

Filed Aug 11, 1958 - 2:30 P.M.

BEFORE THE

PSC 16

PUBLIC SERVICE COMMISSION OF WISCONSIN

Petition of Wisconsin Motor Carriers)	
Association (Petroleum Division) for)	
Commission Determination of Minimum)	MC#1573
Rates for Transportation of Petroleum)	
Products in Bulk in Tank Trucks)	

TO ALL TO WHOM THESE PRESENTS SHALL COME:

I, Edward T. Kaveny, Secretary of the Public Service Commission of Wisconsin, do hereby certify that I have compared the annexed copy of the decision with the original decision of the Public Service Commission of Wisconsin in the above-entitled matter, now on file in the office of said Commission, and that the same is a true copy of such original decision and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Commission at its office in the City of Madison, this *8th* day of *August*, A.D. 1958

Edward T. Kaveny

Secretary

PUBLIC SERVICE COMMISSION OF WISCONSIN

BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN

Petition of Wisconsin Motor Carriers Association (Petroleum Division) for Commission Determination of Minimum Rates for Transportation of Petroleum Products in Bulk in Tank Trucks } MC-1573

FINDINGS OF FACT AND ORDER

The Commission on September 13, 1957 under authority of sections 194.36(8) and 227.104, Statutes, amended and adopted rules in chapter PSC 16, Wisconsin Administrative Code, fixing minimum rates based on airline distances for the transportation of petroleum products in bulk in tank trucks by contract motor carriers, effective March 1, 1958.

The petitioner filed a petition with the Commission on January 14, 1958 requesting that it modify section PSC 16.35, Wisconsin Administrative Code, to fix minimum rates for Group B petroleum products 17% higher and for Group C petroleum products 40% higher than the rates ordered September 13, 1957 and to set minimum loading requirements on Groups B and C commodities related to the proposed rate differentials.

Group B products consist principally of light fuel oils Nos. 1, 2, and 3 and Group C products are principally residual fuel products Nos. 4, 5, and 6, asphalt, and road oils.

On February 21, 1958 a petition was filed herein by Indianhead Truck Line, Inc., Ruan Transport Corporation, Eldon Miller, Inc., Schirmer Transportation Company, Quickie Transport Company, and Lamont Services, Inc., asking the Commission to modify its order of September 13, 1957 and chapter PSC 16, Wisconsin Administrative Code, "by substituting actual route-miles over the shortest highway practical for the transportation of petroleum products" in lieu of the airline-distance

formula (section PSC 16.36, Wisconsin Administrative Code); and to extend the effective date of the order and rule to a date following an order issued after full consideration of such petition.

On February 18 the Commission denied requests by various shippers that the effective date of March 1, 1958 be postponed.

The Commission on February 27 denied the petition of February 21 and directed that it be held in abeyance and that further hearing scheduled on February 28 proceed.

On March 13 the Commission directed that a hearing be scheduled in May by notice published in the Wisconsin Administrative Register on such petition, and that adjourned hearing on rates for Groups B and C products be set on the same date.

Pursuant to due notice hearings were held at Madison on February 13 and 28, 1958 before Examiner Helmar A. Lewis, on the petition filed on January 14, 1958, but not completed. Pursuant to due notice published in the April 1958 notice section of the Wisconsin Administrative Register, further hearing was held at Madison on May 22, 1958 before Examiner Helmar A. Lewis.

Appearances:

Wisconsin Motor Carriers Association
(Petroleum Division) by

John T. Porter, attorney
Madison (February 13)

P. H. Porter, attorney
Madison (February 28 and May 22)

Appearances: (Continued)

In Opposition:

Indianhead Truck Lines, Inc., LC-25327
Ryan Transport Corporation, LC-32771
Eldon Miller, Inc., LC-29400, by

Glenn W. Stephens, attorney
Madison (February 28)

Adolph J. Bieberstein, attorney
Madison (May 22)

Schirmer Transportation Company, LC-31989, by

Claude J. Jasper, attorney
Madison (February 28)

Adolph J. Bieberstein, attorney
Madison (May 22)

Lamont Service, Inc., LC-36767, by

Adolph J. Bieberstein, attorney
Madison (May 22)

Consolidated Freightways, Inc., LC-36345,
(Wheeler Tank Lines, Inc.) by

Herbert C. Ohman
Milwaukee (February 28 and May 22)

