

Decision No. 15997

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA
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San Francisco Chamber of Commerce,
Complainant,

vs.

Southern Pacific Company,
Atchison, Topeka & Santa Fe Railway Company,
Defendants.

CASE NO. 1980.

In the Matter of the Application of
F. W. Gomph, Agent, in the name of and
on behalf of
Atchison, Topeka & Santa Fe Railway Company,
Los Angeles & Salt Lake Railroad Company,
Pacific Electric Railway Company,
San Diego & Arizona Railway Company,
Southern Pacific Company,
Western Pacific Railroad Company,
to establish increased rates for trapcar
service at points in California.

APPLICATION NO. 11703.

Seth Mann, for San Francisco Chamber of Commerce,
Sanborn & Roehl and DeLancey C. Smith, by A.B. Roehl and
R.D. Rynder, for South San Francisco Chamber of Commerce,
Interveners; Manufacturers Association of South San
Francisco, Intervener,
E.W. Hollingsworth, R.T. Boyd and Bishop & Bahler, for
Traffic Department Oakland Chamber of Commerce;
Berkeley Manufacturers Association; Berkeley Chamber of
Commerce, and Richmond Chamber of Commerce, Interveners,
W.O. Banks and George M. Lowm, for Standard Oil Company,
G.J. Bradley, for Merchants and Manufacturers Association of
Sacramento, Intervener,
J.F. Vizzard, for Draymen's Association of San Francisco and
California Truck Owners Association, Interveners,
B.E. Bishop, for Montague Pipe & Steel Company, Interveners,
E.W. Camp and B. Levy, for Atchison, Topeka & Santa Fe Ry., Defendant,
J.E. Lyons, H.W. Klein, and V.S. Andrus, for Southern Pacific Company,
Gwyn E. Baker and E.M. Wade, for Haas Brothers, Sussman-Wormser,
J.H. Newbauer & Company and Dodge, Sweeney Company,
W.J. Lane, for Dried Fruit Association of California,
C.S. Connolly, for Albers Brothers Milling Company,
E.E. Bennett, for Los Angeles & Salt Lake Railroad Company,
George F. Squires, for Pacific Electric Railway Company,
James S. Moore, for Western Pacific Railroad Company.

BY THE COMMISSION:

OPINION ON FURTHER HEARING
IN CASE NO.1980 AND APPLICATION NO.11703
FOR AUTHORITY TO PUBLISH TRAP CAR CHARGES.

We may conveniently dispose of the issues raised on further hearing in Case No.1980 and of those involved in Application No.11703 in one report.

In our Decision No.14710, Case No.1980, March 27,1925, (26 C.R.C.160), we found that failure of the defendants to establish a general less carload trap car service, hereinafter referred to as trap car service, at San Francisco, and also that the practice of performing free trap car service within the San Francisco switching limits for the Grocers Terminal and the Ford Terminal resulted in unlawful discrimination, preference and advantage.

The unlawful practices were ordered removed.

In the previous decision we said:

"Defendants should submit to the Commission within ninety (90) days from the date of this order its plan for removing the discrimination, and in this connection we would suggest that conferences be held with the interested shippers in both the San Francisco and Oakland territories in an effort to arrive at an arrangement satisfactory to both communities, non-preferential and in compliance with the state constitution and the Public Utilities Act."

Defendants did confer with the complainants as ordered, and on May 27, 1925 submitted their proposal for removal of the unlawful practices found to exist and offered to establish at San Francisco, Oakland and other stations in California adjustments approximately as follows:

Station	Between	And	Commodity	Rate Per Car
All Stations in California:	Depot	Wharves, Indus- tries, Warehouses and Private Side Tracks located within switching limits.	Freight, Less Car- load originating at or destined to points beyond Company's switch- ing limits on or via the line on which the ship- ment originates.	\$3.50 Subject to an aggreg- ate mini- mum line haul rev- enue of \$15.00 per car, def- icit, if any, to be paid by party pay- ing the switching charge
As shown in Exhibit	Wharves, Indus- tries, Ware- houses and Priv- ate Side Tracks located within Switching Limits.	Interchange Tracks with Car- riers as shown in Exhibit.	Freight, Less Car- load, originating at or destined points on or via connecting lines beyond switching limits at points of interchange.	\$3.50
As Shown in Exhibit	Depot	Interchange Tracks as shown in Exhibit.	Freight, Less Car- load, originating at or destined to points beyond switching limits and on which the carrier receives a line haul when to or from wharves, indus- tries, warehouses or private side tracks within switching limits of connecting lines at point of interchange.	No Charge, Subject to an aggreg- ate minimum line haul revenue of \$15.00 per car, deficit, if any, to be paid by par- ty paying the switch- ing charge of connect- ing line at point of interchange.

