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DECISION NO. _.

ORIGINAL

Decision No. 2850

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of the
Atchison, Topeka & Santa Fe Railway
Company, for authority to increase
certain carload rates on grain and
articles taking grain rates, shown in
its Local & Joint Tariff No. 8245-A,
CRC No. 302, between Los Angeles and
Ysidora to Fallbrook, inclusive,
between Escondido and Fallbrook and
Los Angeles, Robert to Orange, in-
clusive, Santa Ana to Serra, in-
clusive, Mateo to Stuart, inclusive.

Application No. 1749

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E. W. Camp, for applicant.

DEVLIN, Commissioner.

OPINION

The Atchison, Topeka & Santa Fe Railway Company is seeking authority to increase certain carload rates on grain and articles taking grain rates, shown in its Local and Joint Tariff No. 8245-A, CRC No. 302, effective October 26, 1914. The points between which the increases are sought, also the present and proposed rates and the pages of tariff on which the present rates appear are shown in the following table:

The original rates between Los Angeles and points indicated were shown in applicant's tariff No. 8243, CRC 28, effective May 20, 1907; those between Fallbrook, Escondido and other points enumerated were not specifically stated, but were held down by the rate to or from Los Angeles.

On May 20, 1913, carrier filed its Local Tariff CRC No. C L 98, in which is shown a rate between San Diego and Los Angeles of \$2.00 per ton, carloads, on grain and other specified commodities taking the grain rates. This tariff is governed by the rules and regulations contained in CRC No. 28 and cancelled the rate of \$2.50 per ton between the points shown. One of the rules and regulations in the latter publication, Item 50-A, effective July 31, 1907, reads:

"Under application of this tariff stations Ysidora to Fallbrook, Cal. (Index Nos. 386 to 389, inclusive), and stations Palda to Escondido, Cal. (Index Nos. 392 to 397, inclusive), will be considered as intermediate points on line San Diego to Barstow, Cal., via either Riverside or Los Angeles, Cal."

On July 15, 1913, Local Tariff CRC No. C L 98 was cancelled; thereafter the rate of \$2.00 per ton between San Diego and Los Angeles was carried in Items Nos. 240 and 241, Supplement No. 24 to CRC No. 28. It appears that carrier's agents and auditing department, from this date, held the San Diego-Los Angeles rate of \$2.00 per ton as the maxima between the branch line points and Los Angeles and other points intermediate. On December 17, 1913, application was made to this Commission under Section 63 of the Public Utilities Act for permission to amend Items 240 and 241 so as to prevent this rate applying on traffic between such points. More or less correspondence passed between the applicant and the Commission but before the matter could be informally determined Tariff No. 8243, CRC No. 28, was cancelled by Tariff No. 8243-A, CRC No. 302, in which the present rates were specifically shown.

A new schedule having become effective subsequent to the filing of the original application the Commission requested carrier to file a new application, which was done on June 18, 1915. This application was set for a hearing at Los Angeles, 10:00 A.M., August 11, 1915, and notice of the hearing sent to commercial organizations and grain merchants at San Diego, Escondido, Santa Ana and Los Angeles, inviting them to be present, but notwithstanding the notifications no one appeared at the hearing in opposition to the proposed changes.

In justification of the increases applicant's witness testified that:

"At the time rate of 10 cents per 100 pounds was published between San Diego and Los Angeles it was not the intention that rate was to apply at points on the Fallbrook and Escondido branches, which was authorized in Rule 50-A**** and that through clerical error the rates in Items 240 and 241 ***** were not flagged."

Applicant also contends that Item 50-A did not authorize the application of the San Diego-Los Angeles rate of \$2.00 per ton on traffic moving between the branches and Los Angeles or between points intermediate, further contending that these branches were to be considered intermediate to San Diego only on shipments destined to or received from points beyond Los Angeles or Riverside to Barstow, inclusive.

While it may be admitted that Item 50-A is not clear as to its meaning and should have been more specific, I am constrained to give the shipping public the benefit of the doubt when a rule or regulation is susceptible of a dual interpretation, for it is axiomatic that tariffs should be certain and definite and not ambiguous.

It is also contended that the rates between the branches and Los Angeles and intermediate points should be higher than the rates between San Diego and Los Angeles, due to branch line service being more expensive. To this I would agree were it not for the

fact that during the period May 20, 1907, to May 22, 1913, slightly over seven years, the rates on grain and articles taking grain rates were the same between San Diego and Los Angeles as between the branches and Los Angeles, viz: \$2.50 per ton. This to my mind indicates that the rates between the branches and Los Angeles were to be no higher than the rates between San Diego and Los Angeles, and it seems inconsistent for applicant to ask that this recognized feature be disturbed simply because the San Diego-Los Angeles rate was reduced to \$2.00 per ton. This deduction convinces me that when the San Diego-Los Angeles rate was reduced the reduction was intended to apply between the points herein considered.

It was testified that the rate of \$2.00 per ton between San Diego and Los Angeles was published to meet water competition and applicant's witness urges this in further support of its contention that a clerical error had been made in not qualifying Items Nos. 240 and 241 so as to restrict the application and prevent its use between Los Angeles and the branches. If this is true the proper procedure would have been for carrier to come before this Commission and request permission under Section 24 of the Public Utilities Act to maintain higher rates between intermediate points than between San Diego and Los Angeles; this procedure, if favorably acted upon, would have excluded the branches from enjoying the benefit of the San Diego-Los Angeles rate.

From the following study it will be seen that the revenue per ton mile under the rate herein considered is materially greater between the branches and points indicated than between San Diego and Los Angeles.

Miles	Between	And	Rate Per Ton	Revenue per ton mile (In Cents)
127	San Diego	Los Angeles	)	01.575
101		(Los Angeles	)	01.98
89		(Los Nietos	)	02.247
69	Fallbrook	(Orange	)	02.899
42		(Serra	)	04.762
21		(Stuart	)	09.524
			\$2.00	
107		(Los Angeles	)	01.869
95		(Los Nietos	)	02.105
75	Escondido	(Orange	)	02.667
48		(Serra	)	04.167
27		(Stuart	)	07.407

The evidence in this record is not sufficient to enable me to pass upon the reasonableness and propriety of the proposed adjustment, disturbing a rate situation between communities which has existed for many years. In order at this time to justify a radical change in the rates, good and sufficient reasons therefor must be shown. I find that such reasons have not been given and accordingly recommend that this application be denied without prejudice.

I submit herewith the following form of order.

ORDER

The Atchison, Topeka & Santa Fe Railway Company having applied to this Commission for permission to increase certain car-load rates on grain and articles taking grain rates, between points on the Fallbrook and Escondido Branches and other points shown in the opinion which precedes this order, and a public hearing having been held, and the Commission being fully apprised in the premises, and being of the opinion that the application should be denied;

IT IS HEREBY ORDERED that the Atchison, Topeka & Santa Fe Railway Company be denied, without prejudice, permission to raise the rates as requested in the application in this proceeding.

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 29th day of October, 1915.

Max Thelen
W. B. Ireland
Clifford
Edwin O. Edgerton
Frank R. Berlin
Commissioners.