibreboard is summarized in detail in Exhibits 59 and 60. Both used Rail Form A average costs for the railroads for 1977 updated to January 1, 1979 with certain modifications by each, and the test year used by each was based on 1978 wood chip traffic volume of 7,218 cars. Applicants' cost witness testified that based on

special studies and information in the carriers' files, he made adjustments to the following Rail Form A averages, which reduced car cost: (1) train weights; (2) average locomotive units per train; (3) switching minutes at origin and at destination; and (4) interchange traffic. Fibreboard's cost witness testified that he used the same cost data developed by applicants' cost witness with adjustments in the following cost components that were developed by either himself or his client: (1) certain mileages; (2) weight per car from three origins; and (3) car days at destination.

As to the mileage adjustments, Fibreboard's witness testified that the changes he made were based on short-line mileages shown in the carriers' tariffs. The mileage changes he made from the mileages used by applicants' witness in Exhibit 65 were as follows: (1) a reduction from 6 to 3 miles for the distance from Quincy to Quincy Junction via the Quincy Railroad which resulted in a 1.3 percent reduction in the total mileage for the haul from Quincy to Fibreboard; (2) an increase from 53.6 to 61 miles for the distance from Oakdale to Fibreboard via AT&SF which resulted in increases of 7.1 and 9 percent in the total mileage for the haul from Standard and Keystone, respectively, to Fibreboard; (3) a reduction from 236 to 199 miles for the distance from Terra Bella to Stockton via SP which resulted in a reduction of 14 percent in the total mileage for the haul from Terra Bella to Fibreboard; (4) a reduction from 409 to 296 miles for the distance from Weed to Stockton via SP which resulted in a reduction of 25.8 percent in the total mileage for the haul from Weed to Fibreboard; (5) a reduction from 178.4 to 131 miles for the single-line haul via AT&SF from Madera to Fibreboard, a reduction of 26.6 percent; and (6) a reduction from 173.1 to

136 miles for the single-line haul via AT&SF from Trigo to Fibreboard, a reduction of 21.4 percent. Of the 7,218 shipments covered by both applicants' and Fibreboard's cost studies, the mileage reductions by Fibreboard affected 17.7 percent of this total, and the mileage increases by it affected 17.8 percent of this total.

With respect to the weight per car and car-day adjustments, Fibreboard's witness testified that he obtained the data he used from information developed by his client. Fibreboard's Exhibit 45 shows that the average number of units of wood chips per car shipped from Quincy, Chaney, and Sloat was 28 and not 18 as used by applicants in their cost study. Fibreboard's witness stated that he used this corrected data in his cost analysis and that by so doing, the average weight per car from these three origins was increased in his cost study from the 53.7 tons used by applicants to 64.3 tons, an increase of 19.7 percent. This weight change affected 3 percent of the total number of shipments included in the cost study. Fibreboard's Exhibit 48 shows that the average time a rail car was at Fibreboard's plant was 16.7 hours. The witness testified that applicants used the Rail Form A average of four car days at destination in their Exhibit 65 cost analysis and that based on the actual average car time at destination shown in Exhibit 48, he used one car day at destination in his study, a reduction of 75 percent.

Fibreboard's cost witness, in comparing his Exhibit 61 with applicants' Exhibit 14, pointed out that the additional $9.63 weighted average revenue per car shown in his exhibit resulted from the increased car weight he used from the three aforementioned origins and that the decreases of $35.89 and $36.65 in the weighted average cost per car at variable cost and fully allocated cost, respectively,

both at embedded interest, resulted from the adjustments he had made in mileages and car days at destination. His per-car variable and fully allocated costs with embedded interest are 8.6 and 7 percent, respectively, less than those used by applicants. The witness stated that the car-day adjustment at destination accounted for approximately 97 percent of the total adjustment he made in applicants' costs. In explaining his mileage adjustments, he stated he was not aware of actual operating routes which might have been longer than the short-line distances for at least some of his adjustments.

