

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the matter of the application of the  
 Southern Pacific Company for an order  
 granting permission under section 63 of  
 the Public Utilities Act to increase the  
 detention charge per car from \$5.00 to  
 \$10.00 per day for refrigeration of  
 Perishable Freight from all points locat-  
 ed on the Southern Pacific Company as  
 shown in Group 5 (Banning, Calif., and  
 all points east thereof, main line and  
 branches, also from points on the Holton-  
 Interurban Railway Company) to all points  
 in California as shown under section 7,  
 Sup. 12 to C.R.C.No. 1601, Southern  
 Pacific Company's Tariff No. 359-D.  
 .....

) Application No.1447.

Geo. D. Squires for Applicant.

DEVLIN, Commissioner.

O P I N I O N

This is an application of the Southern Pacific Company under section 63 of the Public Utilities Act for permission to increase the detention charge for refrigeration of perishable freight originating at points Banning, Calif., and east thereof, main line and branches, also points on the Holton-Interurban Railway Company to all points in California from \$5.00 to \$10.00 per day.

More properly speaking, it is an increased charge to be imposed on shippers to cover additional ice necessary to properly refrigerate shipments in cases where cars are furnished fully iced and either not completely loaded or if so loaded are not forwarded on the last freight train of the day car is furnished for loading, the additional ice being necessary to preserve the shipment until the next train of the following day.

For example,-- a refrigerator car for loading cantaloupes is furnished fully iced at 10 A.M. The first melon train is due to leave the Imperial Valley at 5 P.M., and the last at

2 A.M. If the shipper either fails to complete loading or if loading is completed and shipper fails to give the carrier shipping instructions the car must remain at the loading point until at least 5 P.M. the following day. As the cantaloupe crop moves almost entirely during the months of June and July and the weather is excessively hot in the Imperial Valley <sup>during this period</sup> it is necessary, for the proper preservation of the cantaloupes, to replenish the ice supply.

The applicant urges that the charge of \$5.00 per day for replenishing the ice in bunkers does not cover the actual cost of the additional ice used, due to this car detention, and points to the fact that a charge of \$10.00 per day is made on interstate shipments, which has never been complained of as being excessive.

I can readily see where a charge of \$10.00 per day for car detention on interstate shipments as against a charge of \$5.00 <sup>on intra-state shipments</sup> per day will cause complications to arise, for, if a car be originally consigned to an intra-state point and a charge of \$5.00 per day collected for car detention and this car is diverted en route to an interstate point - which it was testified is frequently done - the charge is automatically increased to \$10.00 per day.

Of course, the maintenance of two rates for the same service is a discrimination which can be as readily removed by lowering the higher of the two rates. The record shows that 3,391 cars of perishable freight moved from the Imperial Valley during the season of 1915 and that of this number 2,997 cars, or 88%, moved to interstate points and 394 cars, or 12%, moved to intra-state points.

Of the cars detained and being subject to the detention charge 750 were destined to interstate points and 176 to intra-state points, and if the discrimination were removed by reducing the interstate charge to \$5.00 per day the carriers would lose \$3,750 per annum while the advance on intra-state shipments to \$10.00 per car amounts to an increase of but \$880.00 per annum to the shippers.

The applicant urges that in view of the showing that the present charge of \$5.00 per day does not cover the cost of additional ice necessary to preserve the freight or keep the car in proper condition for immediate loading during detention that the discrimination should be removed by raising the lower rate on intrastate shipments, and with this contention I am inclined to agree assuming, of course, that the applicant's figures as to cost of ice are correct.

This leads me to a consideration of the cost of ice necessary to replenish the bunkers during the detention.

Ice for the refrigeration of perishable products of the Imperial Valley is supplied from different sources and according to an exhibit of applicant the amount of ice necessary in this service and its cost is as follows:

Ice shipped from Colton (P.F.E. Ice Plant)	
21315.15 tons at \$2.10 per ton.....	\$44761.82
Freight at \$3.00 per ton.....	63945.45
Papering ice at 10¢ per ton.....	2131.52
Ice shipped from Coachella (Coachella I. & R. Co.)	
785.40 tons at \$4.25 per ton.....	3337.95
Freight at \$1.15 per ton.....	903.21
Ice from El Centro (Holton Power Co.)	
71.25 tons at \$4.25 per ton.....	302.81
Freight at \$.75 per ton.....	53.44
Ice from Los Angeles (Union-National Ice Cos)	
2958.90 tons at \$2.40 per ton.....	7101.36
Freight at \$3.00 per ton.....	8876.70
Papering ice at 10¢ per ton.....	295.89
	<u>\$131710.15</u>
Total ice issued 23708.50 tons.....	\$5.56 per ton
Labor, etc. handling ice \$6942.85.....	.29 " "
Investment \$4104.85	
Interest on investment 6%.....	\$246.29
Depreciation 6%.....	246.29
	<u>\$492.58</u> .02 " "
	<u>\$5.87</u>

The only doubtful items in the above tabulation are those of freight charges from the ice shipping point to place where ice is placed in the bunkers of the refrigerator cars.