Carl Klenm, LC-17959
West De Pere (May 22)

Farmers Union Central Exchange by

G. L. Swenson, general traffic manager
St. Paul, Minnesota

Skelly Oil Company by

F. M. Holloway, traffic manager
Kansas City, Missouri (February 28)

Raymond L. Wells, transportation supervisor
Kansas City, Missouri (May 28)

D-X Sunray Company by

F. M. Holloway, traffic manager, Skelly Oil
Kansas City, Mo. Company
(February 28)

Socony Mobil Oil Company, Inc., by

H. W. Shoemaker
New York 17, New York (February 28 and May 22)

Socony Mobil Oil Company, Inc., (Wadhams Division) by

H. W. Buerosse, traffic manager, Twin Cities
Milwaukee Division
(February 28 and May 22)

Appearances: (Continued)

In Opposition: (Continued)

Shell Oil Company by

A. J. Schommer
New York 20, New York (February 28)

Wm. H. Morley, assistant manager, traffic
New York 20, New York department
(May 22)

Continental Oil Company by

I. A. Duncan, traffic representative
Chicago, Illinois (February 28 and May 22)

Naph-Sol Refining Co., by

Delbert G. Thode, sales manager, Kewaunee
Green Bay (May 22) Division

Midland Cooperatives, Inc., by

Wm. F. Libby, traffic manager
Minneapolis, Minnesota (February 28 and May 22)

Northwestern Refining Co., by

Emil N. Sturzenegger, traffic manager
St. Paul Park, Minnesota
(February 28 and May 22)

Phillips Petroleum Company, by

D. E. Furnas, director of services,
Bartelsville, Oklahoma transportation division
(February 28 and May 22)

The Texas Company by

George H. Cady
Chicago, Illinois (February 28 and May 22)

Wisconsin Farmco Service Cooperative, by

Robert V. Hulder, manager, traffic and
transportation department
Madison (May 22)

As Their Interests May Appear:

Fond du Lac Petroleum Transport Coop., LC-31294
Fond du Lac, by

Robert W. Groeschel
Malone (February 28)

Appearances: (Continued)

As Interest May Appear: (Continued)

Wisconsin Farm Truckers Association by

J. T. Williams
Milwaukee (February 13)

Petroleum Transport, Inc., by

John Falk Murphy, president
Madison (February 28)

Standard Oil Company by

Paul R. Gary, superintendent, highway
division, traffic department
Chicago, Illinois (February 28 and May 22)

Sinclair Refining Co., by

M. J. Bergin
Chicago 6, Illinois (February 28 and May 22)

Western Oil and Fuel Company, by

John W. Powers, traffic manager
Minneapolis, Minnesota (February 28 and May 22)

Of the Commission Staff:

A. Wilford Larson, chief, transportation department
Ivan A. Sherman, supervisor, tariffs section

Findings of Fact

THE COMMISSION FINDS:

This proceeding involves two distinct matters:

1. Determination by the Commission whether the airline-distance formula (FSC 16.36, Wisconsin Administrative Code) prescribed in the order of September 13, 1957 herein should be retained for the determination of minimum rates by contract motor carriers for the transportation of petroleum products in bulk in tank trucks or whether actual highway distance should be used.
2. Determination by the Commission with respect to the January 14, 1958 petition of Wisconsin Motor Carriers Association to modify section FSC 16.35, Wisconsin Administrative Code.

to fix minimum rates for Group B petroleum products 17% higher, and for Group C 40% higher than the rates ordered September 13, 1957; and to set minimum loading requirements on Groups B and C commodities related to the proposed rate differentials.

These matters will be dealt with separately.

Determination of Distances

The Commission's order of September 13, 1957 in docket MC-1573 created and adopted section PSC 16.36, Wisconsin Administrative Code, providing an airline-distance formula for use in determining minimum rates prescribed in section PSC 16.35, Wisconsin Administrative Code. A petition was filed with the Commission on February 21, 1958 by Indianhead Truck Line, Inc., et. al., requesting modification of section PSC 16.36, Wisconsin Administrative Code, by the substitution of highway distance in lieu of the airline-distance formula.