In rebuttal to the cost adjustment made by Fibreboard's cost witness for the reduction from four to one car day per shipment at destination, applicants asserted that a substantial period of time was required for each loaded and unloaded car cycle (loaded origin to destination and unloaded destination to origin) and that all of this time was not included in the cost calculations by either themselves or Fibreboard. Following is a summary of evidence they presented based on samplings of wood chip movements by WP, SP, and AT&SF to support their position that a substantial number of car days were required: (1) for transportation for which WP was the line-haul carrier, the average total loaded and unloaded cycle time for a wood chip shipment, including time on AT&SF, was 16.66 car days, not including 7.99 days the car was surplus or in the ship, and the average number of days a car was at a loading point ranged from 3.98 to 7.21, with the substantial majority of the cars at the loading point approximately 6-1/2 days; (2) for traffic for which SP was the line-haul carrier, the average loaded and unloaded cycle time for a wood chip shipment, excluding time on the AT&SF, was 14.27 car days, and the shipper time at

origin averaged 4.24 car days; and (3) for transportation for which AT&SF was the line-haul carrier, the total loaded and unloaded cycle time for each shipment ranged from 12.15 to 15.69 car days. Based on this evidence, they asserted that: (1) Fibreboard's witness adopted the same Rail Form A average of four car days at origin they had used in their cost exhibit; whereas, the evidence shows that in many instances, car days at origin exceeded this number; (2) the cycle times adopted by Fibreboard's witness from applicants' cost exhibit did not include some of the time waiting for short-line origin carriers to order or to pick up cars, some of the time cars were on the lines of short-line carriers, and other additional car days, all of which add to the total overall cost of performing this transportation; and (3) all of this additional car-day time should have been taken into account in developing the costs for transporting wood chips; and had it been, it would have substantially, if not more than, offset the car-day cost reduction at destination made by Fibreboard's cost witness. As to the five reductions and two increases to the tariff, short-line mileages made by Fibreboard's cost witness, which together with the revision he had made in the average weight per car from three of the origins accounted for the remaining 3 percent of the total adjustments he made in applicants' costs, applicants stated that the mileages they used were based on the miles via the actual routes operated, and they asserted that this is an acceptable procedure in cost development.

According to various exhibits placed in evidence by protestants and applicants: (1) the applicable rail tariff provides that rates on wood chips do not alternate with lumber rates for California intrastate traffic but do for interstate traffic and elsewhere; (2) from the 17 origins used in the cost

studies herein to Antioch, the current lumber rates with the 8 percent X-357-A increase converted to the wood chip unit rate basis, which is 200 cubic feet and averages 4,590 pounds per unit, exceed the proposed wood chip rates from 12 and are less from 3, and there are no lumber rates published from two of the origins; (3) while SP's Oregon tariff provides higher intrastate rates for wood chips than those proposed for California, most wood chip rail transportation in Oregon is under a contract arrangement between the railroad and shipper, and the contract rates are less than those proposed herein; (4) the Oregon contract rates are subject to certain conditions, including a requirement that 70 percent of the traffic move by a favorable route of the contracting carrier, and if these conditions are not met, the higher tariff rates apply; and (5) this contract arrangement is exclusive to Oregon intrastate traffic.

Fibreboard presented the following evidence in support of its position that cost development for wood chip transportation should be developed on the basis of embedded interest only: (1) applicants have an adequate supply of wood chip cars to meet shipper needs; (2) since this equipment is in reasonably good condition and much of it is relatively new, none will require replacement in the foreseeable future; (3) there is, therefore, no need for applicants to obtain or expend new capital to replace this equipment for a number of years; (4) the use of current cost of capital would be proper only if the carriers would today replace each and every wood chip car now in service with a new car; otherwise, carriers would be given additional profit if current cost of capital were adopted; (5) the ICC has pointed out in a recent decision, Docket 36180, San Antonio, Tex. v Burlington No., Inc., et al., served June 1, 1979, that in its best judgment a rate based on fully allocated cost plus a return factor based upon the

carriers' overall capital costs and a 7 percent increment is a maximum reasonable rate for the traffic involved; (6) based on this decision and the fact that the movement of wood chips does not require major new expenditures, carriers' overall capital costs on wood chip movements are embedded debt; (7) the fully allocated cost at embedded debt developed by its cost witness plus the interim 7 percent increase would result in a revenue-to-cost ratio of 1.068 percent which would be the maximum reasonable rate based on the test set forth by the ICC in its San Antonio decision.

