

Decision No. 22584.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation on the Commission's own motion into the lawfulness of all proportional rates set forth in certain tariffs of GEO. HARM and H. FRASHER, copartners, operating under the name and style of VALLEY MOTOR LINES, MADERA TRUCK LINE and DINUBA TRUCK LINE; H. FRASHER, operating under the name and style of H. FRASHER TRUCK LINE; GEO. HARM, operating under the name and style of WESTERN TRUCK LINE and GEO. HARM TRUCK LINE; SAN JOAQUIN VALLEY TRANSPORTATION COMPANY, a corporation; MOTOR SERVICE EXPRESS, a corporation; and RICE TRANSPORTATION COMPANY, a corporation.

ORIGINAL

Case No. 2839.

Sanborn, Roehl, Smith & Brookman, by A. B. Roehl, for Harm & Frasher, doing business as Valley Motor Lines, Madera Truck Line, Dinuba Truck Line, H. Frasher Truck Line, Western Truck Line, and George Harm Truck Line, respondents.

F. M. Hodge, for the San Joaquin Valley Transportation Company.

A. Burton Mason, Edward Stern and W. S. Johnson, for Railway Express Agency, Incorporated, Southern Pacific Company and Pacific Motor Transport Company, interested parties.

BY THE COMMISSION:

O P I N I O N

This is a proceeding instituted upon the Commission's own motion to determine the lawfulness of certain proportional rates established by respondents for the transportation of freight in motor vehicles between various points in California.

A public hearing was held before Examiner Geary at San Francisco April 17, 1930, and at Los Angeles April 24, 1930, and

the case having been submitted is now ready for an opinion and order.

Respondents have on file with this Commission tariffs containing proportional rates for the movement of freight in various territory but applying chiefly to and from Fresno, the point of convergence of a number of certificated lines. Without exception these rates are lower than the local rates concurrently maintained between the same points and are so restricted that they can only be applied in connection with rates of other common carriers operating over the highways under certificates of public convenience and necessity obtained from this Commission. For example, the Valley Motor Lines, operating between San Francisco and Fresno, has in effect in its Tariff C.R.C. No. 3 a local first class rate of $74\frac{1}{2}$ cents between the terminals served. The same tariff also contains a first class proportional rate of $67\frac{1}{2}$ cents between San Francisco and Fresno, restricted so as to apply to or from the carrier's depot at Fresno when traffic originates at or is destined to points served by certificated carriers beyond Fresno. In Tariff C.R.C. No. 4 of the Dinuba Truck Line there is provided between Fresno and Dinuba a first class local rate of 30 cents and a first class proportional rate of 23 cents, the latter being restricted to apply only on traffic originating at or destined to points beyond Fresno served by certificated lines. No through service has been authorized by this Commission between San Francisco and Dinuba, neither has any authority been given to publish through joint rates between these points. However, instead of assessing charges based on a combination of local rates over Fresno, which in the case of the movement of a commodity rated first class from San Francisco to Dinuba would be \$1.04 $\frac{1}{2}$, a rate of $90\frac{1}{2}$ cents is obtained by the use of these proportional rates.

The testimony of traffic officials for practically all respondents was substantially to the same effect, that there is need for rates lower than the local rates in connection with the movement of tonnage originating on one line and destined to a point on another; also that a through movement involved an entirely different method of handling the freight at the junction points. The local rates now in effect provide a pick-up or delivery service at the originating and destination points, which service is not rendered when the tonnage is transferred direct from truck to truck at the point of interchange. The through tonnage moves continuously in heavy volume during the entire year as is illustrated by the different exhibits. Exhibit No. 1 shows that during the month of March 1930 the Valley Motor Lines transported between San Francisco and Fresno on the proportional rates a total of 289,531 pounds, and between Oakland and Fresno on the proportional rates a total of 164,439 pounds, a grand total by this one carrier in the month of March 1930 of 453,970 pounds. The firm of Bishop & Company, manufacturer of confectionery, bakery goods and chocolate products, forward from Los Angeles under the proportional rates to points in the San Joaquin Valley approximately 30,000 pounds per month. The commodities regularly moved consist of all varieties of general merchandise. The tariffs on file show that these proportional rates have been in effect for a number of years, some of them since 1925.

The precise question here for determination is whether or not by the publication of these proportional rates respondents have established transportation arrangements which are unlawful and should be discontinued.

We have heretofore held that the establishment of joint through rates between two lines operating under separate certificates was in effect an enlargement of existing rights and established the precedent that before such joint rates could be

published and made effective authority must first be obtained from this Commission. (In Re Oakland-San Jose Transportation Co. et al., 24 C.R.C. 660. In Re Highway Transport Co. et al., 26 C.R.C. 942.)

It appears conclusive from the testimony presented in this proceeding that the proportional rates under discussion and the method of their application has had the same effect as would the establishment of joint rates and to this extent are unauthorized enlargements of respondents' operative rights. The principle of proportional rates was discussed in Cases Nos. 2405 and 2410, Motor Service Co. et al. vs. Adam Baker, February 26, 1928, 31 C.R.C. 231-234, and will govern the instant situation.

It might be stated in conclusion that the respondents were under the impression that the publication of these proportional rates was proper, and there is nothing in the record to show they were not filed in good faith. While there is evidence on this record which shows that the public has used these rates extensively and would be adversely affected by their cancellation, we must conclude and do so find that the rates here under review are unlawful and should be cancelled unless respondents before the effective date of this order obtain authority to publish joint rates or to continue the proportional rates in effect.

O R D E R

This case being at issue upon the Commission's own motion, full investigation of the matters and things involved having been had, and basing this order upon the findings of fact and the conclusions contained in the opinion which precedes this order,

IT IS HEREBY ORDERED that respondents, Geo. Earm and H. Frasher, copartners, operating under the name and style of

Valley Motor Lines, Madera Truck Line and Dinuba Truck Line; E. Frasher, operating under the name and style of E. Frasher Truck Line; Geo. Harm, operating under the name and style of Western Truck Line and Geo. Harm Truck Line; San Joaquin Valley Transportation Company, a corporation; Motor Service Express, a corporation; and Rice Transportation Company, a corporation, be and they are hereby ordered to cancel on or before October 1, 1930, on five (5) days' notice to the Commission and to the public, all proportional rates filed by them and involved in this proceeding, unless an order is obtained from the Commission before the effective date of this order to continue in effect said proportional rates.

Dated at San Francisco, California, this 30th day of June, 1930.

Cl Seavey
Ernest B. Smith
Leon A. White
W. S. Smith
W. P. King
Commissioners.