The airline-distance formula has been in satisfactory use for about 20 years. It was first prescribed for use by household goods carriers in determining long-distance moving rates effective November 20, 1939. It is still in use by such carriers. In 1946 it was prescribed for the use of common motor carriers in the determination of joint-line class rates; and, effective December 12, 1946, its use was authorized upon request of such carriers for the determination of single-line as well as joint-line class rates.

The formula is based on proven mathematical theory and provides an accurate method of determining distances between all points in Wisconsin. It is particularly adaptable to the determination of minimum rates. Extensive testing of the formula indicates that as published, it provides airline

distances which average approximately 10% less than short-line highway distances.

It provides a definite and nonchanging distance basis for the determination of minimum transportation rates. It is not affected by changes in highways nor by changes in points of origin and/or destination of shipments. Its publication meets the requirements of chapter 227, Statutes, with respect to rule making. The publication of highway distances would require continual change to reflect highway relocations and the addition of new points of origin and/or destination.

It permits publication of a basis for rate determination between a large number of points in a tariff of very small volume. The minimum rates prescribed in docket MC-1573 apply on petroleum products between any and every point in the state when transported in bulk in tank trucks by contract motor carriers. Airline Distance Tariff No. 1 comprises 19 pages. Publication of actual highway distances between the same number of points would require a tariff of approximately 2,000 pages.

The use of the airline-distance formula provides an easy and accurate method of determining minimum rates as compared to determination of short-line highway mileages from the official highway map of Wisconsin.

Certain claimed disadvantages to the use of the airline-distance formula are:

1. The mathematical computations necessary enhances the possibility of error. Actually, the only mathematical computation necessary is simple subtraction. Once computed and record made, further computation is unnecessary with respect to a particular rate.
2. Airline distance does not reflect actual highway route

distance. This is true, but the discrepancy in distance has been found to average only about 10%. The use of any highway distance table results in a certain amount of approximation, as the distance is determined from or to a single control point within a city, village, or community.

3. The use of airline distances results in possible discrimination between certain communities as compared to the use of highway distance. Section 194.34(5), Statutes, prohibits unjust discrimination by public contract motor carriers with respect to the furnishing of service or the charging of rates. There is no similar prohibition applicable to private contract motor carriers. The carriers here involved hold private contract motor carrier authority.

The Commission's order of September 13, 1957 in docket MC-1573 prescribed minimum rates, rather than actual rates, for the transportation by contract motor carriers of petroleum products in bulk in tank trucks. The use of mileage rate scales based on actual highway route distances for the determination of actual rates was not prohibited by the order. The only requirement was that the carrier provide that the actual rates published are not lower than the minimum rates prescribed by the Commission, determined by use of the airline-distance formula. Many carriers, in complying with the Commission's order, have retained their highway mileage scale for use where specific rates are not published, or where highway mileage is desired to determine the applicable rate in connection with multiple-delivery rules contained in their tariffs. Specific reference has been made in such tariffs to proper tariff provisions incorporating the Commission's minimum rate scale and reference to Airline Distance Tariff No. 1.

The parties opposing the use of the airline-distance

formula have made no specific suggestion as to an alternative method of determining minimum rates. A mileage table was submitted in the original proceeding naming highway distances from seven terminal points to numerous Wisconsin destinations. The table, as submitted, was incomplete in that it did not show mileages between all possible origins and destinations. It was not considered satisfactory for use in the original proceeding.

Testimony of those in opposition to the use of the airline-distance formula does not present sufficient justification to warrant change or modification of section PSC 16.36, Wisconsin Administrative Code.

Minimum Rates on Groups "B" and "C" Commodities

The Commission by order of September 13, 1957 in Docket NO-1573 created and adopted (effective March 1, 1958) section PSC 16.35, Wisconsin Administrative Code, providing a scale of minimum rates for contract motor carriers applicable to the transportation of all petroleum products in bulk in tank trucks. This section of the code provided that all contract motor carriers maintain and apply rates for such transportation not lower than the rates provided by the minimum scale, determined in accordance with the airline-distance formula published in section PSC 16.36, subject to a minimum charge based on 5,000 gallons at the applicable rate, except that when a tank truck having a capacity of less than 5,000 gallons is furnished at the carrier's convenience, the minimum charge shall be based on the applicable rate and the calibrated capacity of such tank truck.