In support of their position that current cost of capital at 17.2 percent is a proper basis for determining costs for wood chip transportation, applicants presented the following evidence: (1) the ICC San Antonio decision cited by Fibreboard involved a captive shipper, i.e. market dominance by the rail carriers which is defined in 49 C.F.R. 1109.1 as a rebuttable presumption arising when a carrier handled 70 percent or more of the traffic during the preceding year, the rate in issue exceeds variable cost by 60 percent or more, or where substantial investments have been made by shippers or consignees in rail-related equipment which make it impractical to use another transportation mode; (2) none of these circumstances exist here; (3) the ICC in the San Antonio decision, in addition to the statement referred to by Fibreboard, further stated that in its opinion a rate set at fully allocated cost calculated at the revenue need level of the carriers is reasonable in the interest of providing increased revenues to meet the system needs of the carriers, and in defining revenue need level concluded that the weighted cost of capital for railroads is currently 10.6 percent on an after-tax basis (17.2 percent on a pretax basis), based on a 13 percent cost of equity capital, a 7 percent cost of embedded debt, and a 40/60 percent debt/equity

structure mix; (4) the ICC has also applied the 17.2 percent before tax cost of capital in two recent decisions, Docket 36970, Volume Rates on Coal Wyoming to Flint Creek Arkansas, and Docket 36980, S. W. Electric Power Co. v Burlington No., Inc., et al., both served May 25, 1979; and (5) applicants' adoption of the ICC 17.2 percent before tax cost of capital, which they consider to be conservative, in their cost analysis herein is reasonable.

As the record indicates, Fibreboard is of the opinion that if any increase is to be authorized for wood chips it should not exceed the interim 7 percent increase authorized by Decision No. 90134, and it strongly objects to any additional increase. The primary issue for our determination, therefore, is whether the additional 8 percent included in the full 15 percent increase sought by applicants is justified.

The evidence clearly establishes that the substantial amount of the difference in the weighted average cost per car developed by applicants and by Fibreboard for the same test year was due to the reduction to the one car day per shipment at destination by Fibreboard from the Rail Form A average of four car days per shipment at destination used by applicants. With the amount of rail traffic to Fibreboard, it would seem that applicants should have been aware of the actual average time for cars at destination and that they could have used this rather than the Rail Form A average in their cost analysis. However, they did point out that they did use less than Rail Form A averages for some of the cost components used in their cost development and that Fibreboard used all of these reductions in its cost study. They also presented evidence which showed that more than the Rail Form A average of four car days at origin, which both they and Fibreboard used, was

required at many of the origins and that certain other car time did exceed the car days both they and Fibreboard had used in their cost studies. While applicants did not present a revised cost study incorporating the expense for these additional car days, it is apparent that they would have increased the weighted average per-car costs presented by applicants and would have, at least to some extent, offset the destination car-day adjustment by Fibreboard. The other adjustments made by Fibreboard in applicants' cost and revenue showing were not substantial.

As pointed out above, the weighted average revenue-to-cost ratios developed for the test year by Fibreboard were on an embedded interest basis only. With Fibreboard's cost data, the ratio for variable and 100 percent fully allocated costs on a 17.2 percent current cost of capital basis would be approximately 123 and 96 percent, respectively. By using either party's cost study, the weighted average revenue to cost ratio would be under 100 on the fully allocated cost with the 17.2 percent current capital cost basis for the traffic in issue. In this regard, Fibreboard has pointed out that since no replacement wood chip cars should be required for a substantial period of time, embedded interest is the proper basis to be used in determining the amount of increase that is justified and is of the opinion that the ICC's San Antonio decision supports its position. Applicants, on the other hand, assert that, based on their interpretation of this decision, the San Antonio decision supports their position that 100 percent allocated cost with 17.2 percent cost of capital is the proper basis for determining the reasonableness of the sought full 15 percent increase, and they pointed out that in its recent Volume Rates on Coal and S. W. Electric Power Co. decisions, the ICC has recognized 17.2 percent as the

railroad's current cost of capital. As stated, the ICC in the X-357 proceeding before it granted the full 15 percent increase in wood chip rates, and its purpose in so doing was to authorize increases in so-called low-spot rates to improve the economic condition of the railroads and to remove any burden such rates may be having on other traffic.

Based on a review of all the evidence, we are of the opinion that the sought 15 percent increase: (1) does not exceed a maximum reasonable increase for wood chip transportation; (2) is within the zone of reasonableness in rate setting; and (3) should be granted. Having so determined, the possible refund provision of the interim decision is, as with sugar beets, moot.

