

Decision No. 25538.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA:

In the Matter of the Suspension by the Commission on its own motion of Items Nos. 115, 120 and 125 appearing on page 6 of Los Angeles Steamship Company's Joint Freight Tariff No. 14, C.R.C. No. 25, providing for the absorption of marine insurance, tolls at Alameda, Berkeley, Oakland and San Francisco, and wharfage at Wilmington.

Case No. 3044.

ORIGINAL

R. M. Grose, for Los Angeles Steamship Company.

Sanborn, Rochl, Smith & Brookman, by L. B. Rochl, for Los Angeles-San Francisco Navigation Company, protestant.

H. R. Brashear, for Los Angeles Chamber of Commerce.

C. S. Booth, for California Truck Company, Inc., Citizens Truck Company, Pioneer Truck Company of Los Angeles, Star Truck & Transfer Company, Southern California Freight Lines, Donovan Transportation Company, Glendale & Verdugo Hills Express, Keystone Express System, Motor Service Express, and Rico Transportation Company.

CARR, Commissioner:

O P I N I O N

By order of April 20, 1931, in the above entitled proceeding there was suspended until June 1, 1931, Items 115, 120 and 125 of Los Angeles Steamship Company's Joint Freight Tariff No. 14, C.R.C. No. 25. This tariff, which was filed to become effective April 21, 1931, contained class rates, and commodity rates on drugs and medicines, applicable for a store door

pickup and delivery service between San Francisco, Oakland, Alameda and Berkeley on the one hand, and Los Angeles and other points in Southern California on the other. The suspended items provided for the absorption of marine insurance, tolls at Alameda, Berkeley, Oakland and San Francisco, and wharfage and tolls at Wilmington in connection with this traffic. The suspension order was issued upon complaints from competing steamship lines alleging that the absorption provisions resulted in rates unreasonably low, prejudicial to shippers and competing carriers, and not in the public interest.

A public hearing was held April 24, 1931, at San Francisco, and the matter submitted. The Los Angeles Chamber of Commerce appeared in support of respondent, and the Los Angeles-San Francisco Navigation Company in opposition thereto.

Respondent's purpose in filing Tariff C.R.C. No. 25 was to inaugurate a store door service between San Francisco Bay ports and Southern California points at rates which would include all incidental charges. This type of service has been demanded by shippers for some time and apparently respondent has realized the necessity of meeting the present and contemplated service rendered or to be rendered by other carriers. Respondent published two scales of class rates, one to apply between the terminals and the store door of the shipper or consignee and the other to include both a pickup and delivery service. These rates are slightly higher than the present terminal rates. The tariff also contains commodity rates of 55 cents and 60 cents on drugs, the former covering the terminal to store door service and the latter the pickup and delivery service.

Respondent applied for and obtained authority from the Commission to establish the tariff on less than statutory notice. The Commission in granting the authority was influenced

to a large extent by a statement in the application to the effect the proposed rates were higher than those of the Los Angeles-San Francisco Navigation Company, the only other steamship line rendering a store door service between San Francisco Bay ports and Los Angeles, and by the assurance of respondent's officials that all other competing common carriers had been apprised of the proposed tariff. Later it was found that the tariff contained provisions for the absorption of marine insurance not in excess of \$100.00 per package, tolls at San Francisco Bay ports, and wharfage and tolls on trucks at Wilmington, a distinct departure from the practice which has prevailed for years in connection with water-borne traffic between Pacific Coast ports in so far as the absorption of marine insurance and tolls at San Francisco Bay ports is concerned. The Commission was not specifically advised of these absorptions nor were the competing carriers notified thereof. For this reason they were suspended so that interested parties might have an opportunity to present such objections thereto as they might have. At the hearing respondent agreed to eliminate the absorption of tolls on trucks at Wilmington. With few exceptions the wharfage at that port has always been absorbed, so the item as it will be amended cannot be said to be objectionable.

