Decision No. 25326.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Suspension by the Commission on its own motion of a reduced rate on canned goods named in Item No. 880-L, 24th revised page 166 of The Western Pacific Railroad Company Tariff No. 36-F, C.R.C. No. 257; Item 250-K, 14th revised page 23 of Sacramento Northern Railway Tariff No. 4-E, C.R.C. No. 50; Item 1540-I, 9th revised page 131 of Southern Pacific Company Tariff No. 730-D, C.R.C. No. 3353; and Items Nos. 2530-B and 2540-B of Supplement 17 to Pacific Freight Tariff Bureau Tariff No. 34-N, C.R.C. No. 494 of F. W. Gomph, Agent.	Case No. 3327.

L. N. Bradshaw, for respondents.

J. R. Bell and J. E. Lyons, for Southern Pacific Company.

Gerald E. Duffy, A. M. Reinhardt and Berne Levy, for The Atchison, Topeka and Santa Fe Railway Company.

Allan P. Matthew, John O. Moran, and McCutchen, Olney, Mannon & Greene, for The River Lines.

HARRIS, Commissioner:

OPINION

This is a proceeding instituted on the Commission's own motion to determine the propriety of a proposed rate of 10 cents per 100 pounds applying on canned goods, in carloads, from Sacramento to San Francisco, Oakland, Alameda and Richmond. The rate, published to become effective August 30, 1932, in Item No. 880-L, 24th revised page 166 of The Western Pacific Railroad Company Tariff No. 36-F, C.R.C. No. 257; Item 250-K, 14th revised page

23 of Sacramento Northern Railway Tariff No. 4-E, C.R.C. No. 50; Item 1540-I, 9th revised page 121 of Southern Pacific Company Tariff No. 730-D, C.R.C. No. 3353, and Items Nos. 2530-B and 2540-B of Supplement 17 to Pacific Freight Tariff Bureau Tariff No. 34-N, C.R.C. No. 494 of F. W. Gomph, Agent, was suspended until November 10, 1932, upon protests received from The River Lines.[1]

This proceeding and Interstate Commerce Commission I.& S. Docket 3795[2] were heard and orally argued at San Francisco September 8, 9 and 12, 1932. This decision relates only to the intrastate rate.

Respondents' present rate is 12 cents per 100 pounds, minimum carload weight 36,000 pounds. Unloading charges of 40 cents per ton and switching charges ranging from $2.70 to $4.50 per car are absorbed. Both the minimum weight and the provisions for the absorption of the unloading and switching charges remain unchanged under the proposed 10-cent rate.

The rate of protestant, The River Lines, is 10 cents per 100 pounds, minimum 20,000 pounds. In connection with this rate The River Lines absorb a switching charge at Sacramento not in excess of 34 cents per ton on shipments received by rail and the actual cost of trucking to the docks not in excess of 32½ cents or 40 cents per ton depending upon the origin and destination of the traffic[3] on shipments received by truck.

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1 The River Lines is the name under which the California Transportation Company, Sacramento Navigation Company and Fay Transportation Company have operated jointly since February 1, 1932, on San Francisco Bay, the Sacramento and San Joaquin Rivers and their tributaries.

2 The proposed rate was suspended on interstate traffic until November 10, 1932.

3 Items 20, 30 and 35 of The River Lines Terminal Tariff No. 2.

For some time prior to October 1, 1926, the intrastate rail rate was substantially higher than the rate in effect via the water route. On that date the rail carriers began absorbing the unloading costs not in excess of 40 cents per ton, which had the effect of reducing the differential by the amount of the unloading charge absorbed. On January 24, 1928, the rate itself was reduced from 16 to 12½ cents and the unloading absorption provision continued. The differential in favor of the water lines was thus very materially reduced. While the record does not show what portion of the tonnage was intrastate, it does show that the movement via the rail lines increased as the differential decreased. On April 22, 1929, the Fay Transportation Company (one of the carriers now comprising The River Lines) established a rate of 10 cents per 100 pounds in order to regain for that line a portion of the canned goods tonnage the water lines lost to the rail carriers, when the differential was reduced. That it was successful in regaining traffic is indicated by the decline in the rail lines' tonnage. At the present time the rail lines' traffic in canned goods consists chiefly of shipments requiring industry track delivery or shipments destined to Libby, McNeill & Libby's Warehouse "B" at Oakland, points not adjacent to the water line's dock.