One last comment is Fibreboard's statement that no new wood chip cars will be required for a number of years. As the evidence establishes applicants apparently have an adequate and reasonably good fleet of wood chip cars. The problems that exist with sugar beet equipment do not exist here. To keep the wood chip fleet in good condition, or for other reasons, it is possible that the rail carriers may replace some or all of the wood chip cars much sooner than Fibreboard anticipates, and it is also quite probable that the rail lines will be facing other capital expenditures for roadway and other equipment in connection with this transportation in the near future.

Findings of Fact

1. Except for sugar beet rates of SP and SMV and wood chip rates of all carriers, Interim Decision No. 90134 dated March 28, 1979 authorized each applicant and intervenor in the five applications herein and highway common carriers for rail alternative rates they publish to establish the same increases in their California

intrastate rates as now authorized for interstate and foreign traffic by TIRC X-357-A, including current supplements thereto. For SP and SMV sugar beet rates and for wood chip rates for all carriers, the decision authorized an interim 7 percent increase subject to possible refund in lieu of the 15 percent provided for in the aforementioned tariff pending public hearing and final decision regarding the amount of increase, if any, that should be granted for these two commodities.

2. SP and SMV request authority to increase their intrastate rates on sugar beets; and SP, AT&SF, WP, on behalf of themselves and other rail carriers, request authority to increase their intrastate rates on wood chips by the same 15 percent authorized by the ICC for interstate and foreign commerce within Western Territory, which includes California.

3. The transportation of sugar beets and wood chips within California is major movements for the railroads involved.

4. Spreckels, Union, and the Beet Growers protested any increase in rail sugar beet rates, including the interim 7 percent.

5. Sugar beets are grown at various locations in California, primarily in the central valley and coastal areas and in the southern part of the State. The harvest season for each area varies. Spreckels has four sugar beet factories located at Spreckels (near Salinas), Manteca, Woodland, and Mendota, all of which are served by SP; and Union has one factory at Betteravia, which is served by SMV. All line-haul transportation of sugar beets is via SP. Shipments to Union are via SP to Guadalupe and from there for the last 4.8 miles to Betteravia via SMV. When sugar beets are harvested, they immediately commence to deteriorate and lose their sugar content; and time is of the essence in moving them from the field to the factory.

6. Between 30 and 50 percent of the sugar beets moved to Spreckels' factories and approximately 95 percent transported to Union's plant are via rail, and the balance of the hauling is via motor carrier. Most of the truck transportation is for distances not over 100 miles; and for distances in excess of this, Spreckels and Union do not consider truck transportation economically feasible.

7. SP and the sugar companies together set up special schedules for transporting sugar beets from the various growing areas to the factories during the harvest seasons. Most of this transportation is via special beet hauler trains used exclusively for this freight.

8. All rail cars used for hauling sugar beets are owned by SP and are gondola-type, bottom dump cars dedicated exclusively to this hauling. Other types of railroad equipment are not considered compatible for sugar beet hauling. The sugar beet cars were built in the late 1940s and had wood sideboards added to them in the 1950s to increase their carrying capacity. SP has never undertaken any rehabilitation or replacement program for this equipment and has done only light running repairs on the cars.

9. Because of the age of the sugar beet equipment and SP's reluctance to rehabilitate or replace any of it, a number of the cars have become unserviceable and have been sold for scrap; and the remaining fleet has deteriorated substantially.

10. Due to the inferior condition of its sugar beet fleet, SP cannot continue to meet the rail transportation needs of its sugar beet customers for any reasonable period of time unless it initiates a major rehabilitation or replacement program for this equipment.

11. SP has had various meetings with sugar beet shippers during the 1970s regarding the condition of the sugar beet car fleet and on several occasions has indicated to them that it was its intent to initiate a rehabilitation program for this equipment; however, it has not, for various reasons, done so and has no present intent to undertake such a program.

12. In a written stipulation filed November 2, 1979, by SP and protestants, it is stated that 50 of the sugar beet cars not in service have been sold. This reduces the average fleet size to approximately 1,300 cars, including those that are heavy bad-order cars.

13. SP should be directed to initiate and complete within a three-year period a program of rehabilitation or replacement of a sufficient number of its present sugar beet fleet or some other appropriate program to assure that it will have an adequate supply of suitable equipment in reasonable condition to meet the present and future needs of sugar beet shippers. SP should be placed on notice that the granting of increased rates on sugar beets in subsequent ex parte rail proceedings is contingent upon the taking of appropriate steps to maintain sugar beet rolling stock in satisfactory condition.