Defendants, Southern Pacific Company and Atchison, Topeka & Santa Fe Railway Company, also advised the complainants that the Los Angeles & Salt Lake Railroad Company, Pacific Electric Railway Company, San Diego & Arizona Railway Company and Western Pacific Railroad Company were agreeable to establishing trap car service on the same basis at stations on their lines.

The complainants and interveners failing to agree upon a satisfactory adjustment we reopened the case, setting the proceeding for further hearing on September 16, 1925, but at the request of the complainants and defendants postponements were granted and the final hearing was not completed until December 15, 1925.

APPLICATION NO. 11703

On August 22, 1925 the Atchison, Topeka & Santa Fe Railway Company, Southern Pacific Company, Los Angeles & Salt Lake Railroad Company, Pacific Electric Railway Company, San Diego & Arizona Railway Company and Western Pacific Railroad Company, by F.W. Gomph, Agent, applied under Section 63 of the Public Utilities Act for permission to establish throughout California at the stations located on their respective lines the rules and charges offered in Case No. 1980, which rules and charges they alleged would remove, at all points where trap car service might be demanded, the discrimination found to exist.

The evidence submitted by complainants at this further hearing is not materially different from that introduced by their witnesses and as set forth in their exhibits in the original proceeding. There were filed at this hearing additional exhibits

showing the trap car service rendered at New Orleans and Salt Lake City, with quotations from tariffs. At New Orleans carriers provide a free trap car service for not less than 10000 pounds when destined to competitive and non-competitive points, but when less than 10000 pounds the regular switching charge is assessed. At Salt Lake City the Western Pacific Railroad provides a free trap car service when the freight offered totals 6000 pounds and is incidental to a local line haul. These exhibits, however, must be considered in connection with complainants' Exhibit No. 9, introduced at the original hearing by Witness Mayfield. The Mayfield exhibit analyzed the trap car arrangements at practically all important industrial centers throughout the United States.

It will not be necessary to again enter into a detailed analysis of this exhibit; suffice it to say there is no standard basis for the trap car service, there being almost as many service charges as there are cities, viz., a flat charge of \$3.15; \$2.70 minimum weight 4000 pounds; \$2.25 minimum weight 4000 pounds; no charge, but requiring a minimum weight of 6000 pounds; no charge, but requiring a minimum weight of 10000 pounds, etc. The required line haul minimum revenue also varies; it is \$12.00, \$12.50, \$18.50, \$19.00, etc. Carriers entering the city of Chicago, one of the largest industrial and railroad centers in the United States, furnish trap car service on two bases, the lines to the eastern territory require a minimum weight of 10000 pounds, a minimum line haul revenue of \$19.00 and, in addition, a penalty switching charge when the freight offered is less than 10000 pounds. As illustrative, when the total trap car freight weighs from 8000 to 8999 pounds the penalty switching charge is \$2.70; from 5000 to

5999 pounds \$6.30, and for less than 5000 pounds \$7.65. These switching charges are in addition to the minimum line haul revenue of \$19.00. The carriers operating out of Chicago to the west furnish trap cars for a minimum weight of 6000 pounds, with a minimum line haul revenue of \$19.00 and penalty switching charges when the weight falls below 6000 pounds; viz., for weights 5000 to 5999 pounds \$6.30 and on cars containing less than 5000 pounds \$7.65. All of the car privileges are governed by rules limiting the use of service.