The record clearly shows that the proposed rate will not develop any tonnage not now moving via the carriers under our jurisdiction. Neither the water carriers nor the rail lines are encountering unregulated truck competition, although the tariffs contained the statement that it was for this purpose that the proposed rate was published. At a later date when respondents attempted to justify the proposed rate before it was suspended they claimed a 10-cent rate was necessary to retain their present canned goods traffic. The record does not bear out this contention. The underlying reason for the reduced rate is the desire to divert traffic from The River Lines. However, in fairness to the rail carriers I believe they felt at one time, or at least the Western Pacific Railroad Company felt, that the rate of 10 cents was essential to retain traffic moving to Warehouse "B" at Oakland. The River Lines probably had given them cause for so thinking when they made tentative overtures to Libby, McNeill & Libby to absorb the cost of loading the canned goods from the docks to the warehouse. But whatever intention The River Lines may have had to divert this traffic from the railroads has been definitely abandoned.

Substantially all of the canned goods moving between Sacramento and the San Francisco Bay region originate at the plants of either the California Packing Corporation or Libby, McNeill & Libby. The record shows that even though the rail rate is reduced to 10 cents the tonnage of the California Packing Corporation will continue to move by water. The Libby, McNeill & Libby tonnage probably will be equally divided between the rail and water lines, provided of course that the rate of The River Lines is not also reduced. But if the rail lines were successful in diverting one half of the Libby, McNeill & Libby tonnage their gain would be slight, whereas the loss to The River Lines would be substantial. However, The River Lines, as their Traffic Manager testified, in the event the proposed rate becomes effective will attempt to reduce their rate 2 cents in order to retain the tonnage.

The major portion of the revenue of The River Lines is obtained from traffic moving northbound from San Francisco to Sacramento. The southbound traffic consists of grain, rice and canned goods, the latter constituting approximately 37% of the southbound movement. The diversion of one half of the Libby, McNeill & Libby tonnage would seriously affect the ability of The River Lines to provide an adequate service.

The River Lines are a necessary adjunct to our intrastate transportation system. Congress in passing Section 500 of the Transportation Act of 1920 also recognized their importance and declared it to be its policy to promote, encourage and develop water transportation, and to foster and preserve not only water transportation but also rail transportation. Tin Plate to Sacramento, 140 I.C.C. 643, 646.

The record clearly demonstrates that the rate proposed by respondents is less than a maximum reasonable rate although respondents claim that it would return something over and above the out-of-pocket cost of operation. Based upon an average loading of 54,500 pounds the proposed rate produces a per car revenue of $54.50. Out of this amount charges ranging from $13.60 to $19.83 are absorbed by the line-haul carrier. The out-of-pocket costs of operation for a minimum carload via the Western Pacific are claimed to be $7.34 to Oakland and $12.15 to San Francisco. The out-of-pocket costs are computed by respondents on system averages and not only assume that train mile costs are constant but that added traffic may be handled without additional train miles.

Bearing in mind the relatively high grade character of the traffic it may be reasonably doubted from the evidence before us that the proposed rate would not be a burden upon other traffic. Moreover I do not believe it is in the public interest to permit the rails and water carriers under our jurisdiction to reduce rates below a reasonable basis for the purpose of diverting traffic from one to the other. Transportation conditions in California and elsewhere are demoralized enough by unregulated transportation agencies. <u>In Re Investigation of Transportation Systems in California</u>, Case No. 3154, Decision No. 25243.

I am of the opinion and so find that respondents have failed to justify the suspended rate. The Commission should require respondents to cancel the proposed rate. I recommend the following form of order:

<u>O R D E R</u>

This case having been duly heard and submitted, 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 preceding opinion,

IT IS HEREBY ORDERED that respondents, The Western Pacific Railroad Company, Sacramento Northern Railway, Southern Pacific Company, and Pacific Freight Tariff Bureau, F. W. Gomph, Agent, be and they are hereby ordered and directed to cancel on or before November 10, 1932, on not less than one (1) day's notice to the Commission and to the public the 10-cent rate applying on canned goods from Sacramento to San Francisco, Oakland, Alameda and Richmond involved in this proceeding.

For all other purposes the effective date of this order shall be twenty (20) days from the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 7th day of November, 1932.

C. L. Seavey
Leon Whitsell
M. B. Carr
W. B. Harris
Fred G. Stevenot
Commissioners.