

Decision 180.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

ORIGINAL

Decision No. 180

THE MODESTO AND EMPIRE TRACTION
COMPANY, a corporation,

Complainant,

- vs. -

No. 235.

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

Defendant.

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OPINION.

L. L. Dennett, Esq., Attorney for the Complainant.

E. W. Camp, Esq., and U. T. Clotfelter, Esq., Attorneys for
the defendant.

Eshleman, Commissioner.

This is an action brought by The Modesto and Empire
Traction Company, a line of railway operating between the City
of Modesto and the Town of Empire, a distance of five miles,
for the purpose of having this Commission establish through
route and joint rates for the transportation of freight and
passengers in connection with and from and to points served by
the Atchison, Topeka and Santa Fe Railway.

The complainant alleges that by reason of the refusal
of the Atchison, Topeka and Santa Fe Railway Company to enter
into joint rates with The Modesto and Empire Traction Company
and establish as such joint rates the rates of the Southern
Pacific Company from San Francisco and Stockton to Modesto,
that a discrimination is worked against the City of Modesto.
It is pointed out that the mileage from San Francisco to
Empire is 110 miles via the Atchison, Topeka and Santa Fe
Railway and from Empire to Modesto 5 miles via The Modesto
and Empire Traction Company, thus making a through route of
115 miles as against 114 miles from San Francisco to Modesto
via the Southern Pacific, and that by reason of the distance

being so nearly equal via both routes, the rates should correspondingly be equal. The complainant has evidently used the long line mileage of the Southern Pacific Company from San Francisco to Modesto, as we find the actual mileage via the short line route to be 101.7. The distance from Stockton to Modesto via the Southern Pacific Company is 29.6 miles. ✓ The distance from Stockton to Empire is 32 miles via The Atchison, Topeka and Santa Fe, to which must be added five miles from Empire to Modesto, making the distances 37 miles via the joint route of the Santa Fe and Modesto and Empire Traction Company, as against 29.6 miles via the Southern Pacific Company between Stockton and Modesto.

In dealing with this controversy, I will consider first the passenger rates. The present passenger fare from San Francisco to Modesto via the Southern Pacific Company is \$2.95; from San Francisco to Empire via the Santa Fe \$3.20, and between Empire and Modesto 15 cents, making a through rate via the Santa Fe and Modesto and Empire Traction Company of \$3.35. Passenger rates are usually constructed on a uniform mileage basis and in the San Joaquin Valley the carriers have adhered to a rate of 3 cents per mile as a general rule for main line points. We know of no reason why this Commission should order a joint passenger rate from San Francisco to Modesto--115 miles via the Atchison, Topeka and Santa Fe and The Modesto and Empire Traction Company--of \$2.95, simply because it is the fare of the Southern Pacific Company based on 101.7 miles. It must be apparent that to establish such a joint rate would have the effect of cutting the local rates of the Santa Fe to a point where it amounted to \$2.95. The fare from San Francisco to points in the San Joaquin Valley via the Santa Fe System which would be affected by a rate of \$2.95 established to Modesto are Harrold, present rate \$3.00, Huntley \$3.05, Gravel Pit \$3.10, Riverbank \$3.10, Claus \$3.10, Empire \$3.20. In

other words, should the Commission establish rate of \$2.95 to Modesto, it would have the effect of cutting the rates of the Santa Fe to these points in these amounts.

The Southern Pacific fare from Stockton to Modesto is 90 cents for a mileage of 29.6 miles which the Santa Fe from Stockton to Empire--32 miles--is 95 cents, to which is added 15 cents to reach Modesto via the Modesto and Empire Traction Company. Here again, we have the same condition as obtains in the rates from San Francisco to Modesto. The local rates of The Atchison, Topeka and Santa Fe are not in controversy in this case and this Commission should not make an order which will have the effect of reducing those rates which have not been in question. If we establish a rate of \$2.95 from San Francisco to Modesto via the Santa Fe and Modesto and Empire Traction Company, it would automatically reduce the rates of The Atchison, Topeka and Santa Fe. The feature of the complaint dealing with the passenger rates should be dismissed.

This situation with reference to freight traffic presents a different condition than that of the passenger traffic. I visited Modesto and listened to arguments of shippers and endeavored to ascertain whether public convenience and necessity demands the establishment of such through route and joint rates. The carriers in question were notified of the Modesto hearing and had representatives present at the meeting. I am convinced, after careful consideration, that public convenience and necessity demand the establishment of a through route and joint rates for the transportation of freight between Modesto on the Modesto and Empire Traction Company and points on The Atchison, Topeka and Santa Fe Railway between San Francisco on one hand and points north

of Empire on the other. It remains to be determined whether or not the joint rate to be established shall be the sum of the locals involved.

