

James J. ...

C. 5432, Pet. 1059, et al. - RDG/mw *

Decision No. 92436 NOV 18 1980

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation into)
the rates, rules, regulations, charges,)
allowances, and practices of all highway)
carriers relating to the transportation)
of any and all commodities between and)
within all points and places in the)
State of California (including, but not)
limited to, transportation for which)
rates are provided in Transition Rate)
Tariff 2.))

Case No. 5432
Petition for Modification
No. 1059
(Filed July 9, 1980)

Case No. 5439
Petition for Modification
No. 339

Case No. 5441
Petition for Modification
No. 417

Case 5603
Petition for Modification
No. 217

Case 7783
Petition for Modification
No. 165
(Filed July 9, 1980)

And Related Matters

ORDER DENYING PETITION FOR MODIFICATION

In Decision No. 90663, the California Public Utilities Commission (Commission) abolished minimum rate regulation of general commodity transportation and substituted a more competitive regulatory system of carrier-filed rates. By abolishing general commodity minimum rates, the Commission also effectively eliminated the future availability of rail rates to motor carriers transporting general commodities.^{1/} California Public Utilities Code

^{1/} See Decision No. 90663, mimeo p. 12, Conclusion of Law 5.

Section 3663 authorizes motor carriers to assess rail rates in the alternative to minimum rates where minimum rates have been established by the Commission. Since minimum rates were cancelled, alternative rail rates, previously available under Section 3663, ceased to be available.

In order to avoid disruption of existing transportation patterns, carriers were, however, permitted to file rail rates under the new regulatory program on a grandfathered basis.^{2/} Rail rates published in either motor common carrier tariffs or contracts, and filed with the Commission on or before April 30, 1980, were grandfathered. Any such rates filed after April 30, 1980, had to be accompanied by a statement of justification demonstrating that the rate covered the filing motor carrier's costs, including the prevailing wage, and would contribute to the carrier's profitability.

On July 9, 1980, the California Manufacturers Association (CMA) filed a petition requesting that the Commission extend the date for filing alternative rail rates on a grandfathered basis. CMA alleges that federal court litigation and legislation, sponsored by the California Trucking Association (CTA) in an effort to prevent implementation of the Commission's trucking reform program, created such confusion in the industry that many carriers failed to file in time to grandfather rail rates previously applicable to freight being shipped by many CMA members.

In spite of the fact that some confusion did exist in the industry in April, many rail rates were on file prior to April 30, 1980, and have been grandfathered. These rates are subject to review upon complaint, however, just like any other rate filed under the new program. The opportunity to grandfather rail rates was provided only as a measure to ease the transition from uniform minimum

^{2/}

See discussion in Decision No. 90354, mimeo p. 52, referred to in Decision No. 90663.

rate regulation to competitive carrier-set rates based upon individual carrier costs and operating circumstances. We are now well into the transition period. To extend the date for filing rail rates on a grandfathered basis would only encourage the filing of complaints against such rates and would delay the ultimate transition to competitive motor carrier cost-based rates. Rail rates not grandfathered may be filed with appropriate justification under the new program.

The petition of CMA to modify Decision No. 90663 should, accordingly, be denied.

Findings of Fact

1. General commodity minimum rates were cancelled on April 30, 1980, by Decision No. 90663.
2. Rail rates contained in motor carrier tariffs and contracts, and on file with the Commission on or before April 30, 1980, may continue to be assessed without further justification after minimum rates were cancelled.
3. Federal court litigation and CTA sponsored legislation to postpone the implementation of Decision No. 90663 engendered uncertainty as to whether the decision would be implemented as scheduled on April 30, 1980.
4. In spite of the industry uncertainty regarding implementation of Decision No. 90663, many rail rates were on file in motor carrier tariffs and contracts prior to April 30, 1980.
5. CMA requests that the date for filing alternative rail rates on a grandfathered basis under Decision No. 90663 be extended.
6. The opportunity to grandfather rail rates was provided only as a measure to ease the transition to competitive carrier-set rates.
7. We are now well into the transition period.
8. All rates are subject to review upon the filing of a complaint.

9. To extend the date for filing rail rates on a grandfathered basis would encourage the filing of complaints against such rates and would delay the transition to competitive motor carrier cost-based rates.

Conclusion of Law

By abolishing general commodity minimum rates, the Commission effectively eliminated the availability of rail rates under the California Public Utilities Code Section 3663.

IT IS ORDERED that the petition for modification of Decision No. 90663, filed July 9, 1980, in the captioned proceeding, by California Manufacturers Association, is denied.

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

Dated NOV 18 1980, at San Francisco, California.

John E. Byrne
President

Vernon L. Livingston

Richard D. Merrill

Clair T. Pedrick

Stanley J. Young
Commissioners