The protestants in connection with Application No. 11703 presented three exhibits showing the less than carload tonnage forwarded from Grocers Terminal, San Francisco. The contention of these interveners is that because their trap cars moving out of Grocers Terminal are heavily loaded and frequently pass through carriers' terminal yards without breaking bulk they are in a distinct class and, therefore, should receive different treatment than is accorded other shippers. With this suggestion we cannot agree; it would create discrimination and be in violation of Section 19 of the Act prohibiting the granting of preference or advantage.

As part of their defense for the proposed trap car charge of \$3.50 per car based on a minimum line haul revenue of \$15.00, the carriers submitted an exhibit showing the yard engine time consumed in performing various kinds of terminal service, secured during a test period in 1923 at Sacramento, Fresno and San Francisco. The object of the exhibit was to show that industrial switching requires a greater amount of yard engine time per loaded car than the other classes. At Fresno it

required 47 minutes; at Sacramento 62 minutes and at San Francisco 74 minutes. Another exhibit purports to show the yard transportation expense in the movement of loaded cars at important terminal points on the Southern Pacific Company, Atchison, Topeka & Santa Fe Railway and San Diego & Arizona Railway. The average cost, from studies made in 1925 at nine cities, was \$3.66 per loaded car. This cost figure includes such items as locomotive repairs, salaries of yard masters, clerks and engine men, supplies and engine house expenses. To these should be added the seven per cent State tax, based on a revenue of \$3.50 per car, or 24 cents, and a car detention charge of \$1.98, making a total average cost of \$5.88. The yard transportation expense varies at the different terminals; at San Francisco the average is \$4.41; Los Angeles \$4.43; Stockton \$2.18; Fresno \$2.36 and San Bernardino \$2.08. These figures no doubt represent a more or less accurate estimate of the average cost of all cars handled at the particular place and during the period under consideration, but however carefully prepared are, at best only approximate.

As recited in the original opinion, there are many places within the State of California where a limited trap car service is now being performed. The main contention of complainants is based upon the fact that the Southern Pacific Company for many years has performed a trap car service at Oakland for a charge of \$2.70, regardless of the weight of the freight or the line haul revenue. The same amount, \$2.70, is assessed at stations in Arizona, Nevada, New Mexico, Oregon and California in connection with shipments containing one or more articles weighing 5000 pounds or more; for dried fruit in lots of 5000 pounds or over; for wool

in lots of 10000 pounds or over, and at Crockett, Rocklin and Sacramento 29 cents per ton, with a minimum charge of \$5.85.

For purposes of clarity we quote from our original report as follows:

"Carriers rendering less carload service at line-haul rates from private industry tracks apparently are holding out a privilege of special character for which they are entitled to fair compensation, otherwise this less carload service performed for one group of shippers without charge, or at only a nominal charge, becomes a burden upon other traffic. The instant record does not supply any cost figures upon which the Commission could base a reasonable charge for the service. It would appear, however, that for many years where the service has been performed, as outlined in the exhibits set forth in this opinion, the charge in most instances has been \$2.70 per car regardless of the weight of the shipments or the number of packages." (26 C.R.C.168).

Complainants and interveners have directed attention to the conclusions reached by the Interstate Commerce Commission in Docket No.1708, Associated Jobbers of Los Angeles vs. Atchison, Topeka & Santa Fe Railway Company, et al., decided April 5, 1910 (18, I.C.C.310), having to do with the receiving and delivering of carload freight to and from industry tracks located within carriers' switching limits. We have given very careful consideration to that decided case, and while it contains elements paralleling the instant proceeding, it deals only with movement of carloads and includes no investigation of the less than carload trap car service, a thing entirely different and involving a different operating and handling cost.

In the Trap or Ferry Car Service Charge Interstate Docket No.545 (34 I.C.C.516), which proceeding is referred to by

complainants and interveners, is found the following:

"If a consignor orders a car placed on his private track, and he there loads it with less-than-carload shipments, and then orders the carrier to transport the car to its local freight or transfer station for rehandling and forwarding of contents, the consignor has used the facilities of the carrier to dray his shipments. The carrier has rendered a service which is special in character and for which it would seem to be entitled to fair compensation, with due regard to the service rendered. The same character of service is rendered when a car is held at a local freight or transfer station and inbound less-than-carload shipments are loaded into it and it is then transported to an industry sidetrack." (547).