14. The cost of rehabilitating a sugar beet car would be approximately several thousand dollars or more, and the cost of a replacement car would be at least $39,750.

15. It was not inappropriate for SP to use 1978 traffic volume for the test year in its revenue and cost development for sugar beet transportation. This was tht latest shipment data available to it; and although sugar beet acreage and resulting traffic was greater in prior years, the May 1979 Sugar and Sweetener Report of the U.S. Department of Agriculture projected only a very minor increase in sugar beet acreage for the year 1979.

16. The ICC in various decisions has admonished the railroads to take steps to improve their return on so-called low-rated commodities and improve their economic condition.

17. In response to this admonishment, the interstate rail carriers, including SP, requested and were granted in the X-357 proceeding before the ICC a 15 percent increase for interstate sugar beet transportation in Western Territory, which is the same increase for the same commodity sought by SP and SMV herein.

18. The ICC in its recent San Antonio, Volume Rates on Coal, and S. W. Electric Power Co. decisions adopted 10.6 percent as an after-tax and 17.2 percent as a before-tax current cost of capital for railroads.

19. The cost data developed by SP and its presentation of this data on a fully allocated cost basis with current cost of capital adopted by the ICC is acceptable for this proceeding.

20. The sought 15 percent increase for sugar beet rates does not exceed a maximum reasonable rate for this transportation and is within the zone of reasonableness for setting rates.

21. The sought 15 percent increase in sugar beet rates is reasonable and justified by the evidence herein.

22. Fibreboard protests any increase in wood chip rates that would exceed the interim 7 percent increase authorized by Decision No. 90134.

23. Wood chips are the refuse of saw and lumber mills, and there are two movements from these origins within California. One is an intrastate movement to Fibreboard's paper board plant at Antioch, and the other is an interstate move to the Port of Sacramento. The interim 7 percent increase applies to the intrastate movement, and the 15 percent increase in TIRC X-357-A applies to the interstate movement.

24. The three major rail lines handling intrastate wood chip hauling are SP, AT&SF, and WP. Some of the origins are served by one of the major carriers and others are served by short-line

carriers. Fibreboard's plant is served by AT&SF only, and all traffic for which SP or WP is a line-haul carrier is interchanged with AT&SF at Stockton.

25. The railroads have a sufficient number of wood chip cars to reasonably meet the transportation needs of Fibreboard. This equipment is adequately maintained, and some of it is relatively new.

26. Revenue and cost studies based on 1978 wood chip traffic volume were presented by applicants and by Fibreboard. Both studies were based on Rail Form A averages with certain adjustments. Other than minor differences in the average weight per car from three origins and in some mileages, the difference between the two studies was due to the reduction to the actual average of one car day per shipment at destination by Fibreboard from the Rail Form A average of four car days per shipment at destination used by applicants. However, more car time was used at some origins than the Rail Form A four-day average per shipment used by both applicants and Fibreboard in their studies, and there was other additional car time neither had used. Had the actual origin car days and other additional car time been used by Fibreboard in its study, this would have, to some extent, offset the destination car-day adjustment at destination by Fibreboard.

27. In response to the ICC admonishment referred to in Finding 16, interstate rail carriers, including applicants, requested and were granted in the X-357 proceeding before the ICC a 15 percent increase for interstate wood chip transportation in Western Territory, and this is the same increase for the same commodity sought by applicants herein for intrastate traffic.

28. The cost data developed by applicants on a fully allocated cost basis with the current cost of capital adopted by the ICC is

acceptable for this proceeding. On this basis, the weighted average revenue with the sought 15 percent increase to cost ratio using either parties costs is under 100.

29. While the wood chip car fleet of the railroads is in relatively good condition, it is possible that the carriers may have capital expenditures for this fleet and related equipment in the near future.

30. The sought 15 percent increase for sugar beet rates does not exceed a maximum reasonable rate for this transportation and is within the zone of reasonableness for rate setting.

31. The sought 15 percent increase in wood chip rates is reasonable and justified by the evidence herein.

32. The ICC has heretofore found that the 15 percent increase on sugar beet and wood chip rates conform with the standards set forth by the President's Council on Wage and Price Stability, and we so find.

Conclusions of Law

1. The increase sought by SP and SMV for intrastate sugar beet rates and by applicants and intervenors herein for intrastate wood chip rates to the same 15 percent level authorized in TIRC X-357-A should be authorized.