It has not been customary for carriers in the voluntary establishment of joint rates to receive as their proportion of such joint rates their full local rates up to the junction point. I could refer to many joint tariffs on file with this Commission between two carriers where division of joint rates are much less than the full locals of participating lines. With the establishment of joint rates, the participating carriers usually save the expense of one terminal charge, which is an important element to be considered in the establishment of through rates over two or more lines. Therefore, it would appear that on freight which the Santa Fe might haul to Empire for delivery to the Modesto and Empire Traction Company, the Santa Fe performs a less expensive service in making delivery to the Modesto and Empire Traction Company than if the shipment had to be handled by their station forces and deliveries made direct at Empire. It is, therefore, apparent that the service performed by the Santa Fe to and from Empire is of less value to the public, and less expensive to the carrier when originating at or destined to Modesto than if destined to or originating at Empire proper, and there is no reason why The Atchison, Topeka and Santa Fe Railway Company under these circumstances should obtain as great revenue for the handling of freight to Empire destined Modesto via Empire as destined Empire direct.

I find as a fact that a through route and joint rates for the transportation of freight should be established between The Atchison, Topeka and Santa Fe Railway Company and the Modesto and Empire Traction Company between San Francisco

and Modesto and points between, but said through route and joint rates not to include traffic originating out of or destined to Empire. And ^I further find that the joint rates to be established should not exceed on less than car load freight 65% of The Atchison, Topeka and Santa Fe Railway Company's rate between the point on the line of said Railway and Empire plus the local rate of the Modesto and Empire Traction Company; and that the rate on car load freight shall not exceed 75% of The Atchison, Topeka and Santa Fe Railway Company rate between the points involved and Empire plus the local rate of the Empire Traction Company. The Empire Traction Company shall perform all terminal service at Empire except the actual setting out and placing of cars, which service shall be performed by The Atchison, Topeka and Santa Fe Railway Company.

I therefore submit the following order:

O R D E R .

Application having been made to the Railroad Commission of the State of California by the Modesto and Empire Traction Company to have established a through route and joint rates over the line of The Atchison, Topeka and Santa Fe Railway Company between all points on said Company's line between San Francisco and Empire, and all points on the line of the Empire Traction Company for the transportation of passengers and freight, and it appearing to the Commission that public convenience and necessity does not warrant the establishment of said through route and joint rates for the transportation of passengers; said application with reference thereto is denied.

And it appearing to the Commission that the application to establish a through route and joint rates for the trans-

portation of freight should be granted, and it having been found as a fact that public convenience and necessity require the granting of said application with reference thereto, a through route is hereby established from all points on The Atchison, Topeka and Santa Fe Railway Company including and between San Francisco and Empire, and all points on the Empire Traction Company's line, and joint rates for the transportation of freight over said through route for all commodities offered for transportation thereover.

It is further ordered that said joint rates shall not exceed for less than car load freight 65% of the local rate of The Atchison, Topeka and Santa Fe Railway Company between the point involved and Empire, plus the local rate of the Empire Traction Company; and on car load freight said joint rate shall not exceed 75% of the local rate of The Atchison, Topeka and Santa Fe between the point involved and Empire, plus the local rate of the Empire Traction Company.

And it is further ordered that the Empire Traction Company perform all terminal service at its own expense at Empire, except the setting out and placing of cars and the switching of cars into and out of The Atchison, Topeka and Santa Fe trains at said point.

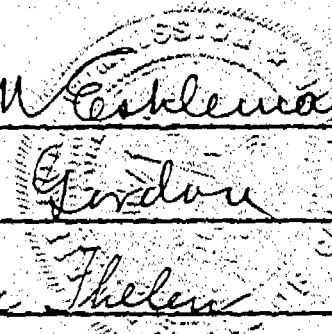
And it is further ordered that the said Companies involved agree upon the commodities which move between the points involved herein and publish, distribute and present to this Commission on or before the 10th day of September, 1912, a tariff setting out said joint rates between the points involved herein.

And it is further ordered that the carriers involved inform this Commission on or before the 1st day of September,

1912, whether or not they have agreed upon a division of the joint rates established herein, and if said carriers have not at said time agreed upon said divisions this Commission will establish said divisions.

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, San Francisco, California, this 14th day of August, 1912.


John M. Eschleman
Alex Gordon
Max Thelen

Commissioners.

Copy to EEO Camp. L. A. 8/17/12. M.
" L. L. Bennett. Modesto " M.