Commissioner Harlan, concurring, uses the following language:

"In my view it is not only the right of a carrier when it performs a 'service special in character' to exact fair 'compensation with due regard to the service rendered', but it also is its duty to make such a charge. Whenever a special service of value is performed without charge it is as clearly a rebate as would be a secret refund of money, and a rebate in service is as much a violation of the law as a wrongful concession in any other form." (p.549).

In numerous cases the Interstate Commerce Commission has held that where shippers are given an additional service necessary for particular consignments there must be a reasonable charge for that service. This Commission in an early proceeding, decided by Commissioner Eshelman October 14, 1912, severely criticised an arrangement for the absorption of warehouse charges at Stockton and Sacramento. (I.C.R.C.762).

The trap car service has many advantages to consignors and consignees in the convenience of disposition of the tonnage

and elimination of the drayage charges. On the other hand, there are benefits to the carrier of which sight must not be lost, particularly where large shippers employ for outgoing less than carload movement the equipment reaching the industry tracks with carload freight. Carrier also has the benefit of a curtailment of space at its local terminal freight depots and the elimination of vehicular congestion during the peak of the shipping hours. All of these elements must be given consideration.

Upon consideration of the entire record, we reaffirm our previous findings in Case No.1980 that failure of the defendants to establish less carload switching privileges at San Francisco is prejudicial to the city of San Francisco, and that the granting of free less than carload switching privileges to Grocers Terminal and Ford Terminal within the San Francisco switching limits is prejudicial to other shippers of freight within the same switching limits. To remove this prejudice and discrimination defendants, in Case No.1980, will be required to establish a trap car less carload service within the San Francisco and Oakland switching limits, subject to a charge of \$2.70 per car and to a minimum line haul revenue of \$15.00 per car, and to publish this same adjustment at the other stations as set forth in the communications submitted to the Commission under date June 22,1925 and as amended June 26,1925. Defendants are hereby authorized to cancel from tariffs items in conflict with this adjustment.

We are of the opinion that Application No. 11703 of

Atchison, Topeka & Santa Fe Railway Company,
Los Angeles & Salt Lake Railroad Company,
Pacific Electric Railway Company,
San Diego & Arizona Railway Company,
Southern Pacific Company,
Western Pacific Railroad Company,

by F. W. Gomph, Agent, to establish the same rules and charges for trap car service, as authorized by the Commission in Case No. 1980, at stations on applicants' lines, as set forth in the exhibits attached to the application, should be granted. The order will authorize the carriers applicant to publish a trap car less carload service within switching limits of \$2.70, subject to a minimum line haul charge of \$15.00, and to cancel items now in tariffs in conflict with this adjustment.

O R D E R

This case and this application having been duly heard and submitted by the parties, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the opinion, which opinion is hereby referred to and made a part hereof,

IT IS HEREBY ORDERED that the Southern Pacific Company and Atchison, Topeka & Santa Fe Railway Company be and they are hereby notified and required to establish, on or before March 15, 1926, upon notice to this Commission and to the general public by not less than ten (10) days' filing and posting in the manner prescribed in Section 14 of the Public Utilities Act, and thereafter to maintain at San Francisco and Oakland, California, a charge of \$2.70 per car for trap car service, subject to a minimum line haul revenue of \$15.00 per car, and to cancel items now in tariffs in conflict with this adjustment.

IT IS HEREBY FURTHER ORDERED that the applicants, Atchison, Topeka & Santa Fe Railway Company, Los Angeles & Salt Lake Railroad Company, Pacific Electric Railway Company, San Diego and Arizona Railway Company, Southern Pacific Company, and Western Pacific Railroad Company, by F. W. Gomph, their Agent, in Application No. 11703, are hereby authorized to establish a charge of \$2.70 for trap car service, subject to a minimum line haul revenue of \$15.00 per car, at stations on applicants' lines as set forth in the exhibits attached to the application, and to cancel items now in tariffs in conflict with this adjustment.

Dated at San Francisco, California, this 15th
day of February, 1926.

H. B. ...
C. ...
Edward ...

Commissioners.