

ORIGINAL

Decision No. 1148

In the matter of the application of The Atchison, Topeka & Santa Fe Railway Co. -)
 Coast Lines, for relief from the pro-)
 visions of Section 21, Article 12 of the) Case 214
 Constitution relating to long and short) (Application No. 4)
 hauls and through rates exceeding the)
 aggregate of the intermediate rates.)
)

APPEARANCES

E. W. Camp and E. S. Pillsbury for applicant,
 F. M. Hill, for Fresno Traffic Association,
 G. J. Bradley, for Merchants & Manufacturers'
 Association of Sacramento,
 Seth Mann, for Traffic Bureau of the Chamber of
 Commerce of San Francisco.

LOVELAND, Commissioner.

O P I N I O N

In its Application No. 4 of December 28, 1911, The Atchison, Topeka & Santa Fe Railway Company - Coast Lines, asks for authority to continue to charge for the transportation of passengers and baggage a greater compensation as a through rate between Los Angeles, Orange and Santa Ana, on the one hand, and San Diego and intermediate points on the other, than the aggregate of the intermediate fares.

The petitioner also asks that in the event the Commission decides that it has no power to waive the provision of Section 21, Article XII of the Constitution relating to through rates in excess of intermediate rates, that the petitioner be given the opportunity of reconstructing its tariffs so as to eliminate any difference in the aggregate of the intermediate fares and the through fares. Inasmuch as the provision of Section 21 of Article XII of the Constitution relating to through rates in excess of the aggregate of intermediate rates is prohibitory and the Commission is not vested with any discretionary power in its

application as in the case of the long and short haul provision, it follows that the application of the petitioner for a waiver of this section as to the fares therein specified must be dismissed, and I would recommend that the alternate application of the petitioner to reconstruct its tariffs so as to bring the fares therein contained within the provision of the Constitution be granted and that the petitioner be given sixty(60) days in which to present to the Commission, if applicant desires to do so, for its approval or rejection, tariffs completely eliminating the violations of the Constitution. Applicant will, of course, bear in mind that, under the provisions of Section 63 of the Public Utilities Act, any increase in rates must be clearly justified.

I submit the following form of order.

O R D E R.

The Atchison, Topeka & Santa Fe Railway Company, - Coast Lines, having applied to this Commission for an order granting relief from the provisions of Section 21 Article XII of the Constitution of California and permission to charge for the transportation of passengers and baggage a greater compensation as a through rate between Los Angeles, Orange and Santa Ana, on the one hand, and on the other San Diego and intermediate points, than the aggregate of the intermediate points, or alternately to be given the opportunity to reconstruct such fares so as to bring same within the provision of the Constitution, and a hearing having been held and being fully apprised in the premises, and the Commission being of the opinion that the petitioner should be given an opportunity to so readjust its fares as to bring the same within the constitutional provisions,

IT IS HEREBY ORDERED that The Atchison, Topeka & Santa Fe Railway Company - Coast Lines, present to this Commission, for its approval, within sixty (60) days from the effective date of this order, a tariff of passenger fares between Los Angeles, Orange and Santa Ana, on the one hand, and on the other San Diego

and intermediate points, constructed in accordance with the provisions of Section 21, Article XII of the Constitution.

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 6th day of May, 1914.

Arthur J. Williams
H. J. Ireland
Alfred Gordon
Max Thelen

Commissioners.