A petition was filed with the Commission on January 14, 1958 by the Wisconsin Motor Carriers Association (Petroleum Division) requesting modification of section 16.35, Wisconsin

Administrative Code, by fixing minimum rates for Group B petroleum products 17% higher and for Group C petroleum products 40% higher than the minimum rates ordered September 13, 1957, and by setting minimum load requirements on Groups B and C commodities related to the proposed rate differentials. If granted, the minimum rates and loading requirement originally prescribed would be applicable only to Group A commodities.

An appendix attached to the petition lists Group A commodities as including various gasolines, jet fuel, and naphtha. Group B commodities include distillate fuel oil (nos. 1, 2, and 3 not suitable for illuminating purposes), distillate gas oil, Diesel oil, furnace oil, kerosene, liquified petroleum gas (not including butadiene, ethylene or propylene), range oil, and refined oil (illuminating or burning). Group C commodities include fuel oil (nos. 4, 5, and 6, bunker C, and residual), gas oil, and lubricating oils. Asphalt and crude oil are sometimes shown as Group C and sometimes as Group D commodities. They will be considered as Group C commodities in this proceeding.

Tariffs filed with the Commission prior to March 1, 1958 showed considerable variation in the relationship of the rates on Groups B and C commodities to the rates on Group A commodities. An exhibit of record indicates that the Group B rates range from approximately 115% to 120% and Group C from about 125% to 140% of Group A rates. The minimum load requirements in connection with this rate comparison were not shown. The Commission's records indicate no uniformity in this respect.

The transportation characteristics of Groups B and C commodities differ materially from those of Group A commodities.

The weight for a gallon of Group B commodities is

greater than that of Group A commodities. Since rates are stated in cents for one gallon rather than for a hundredweight, petitioner contends that higher rates for one gallon on Group B than on Group A commodities is necessary to reflect the greater transportation service which is performed. An exhibit of record shows that at 60 degrees Fahrenheit Group A commodities range in weight from 5.90 to 6.17 pounds a gallon and that Group B commodities range from 6.76 to 7.05 pounds a gallon. The mathematical average of the Group B commodities of 6.90 pounds is 113.5% of the 6.08-pound average of the Group A commodities. In addition, the peak loading of Group B commodities (principally fuel oil) occurs during the winter months when road and weather conditions are generally more adverse. These commodities also have a higher viscosity than Group A commodities. They are therefore not as free flowing and require a longer time for loading and unloading. This is more pronounced during the winter months than at other times during the year.

Group C commodities have a greater weight density than either the Group A or Group B commodities. The exhibit previously referred to shows a weight of 7.88 pounds a gallon for residual fuel oils. A witness stated that a weight of 8.4 pounds was more realistic as to the Group C commodities generally transported. The mathematical average weight of 8.14 pounds is 134% of the average weight shown for the Group A commodities. Because of their very high viscosity at lower temperatures, many of the Group C commodities have to be transported in a heated condition. This requires the use of special equipment, such as insulated tanks or tanks equipped with heating coils and burners, to maintain the required temperature necessary for unloading. In some instances the use of pumping equipment is necessary. Such equipment requires a greater investment, and the maintenance and cleaning costs are also greater than those in connection with ordinary

tank trucks used for the transportation of the lighter petroleum products.

Petitioners have not presented any additional cost data with respect to the transportation of Groups B and C commodities other than presented in the original proceeding on May 9, 1957. Their justification for rate differentials on these commodities is based on the difference in weight and in other transportation characteristics outlined above. To the extent that the carriers participating in the original cost study were transporting Groups B and C commodities, the costs there shown are composite costs for the transportation of all petroleum products. Since Groups B and C commodities generally constitute the smaller proportion of such commodities transported, the cost study would be weighted in favor of Group A commodities. As a result, the present scale of minimum rates published in section FSC 16.35, Wisconsin Administrative Code, does not fully reflect the costs incurred in the transportation of Groups B and C commodities.

The record in this proceeding does not establish that the costs for the transportation of Groups B and C commodities vary in direct proportion and to the same extent as the costs indicated by the weight relationship of such commodities to Group A commodities.