It will be noted that the commercial freight rate of \$3.00 per ton has been charged against ice shipped from Colton and Los Angeles, \$1.15 per ton from Coachella and 75 cents per ton from El Centro.

The applicant contends that inasmuch as the refrigeration of perishable products is performed on its lines by the Pacific Fruit Express Company, a separate institution, it must of necessity collect the regular commercial freight on the ice transported over its rails.

With this contention I cannot agree. The Southern Pacific Company employs an outside agency (the Pacific Fruit Express Company) to perform its refrigeration service but at the same time owns 50% of the stock of this company, the other 50% being owned by the Union Pacific Railroad.

The Southern Pacific Company is obligated to furnish such instrumentalities as will transport safely traffic offered, and this duty includes furnishing refrigerator cars and the ice where the character of the commodity offered for shipment requires such cars and ice for its safe carriage. Volume 2 Hutchin-  
son on Carriers, sec. 505. Volume 4, Elliott on Railroads<sup>Sec.</sup> 1474, and cases therein cited. 4 R. C. L. 684.

If the Southern Pacific Company performed the refrigerator service itself instead of assigning that duty to an outside agency it would hardly expect to charge the cost of transporting ice at commercial freight rates but would rather arrive at a figure as near the actual cost as possible.

In estimating the freight rate on a given commodity from a particular territory the carrier must consider not only the cost of carrying the freight over the road after loading but also of getting the empty car to the point of loading. Refrigerator cars must be hauled empty into the Imperial Valley to load

cantaloupes, live stock cars are hauled empty into a stock shipping territory, flat and box cars into a lumber producing region, for the reason that the ordinary traffic to such territory is not sufficient to provide loading for this equipment and it must move empty to handle outgoing tonnage.

Would the carrier contend that in arriving at a reasonable freight rate on the outbound movement of cantaloupes, live stock or lumber, as the case might be, it would be entitled to the commercial rate of freight for transporting the empty car to the loading point? I think not, and as the ice to fill the bunkers is just as essential as the refrigerator car itself, I am of the opinion the rate on company freight should be applied on this movement of ice and that instead of \$3.00 per ton from Colton a rate of approximately 85¢ per ton should be charged, based on the established and customary rate for company material of 1/2 cent per ton per mile.

I am not in accord with contention of applicant that the carrier is required to charge the commercial freight rate on ice transported for an agent assigned a duty for carrying out part of the obligations of the carrier to the public and a contract to haul the ice at less than commercial freight rates in such a case as this would, in my judgment, be valid and indeed proper.

While it is unnecessary for the purposes of this case to even consider the cost of transporting ice, I have deemed it advisable to discuss it at length so that the applicant would not consider that without further evidence we accept the statement that commercial freight rates should be charged in such cases as these.

The record shows that of the cars reiced on account of detention beyond the departure of the last melon train approximately 8,500 pounds of ice are necessary to properly replenish the

tanks for one day's detention. If we only allow company freight rates for the transportation of ice which would reduce the cost from \$5.87 per ton to about \$4.00 per ton at this figure the cost would be about \$17.00 per day.

This charge of \$17.00 per day should be reduced by deducting the value of the ice which the refrigerator company would have to place in the bunkers to fill the same in event car moved out without being detained.

No accurate estimate could be furnished at the hearing as to what amount of ice would be necessary to replenish bunkers after loading and before car was taken out by train in event car was not detained but an investigation of the records of applicant indicates that an average of about 3,000 pounds of ice is required when car is not detained which would have to be furnished without cost, and the value of this ice should be deducted as above mentioned.

It will thus be apparent that the proposed charge is not unreasonable and the application should be granted.

Although notice of hearing was sent to interested shippers and others no protestants appeared at the hearing. A representative of the shippers was present and stated that the refrigeration service was very acceptable to shippers but that he questioned the justice of some of the refrigeration rates.

The question of the refrigeration charges from one point in California to another were not involved in this proceeding, and, of course, the only remedy the shippers have if any of the refrigeration rates are deemed excessive, is to file a complaint specifically attacking the refrigeration charges complained of.

From a careful consideration of all the facts and evidence in this case I believe the application should be granted, and submit the following order:

O R D E R

The Southern Pacific Company <sup>having</sup> filed an application for permission to increase rate for detention of refrigerator cars from \$5.00 to \$10.00 per day on perishable freight from points on its lines Banning and East thereof, main and branch lines, including the Holton Interurban Railway Company, to all points in California and a regular hearing having been held and basing its order on the opinion which precedes this order

IT IS HEREBY ORDERED that said application be and the same is hereby granted.

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 this 4th day of February, 1915.

Max Thelen

Edwin O. Edgerton

Francis R. Deolin

COMMISSIONERS.