The tolls at San Francisco amount to $\frac{1}{2}$ cent per 100 pounds. Marine insurance is more of a factor, and it is in connection with this absorption that most of the testimony and evidence was devoted. The cost of marine insurance varies, depending upon the value of the shipment and the type of vessel in which it is transported. The maximum rate for cargo in steel vessels is 15 cents per \$100.00 valuation. In wooden vessels the maximum rate is 20 cents. Lower rates however may be obtained on shipments in volume. An official of respondent tes-

tified that the rates in Tariff C.R.C. No. 25 are sufficiently in excess of its terminal rates in Pacific Coastwise Tariff Bureau Tariff 1-B, C.R.C. No. 4, to cover the incidental charges.

While the absorption of marine insurance is a departure from what has heretofore been the custom on traffic between San Francisco and Southern California points, there is nothing inherently wrong with including it and other incidental charges within the rates. Indeed, on water-borne traffic between California ports and the Pacific Northwest when moving jointly with rail carriers from and to interior points in Oregon, Washington and Idaho, marine insurance is now absorbed. It is also included within the rates on traffic moving on the Great Lakes, the Mississippi River, the Sunset Gulf route of the Southern Pacific Company and in some instances on the Atlantic seaboard.

The only protestant was the Los Angeles-San Francisco Navigation Company. This carrier operates two wooden vessels in competition with respondent. Its boats are of the slower type, requiring approximately 36 hours to make the trip from San Francisco to Los Angeles Harbor and about 40 hours in the reverse direction. The Los Angeles-San Francisco Navigation Company was the first of the steamship lines to inaugurate a store door traffic in recent years. Until April 25, 1951, the service included only a pickup and delivery at Los Angeles, but effective on that date the service was extended to San Francisco. The rates are in most instances 5 cents lower than those of respondent, but they do not include marine insurance and tolls at San Francisco. Unless protestant makes these absorptions its aggregate charges, based upon the maximum insurance rate of 20 cents and an average value of \$25.00 per 100 pounds on shipments, will be $\frac{1}{2}$ cent per 100 pounds higher than respondent's. On drugs and medicines the differential will probably be somewhat higher, due to the higher

average value of these commodities. However, there is nothing in this record to show that protestant would not be able to absorb marine insurance and tolls without impairing its ability to operate profitably. If protestant absorbs insurance and tolls it will then have rates lower than respondent's. This it contends is necessary because of the slower type of vessels operated.

Protestant made some effort to show that after the incidental charges and divisions accruing to the connecting carriers were paid by respondent, the revenue obtained by the latter for the port-to-port haul would be non-compensatory. Protestant however did not know what divisions accrued to the truck lines. Its computations were based upon the opinion expressed some time ago by an official of a truck line as to what a reasonable truck rate would be. The arbitrary divisions used by protestant are in excess of those it pays to truck lines for performing a comparable service. It cannot be said the record bears out protestant's contention.

A consideration of all the facts of record leads to the conclusion that the Commission should find that the suspended items, except that portion of Item 125 absorbing the tolls on trucks, have been justified, but should not vacate its order of suspension until June 1, 1931, so that other carriers may have sufficient opportunity to make whatever adjustments they may desire in their rules and rates.

I recommend the following form of order:

O R D E R

This proceeding having been duly heard and submitted, full investigation of the matters and things involved having been had, and basing its order on the findings of fact and the conclusions contained in the opinion which precedes this order,

IT IS HEREBY ORDERED that the order of April 20, 1931, in the above entitled proceeding be and it is hereby vacated and set aside as of June 1, 1931, except in so far as it suspends that portion of Item 125 providing for the absorption of tolls on trucks at Wilmington.

IT IS HEREBY FURTHER ORDERED that respondent amend on or before June 1, 1931, Item 125 by eliminating therefrom the provision for the absorption of tolls on trucks at Wilmington.

The effective date of this order shall be twenty (20) days from the date hereof.

The foregoing opinion and order are hereby adopted as the opinion and order of the Commission.

Dated at San Francisco, California, this 27th day of April, 1931.

C. S. Weaver
Leon O'Connell
M. A. Carr
M. B. Harris
Fred G. Stewart
Commissioners.