

Decision No. 25594.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

BOULEVARD EXPRESS, INC.,
a corporation, and
COAST TRUCK LINE,
a corporation,
Complainants,

vs.

THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY, a corporation,
Defendant.

ORIGINAL

Case No. 3143.

E. J. Bischoff and Wallace K. Downey, for complainants.
G. E. Duffy and Berne Levy, for defendant.

WEITSELL, Commissioner:

O P I N I O N

Complainants are common carriers of property by motor truck over the public highways between Los Angeles and San Diego and are operating under certificates of public convenience and necessity granted by this Commission. They allege that a rate of 15 cents per 100 pounds maintained by defendant between these points for the transportation of substantially all articles of commerce, in lots of 24,000 pounds or over, is unreasonably low, unduly discriminatory and detrimental to their interests.

An order directing the cancellation of the rate is sought. Rates will be stated in cents per 100 pounds. Since the proceeding was instituted, the interests of the Boulevard Express,

Inc., have been acquired by the Motor Freight Terminal Company.

Public hearing was held at Los Angeles and the matter submitted on briefs.

The rate here under attack was originally published in defendant's Local Freight Tariff C.R.C. C.L. 944, effective September 30, 1931. It applies on all freight in lots of 24,000 pounds or over, except liquid acids, articles too long to be loaded through the side door of a 36-foot box car, automobiles, dangerous, inflammable or poisonous articles, freight in tank cars or requiring refrigeration, live animals, household goods valued in excess of 10 cents per pound, and fresh milk or cream.

Defendant contends that while the 15-cent rate is not a maximum reasonable rate, its establishment was necessary in order to retain, or possibly augment, its less than carload traffic between Los Angeles and San Diego. This tonnage has been rapidly declining. A few years ago it amounted to from four to six cars per day containing from nine to ten tons each. When this volume of tonnage had declined to approximately one car containing six to eight tons per day defendant felt that it should take steps to retain what tonnage it still had. A survey developed that traffic was moving via unregulated trucks between Los Angeles and San Diego at rates ranging from 12½ cents to 35 cents, the lower rates applying mainly to truckload shipments. The 15-cent rate was published in the belief that it was the highest rate that would secure the traffic on the theory that it would attract the so-called freight forwarders to use the line-haul service of defendant, the freight forwarders performing the pick-up and delivery service at the termini.

There is no question but what the rate was attractive to freight forwarders but it is clear upon this record that rather

than diverting any appreciable amount of less than carload business from unregulated trucks, the tonnage was diverted from the complainants Coast Truck Line and Motor Freight Terminal. The revenue of the Coast Truck Line during the last three months of 1930 averaged \$12,895.05 per month. During the last three months of 1931, after the establishment of the 15-cent rate, the average monthly revenue was \$8,124.57. The average monthly revenue of the Motor Freight Terminal Company for October and November, 1930, was \$14,268.38 and for corresponding months in 1931 \$8,019.90 per month.

Most of the freight transported in the consolidated cars used by the forwarders probably would be rated as third or fourth class under the Western Classification. Based upon the minimum weight¹ of 24,000 pounds, the 15-cent rate will produce a per car mile revenue of 28.5 cents for a haul of 126 miles. For this class of traffic a revenue of only 28.5 cents per car mile is abnormally low.

So far as this record is concerned, this 15-cent rate has not diverted any appreciable amount of traffic from unregulated truck carriers but rather has taken traffic from the certificated truck lines. Moreover, by the publication of a 15-cent rate, defendant probably has relinquished to the so-called forwarding companies a considerable amount of traffic which would now move under class rates.²

It is impossible to determine from this record what a

¹ The average per car loading of mixed merchandise was 22,739 pounds, obtained from the movement of 47 cars transported from Los Angeles to San Diego during November 1931.

² Since the establishment of the 15-cent rate defendant has inaugurated a pick-up and delivery service between Los Angeles and San Diego. The less than carload class rates are 56½ cents for first class, 42½ cents for second class, 35½ cents for third class and 28½ cents for fourth class.

reasonable rate for this traffic should be, but it is certain that the rate under attack is too low and has not accomplished the purpose for which it was intended. Defendant will be required within twenty (20) days from the date of the order to submit for the Commission's approval a rate or rates to apply in lieu thereof.

I recommend the following form of order:

O R D E R

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 defendant shall within twenty (20) days from the effective date of this order submit to the Commission for its approval a rate or rates for the transportation of merchandise between Los Angeles and San Diego, to be published in lieu of the 15-cent rate involved in this proceeding.

IT IS HEREBY FURTHER ORDERED that upon the approval by the Commission of the rate or rates so submitted, defendant shall forthwith cancel upon five (5) days' notice to the Commission and the public the 15-cent rate involved in this proceeding and shall establish concurrently the rate or rates approved by the Commission.

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 30th day of January, 1933.

C. C. Seaver
Tom Willson
W. B. Harris
Commissioners.