

Decision No. 25887

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Suspension by the Commission on its own motion of Item No. 2120-B of PACIFIC MOTOR TRANSPORT COMPANY Local Express Tariff 9, C.R.C. 13, and Items 3410-B, 3415-B and 3425-B of Supplement 11 to THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY Tariff 14815-B, C.R.C. 670, naming reduced rates for the transportation of various articles between Los Angeles and San Francisco Bay points, San Jose, Stockton, Sacramento and points in the San Joaquin Valley.

Case No. 3436.

James E. Lyons, for Pacific Motor Transport Company, Respondent.

G. E. Duffy and Berne Levy for The Atchison, Topeka and Santa Fe Railway Company, respondent.

John M. Atkinson and Wallace K. Downey, by Wallace K. Downey, for Motor Freight Terminal Company, Protestant.

Harold Frasher, for Valley Express Company, Protestant.

C. S. Booth, for Los Angeles Steamship Company and Pacific Steamship Lines, Limited.

SEAVEY, Commissioner.
GEARY, Examiner.

O P I N I O N

By schedule filed to become effective December 15, 1932, respondent Pacific Motor Transport Company amended Item No. 2120-B, Local Express Tariff No. 9, C.R.C. No. 13, so as to include under the commodity caption of Rubber Tires numerous articles associated with the tire factories and necessary to the automobile trade. The Atchison, Topeka and Santa Fe Railway

Company made the same adjustment in Supplement No. 11 to their Tariff No. 14815-B, C.R.C. No. 670, effective on the same date.

Upon protests from the Valley Express Company and the Motor Freight Terminal Company, certificated competing truck lines, the tariffs were suspended pending a determination of their lawfulness. Our discussion of the proposed rates will deal only with the Pacific Motor Transport Company, for the tariffs of both respondents are practically the same.

Public hearings were held on January 4, February 21 and 28, 1933, and the matter submitted.

The item under protest was originally published February 17, 1932, effective March 20, 1932, in Pacific Motor Transport Company Tariff C.R.C. 10 and applied only to Rubber Tires, pneumatic or solid,

From Los Angeles to San Francisco-Madera, 50 cents,
minimum weight 2000 pounds,

From Los Angeles to Hanford-Bakersfield, 40 cents,
minimum weight 2000 pounds.

Effective July 10, 1932, the rates were made to apply between the points named. Effective August 29, 1932, the minimum weight restriction of 2000 pounds was removed, making the rates apply to the tires in any quantity lots. The item (No. 2120-B) under suspension was published November 12, 1932, to become effective December 15, 1932, and makes no change in the rates but enlarges the commodity description to read: "Tires or parts thereof also other articles specified." The enumerated articles are some forty in number and include air bags, battery boxes, belting, brake lining, electric appliances, hose, rubber compounds, tape, rubber tile, tires and parts, vehicle parts, etc.

It will thus be seen that the respondents have made

four tariff efforts to secure some of the tire factory tonnage.

The new item, while not changing the rates applicable upon rubber tires, does materially reduce those applying on the associated commodities, which when shipped by authorized carriers are almost always in small packages at the less than carload rates. The reductions at Fresno, as illustrative, will vary from 47 to 75½ per cent.

Protestants handle the package freight in substantial quantities at the present rates, and they contend that the charges for the completed pickup and delivery services are reasonable and satisfactory to their patrons. It is their further contention that should the reduced rates for the package freight go into effect it will completely demoralize the rate structure of the certificated truck lines between Los Angeles and San Francisco via both the Coast and Valley routes and make impossible the maintenance of a satisfactory service.

Respondents' testimony clearly showed that heavy shipments of mixed lots of tires and accessories are moving in truck load lots by contract carriers; that efforts on their part to secure the tire tonnage in straight lots had failed because the large units in the automobile trade use the contract carriers at a profit with the mixed lots, and that therefore the present rates applying only to tires attracted no business to the rail lines.

The testimony of protestants also clearly demonstrated that the tonnage truck haulers did not solicit package freight for individual deliveries and were not equipped to satisfactorily handle this type of traffic. Their contention was that since the shipments moving by trucks in mixed lots would not be acceptable to the truck haulers for package distribution, the

items in the tariffs of the Pacific Motor Transport Company and The Atchison, Topeka and Santa Fe Railway Company, if intended to meet this competition, should be restricted to quantity lots. A witness for protestant declared that if the rates were limited to lots of four or five tons they would have no objection to the proposed item. In other words, the railroads are endeavoring to put in rates covering a service which their competitor the ^{truck} contract/operator does not offer or perform.

An exhibit entered by protestant purported to show that the less carload assembling and terminal costs of the railroads, exclusive of the line haul services, were greater than the proposed charges. These figures were based on averages assembled from figures published for Western Trunk Line territory and were to some extent discredited by respondents.

The Commission stated in effect in Southwestern Portland Cement Co. et al. vs. Atchison, Topeka & Santa Fe Ry. et al. Decision No. 25632, Case No. 3280 et al., dated February 20, 1933, that railroads should be accorded a reasonable latitude to use their managerial discretion and that carriers should not be hampered in their voluntary efforts to meet existing conditions so long as in so doing they do not create undue discrimination or otherwise adversely affect the public interest. That principle applies in this proceeding.

It is concluded, from a careful study of this record, that the rate of 40 cents between Los Angeles and Hanford - Bakersfield and the rate of 50 cents between Los Angeles and San Francisco-Madera applying to any quantity lots, would be entirely too low for the services performed, would probably result in a burden on other traffic, and if permitted to become effective

would create a serious disadvantage to the certificated truck operators.

The Commission should find that the proposed rates under suspension have not been justified and should be cancelled. This finding should be made without prejudice to respondents' right to publish rates of the same volume based upon a proper minimum weight.

The following form of order is recommended:

O R D E R

This case having been duly heard and submitted and being now ready for a decision,

IT IS HEREBY ORDERED that respondents Pacific Motor Transport Company and The Atchison, Topeka and Santa Fe Railway Company, according as their interests may appear, be and they are hereby ordered and directed to cancel on or before May 4, 1933, on not less than one (1) day's notice to the Commission and to the public Item No. 2120-B of Pacific Motor Transport Company's Local Express Tariff No. 9, C.R.C. No. 13 and Items Nos. 3398, 3401-A, 3402-A, 3403-A, 3404-A, 3410-B, 3415-B, 3420-B and 3425-B of Supplement No. 11 to The Atchison, Topeka and Santa Fe Railway Company's Tariff No. 14815-B, C.R.C. No. 670 without prejudice to the filing of rates based upon a proper minimum weight.

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