The scales of rates (designated A, B, and C) set forth in section FSC 16.35, as amended herein, adapted to rate base numbers determined in accordance with the airline-distance formula, section FSC 15.36, Wisconsin Administrative Code, are reasonable minimum scales of rates for the transportation of Group A, B, and C petroleum products, respectively, by intra-state contract motor carriers, subject to minimum quantities of 5,000, 4,350, and 3,700 gallons, respectively, except that when

a tank truck having a capacity of less than such respective minimum quantity is furnished for loading at carrier's convenience, the minimum loading required shall be the calibrated capacity of such tank truck. The minimum loading authorized for Groups B and C commodities approximately reflects the weight relationships of these commodities to Group A commodities and will be reasonable in connection with the minimum rates herein authorized.

Conclusions of Law

THE COMMISSION CONCLUDES:

That it has jurisdiction under sections 194.36(8) and 227.014, Statutes, to issue an order modifying section FSC 16.35, Wisconsin Administrative Code, to provide minimum rates for the transportation of Groups "D" and "C" petroleum products in bulk in tank trucks by contract motor carriers, and that such order should be issued.

Order

THE COMMISSION THEREFORE ORDERS:

1. That the petition of Indianhead Truck Lines, Inc., Ruan Transport Corporation, Eldon Miller, Inc., Schirmer Transportation Company, Quickie Transport Company, and Lamont Service, Inc., dated February 20, 1958, to the extent that it proposed elimination of the use of the airline-distance formula, section FSC 16.35, Wisconsin Administrative Code, and the substitution of "actual route-miles over the shortest highways practical" for the determination of minimum rates, be and hereby is denied.
2. That, pursuant to authority vested in the Commission by sections 194.36(8) and 227.014, Statutes, the Commission hereby amends section FSC 16.35, Wisconsin Administrative Code, to read:

PSC 16.35 Contract Motor Carriers of petroleum products in bulk in tank trucks; minimum rates and charges. All contract motor carriers transporting petroleum products in bulk in tank trucks shall maintain and apply rates for such transportation not lower than the rates resulting under the following scales of minimum rates, designated A, B, and C, applicable to the transportation of Group A, B, and C petroleum products, respectively, determined in accordance with the airline-distance formula contained in section PSC 16.36, subject to a minimum charge based on the applicable minimum rate and minimum quantities of 5,000, 4,350, or 3,700 gallons, respectively, except that when a tank truck having a capacity of less than such respective minimum quantity is furnished for loading at carrier's convenience, the minimum loading required shall be the calibrated capacity of such tank truck. (Group A commodities include various gasolines; jet fuel; and naphtha. Group B includes distillate fuel oil, Nos. 1, 2, and 3, not suitable for illuminating purposes; distillate gas oil, Diesel oil; furnace oil; kerosene; liquified petroleum gas, not including butadiene, ethylene, or propylene; range oil; and refined oil, illuminating or burning. Group C includes asphalt; crude oil; fuel oil, Nos. 4, 5, and 6, bunker C, and residual; gas oil; and lubricating oil.)

Minimum Scales of Petroleum Rates
in Cents per Gallon

Rate Base Number	Commodity Groups		
	A	B	C
1	0.302	0.3380	0.3925
2	0.3635	0.4070	0.4725
3	0.4250	0.4760	0.5525
4	0.4865	0.5450	0.6325
5	0.5480	0.6140	0.7125
6	0.6095	0.6825	0.7925
7	0.6710	0.7515	0.8725
8	0.7325	0.8205	0.9525
9	0.7940	0.8895	1.0325
10	0.8555	0.9580	1.1120
11	0.9170	1.0270	1.1920
12	0.9785	1.0960	1.2720
13	1.0400	1.1650	1.3520
14	1.1015	1.2340	1.4320
15	1.1630	1.3030	1.5120
16	1.2245	1.3720	1.5920
17	1.2860	1.4410	1.6720
18	1.3475	1.5100	1.7520
19	1.4090	1.5790	1.8320
20	1.4705	1.6480	1.9120

3. That section PSC 16.35, Wisconsin Administrative Code, as herein amended, shall become effective November 1, 1958, as provided for in section 227.026, Wisconsin Statutes.

4. That certified copies of the section of the Wisconsin Administrative Code as herein amended, be filed with the Revisor of Statutes and the Secretary of State as required by section 227.023, Wisconsin Statutes.

Dated at Madison, Wisconsin, this 7th day of August, 1958.

By the Commission.

Edward I. Kaveny
Secretary