2. SP should be directed to: (1) immediately undertake and complete within a three-year period a program of rehabilitation or replacement of its sugar beet fleet or some other appropriate program to assure that it will have sufficient equipment in reasonable condition to meet the present and future needs of sugar beet shippers, and (2) to submit to the Commission, within 90 days after the effective date of the order which follows, the plan that it will initiate to achieve this goal.

3. Because the rail lines are in need of the additional revenue that will result from the increases authorized herein, the order which follows will be made effective on the date of issue.

FINAL ORDER

IT IS ORDERED that:

1. Santa Maria Valley Railroad Company and Southern Pacific Transportation Company are authorized to increase their commodity rates for the transportation of sugar beets within this State to the level named in Item 810-A, Tariff of Increased Rates and Charges, X-357-A.

2. The Atchison, Topeka and Santa Fe Railway Company, The Western Pacific Railroad Company, Southern Pacific Transportation Company, and all other applicants and intervenors in the five applications herein are authorized to increase their commodity rates for the transportation of wood chips within this State to the level named in Item 941-G, Tariff of Increased Rates and Charges, X-357-A.

3. Southern Pacific Transportation Company shall: (1) immediately initiate and complete within a three-year period a program of rehabilitation or replacement of its sugar beet fleet or some other appropriate program to assure that it will have sufficient equipment in reasonable condition to meet the present and future needs of sugar beet shippers, and (2) submit to the Commission, within ninety days after the effective date of this order, the plan that it will undertake to achieve this goal.

4. 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 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 No. 125 is required to accomplish such publications, authority for such departure is hereby granted.

5. 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 paragraphs 1 and 2 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 paragraphs 1 and 2 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 paragraphs 1 and 2 hereof, nor higher than the otherwise applicable minimum rates.

6. Common carriers maintaining, under outstanding authorizations 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 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.

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 applicants made pursuant to the authority granted in paragraphs 1 and 2 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 paragraphs 1 and 2.

8. 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.

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. 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- or 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. In all other respects, Decision No. 90134 shall remain in full force and effect.

12. The Executive Director of the Commission shall cause service by mail of this order upon all parties listed in Appendix A to Decision No. 90134.

The effective date of this order is the date hereof.

Dated APR 2 1980, at San Francisco, California.

President

Commissioners

Commissioner Claire T. Dedrick, being necessarily absent, did not participate in the disposition of this proceeding.

APPENDIX A

LIST OF APPEARANCES

Applicants in A.58543 et al. and respondents in OII 41: Carol A. Harris, John MacDonald Smith, and Richard S. Kopf, Attorneys at Law, for Southern Pacific Transportation Company; Leland E. Butler, Attorney at Law, for The Atchison, Topeka and Santa Fe Railway Company; Eugene J. Toler, Attorney at Law, for Western Pacific Railroad Company; Donald B. Blaylock, for Burlington Northern, Inc.; and Robert M. White, Attorney at Law, for Union Pacific Railroad Company.

Protestants: Morrison & Foerster, by James P. Bennett and Charles A. Farrar, Jr., Attorneys at Law, for Union Sugar, Spreckels Sugar, and California Beet Growers Association; Robert L. Schmaltz and Stephan J. Meyers, Attorneys at Law, for Amstar Corporation, Spreckels Sugar Division; and Patrick W. Pollock, Milton A. Walker, and Harter Williams, for Fibreboard Corporation.

Interested Parties: Jess J. Butcher, for California Manufacturers Association; C. D. Gilbert and J. C. Kaspar, for California Trucking Association; Allen R. Crown and Glen J. Sullivan, Attorneys at Law, and Ralph O. Hubbard, for California Farm Bureau Federation; William D. Mayer and Carvin T. Dowke, for Canners League of California; Louise Weitbrecht and Philip G. Blackmore, for California and Hawaiian Sugar Co.; George B. Shannon, for Southwestern Portland Cement Company; Don Austin, for Monolith Portland Cement; Frank Spellman, for himself; Calhoun E. Jacobson, for Traffic Managers Conference of California; William Mitze, for Riverside Cement Company; T. W. Anderson, for General Portland, Inc.; John J. Wynne, T.M., for Owens-Illinois, Inc.; Mike Mallin, for Lone Star Industries; and Philip K. Davies, for himself.

Commission Staff: Robert Cagen, Attorney at Law, and Carroll D. Smith.