JBW

Decision No. _____

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

- - - - -

ORIGINAL

Decision No. 34411

In the matter of the application of the Atchison, Topeka & Santa Fe Railway Company (C.L.) for themselves and on behalf of carriers parties to tariffs of Pacific Freight Tariff Bureau for relief from the Long and Short Haul provisions of Section 21, Article XII of the Constitution of California and Section 24 (a) of the Public Utilities Act, relating to intermediate commodity rates in excess of rates to more distant points.

Case No. 214-F

. . . . . .

G. H. Baker, for Atchison, Topeka & Santa Fe Railway Company, (C.L.) applicant,
Seth Mann, for Traffic Bureau of the Chamber of Commerce, San Francisco, California.

LOVELAND, Commissioner:

O P I N I O N

This proceeding is a continuation of the Commission's investigation into all violations of the Long and Short Haul provisions of the Constitution of the State as maintained at the present time in the tariffs published by the various common carriers. The history of the preliminary proceedings is fully set forth in Case No. 214-A, and as the instant case presents precisely the same questions it will not be necessary to here repeat the details.

The Atchison, Topeka & Santa Fe Railway Company (C.L.), in compliance with the orders of this Commission, filed its applications for authority to continue all commodity rates which are in violation of Section 21, Article XII of the Constitution and Section 24 (a) of the Public Utilities Act. These commodity rates are now published in the various commodity tariffs of the applicant, as hereinafter set forth. Applications also cover violations existing in Joint Freight Tariffs in connection with applicant's line, issued by F. W. Gomph, Agent for the Pacific Freight Tariff Bureau. Following is a full list of the tariffs in question:

List of Atchison, Topeka & Santa Fe Railway Company (C.L.) Tariffs and Tariffs published by F. W. Gomph, Agent, Pacific Freight Tariff Bureau, which contain commodity rates in violation of the Long and Short Haul provisions of the Constitution.

CRC		AT & SF No.
116	Local & Joint Tariff, Liquors, Mineral Waters, Fruit Juices, etc.	9821-A
172	" " " " Salt	9780-A
206	" " " " Beet Pulp. C.L.	11381
227	Local, Joint & Proportional Tariff, Wool, Hides & Sheep Pelts	7754-D
241	Joint Tariff, Class and Commodities	11569-A
255	Local & Joint Tariff, Commodities	5908-G
256	Local, Joint & Proportional Tariff, Coal, Coke, Charcoal & Briquettes	9373-B
259	Local,& Joint Tariff, Junk, Bones, Old Bottles, etc.	9920-B
260	Local, Joint & Proportional Tariff, Building Blocks, Brick, Clay, etc.	9788-C
264	Local Tariff - Forest Products	5958-D
273	Local & Joint Tariff, Fuel Wood	9366-B
274	" " " " Petroleum and Petroleum Products	9777-D
275	Local & Proportional Tariff, Iron & Steel Articles	9815-B
276	Local Tariff, Seed, C.L. and L.C.L., as named	10046-A
281	Local, Joint & Proportional Tariff, Building, Paving Blocks, Granite, etc.	9917-C
289	Local, Joint & Proportional Tariff, Cement, Portland, Bldg., Gypsum, etc.	9798-E
295	Local & Joint Tariff, Flour, Cereals, Cereal Products, etc.	11988
302	" " " " Grain and articles taking Grain Rates	8243-A
320	" " " " Hay and Straw	8245-A
323	Local Tariff, Beans (Dried) Fruit (Dried) Fruit Pits. Lemons, etc.	11992
335	Local & Joint Tariff, Live Stock	5907-B

- PACIFIC FREIGHT TARIFF BUREAU -

80	Joint Freight Tariff, Citrus Fruits, Oranges, Lemons, Limes, etc.	65-A
88	Joint & Proportional Tariff, Class & Commodity	38-C
104	Joint Freight Tariff, Commodity	90-B
105	Local & Joint Tariff, Trans-shipment Class & Commodity	42-B
110	Joint & Proportional Tariff, Class & Commodity	34-E
111	Local, Joint & Proportional Tariff, Class & Commodity	30-B
125	Joint Tariff, Lumber and its products	117-A
126	" " Class & Commodity	31-B
131	" " Cement	88-B

- - - - - - -

In justification of the maintenance of higher commodity rates at intermediate points than to more distant points, the applicant filed with the Commission, at its various hearings, some 400 exhibits explanatory of each violation as its exists in the

tariff to which reference is made.

No attempt will be made herein to analyze each individual violation as the exhibits show that all the violations are the result of the necessity of applicant to meet either the actual competition of the various boat lines or the rates established by a short line rail competitor or both. The situations are practically the same in each case, the only difference being in the commodity moved, and a few illustrations will serve to show the entire situation.

WATER COMPETITION

Exhibit No. 1, covers violations in rate on sulphur, carloads, from San Francisco, Richmond, Berkeley, Emeryville and Oakland to Los Angeles of 15 cents per hundred pounds, published in applicant's Commodity Tariff No. 5908-G, CRC No. 255. High rate at intermediate point is San Francisco to Hawes; 5th Class rate 38 cents per 100 pounds.

In defense of this situation applicant refers to the fact that the Pacific Coast Steamship Company in connection with rail carriers maintains through rate San Francisco to Los Angeles of 13½ cents per hundred pounds on this commodity. This same "low" rate is also in effect via applicant's short line competitor the Southern Pacific Company.

Since actual water competition exists between the points in question and is sufficient to influence and control the rates this application and applications covering similar situations will be granted.

Exhibit No. 6, covers violation in rate on agricultural implements, carloads, from San Francisco to Los Angeles and San Diego of 25 cents per hundred pounds, published in Tariff 5908-G, CRC No. 255. High rate at intermediate point is San Francisco to Hicks, rate 63 cents per hundred pounds.

In defense of this rate applicant shows that the Pacific Coast Steamship Company maintains rate of 22 cents to Los Angeles in connection with rail lines and rate of 20 cents to San Diego

and that the all-rail rate of 25 cents is necessary to meet this water competition.

This and similar applications will be granted.

Exhibit No. 11, covers violation in rate on brine, chloride of magnesia, carloads, from Los Angeles and Nadeau Park to San Francisco of 27½ cents per hundred pounds published in Tariff CRC No. 255. High rate at intermediate point is 3rd Class-Los Angeles to Kramer, 56 cents per hundred pounds.

In defense of this situation applicant refers to the fact that rate of 19½ cents per hundred pounds is maintained from Los Angeles to San Francisco via Pacific Coast Steamship Company and its rail line connections. This and similar applications will be granted.

Exhibits Nos. 15, 16 and 17, cover violations in rates on canned goods, carloads, from San Francisco, Oakland, Fruitvale and San Leandro to Los Angeles of 22½ cents per hundred pounds, the rates being carried in the following tariffs.

Exhibit No. 15, covers rate from San Francisco and Oakland published in applicant's Local Tariff No. 5908-G, CRC No. 255.

Exhibit No. 16, covers rate from Oakland via Oakland, Antioch & Eastern Railway to Bay Point, thence Atchison, Topeka and Santa Fe Railway, as published by F. W. Gomph, Agent for Pacific Freight Tariff Bureau, in Tariff No. 34-E. CRC No. 110,

Exhibit No. 17, covers rate from Fruitvale and San Leandro via Western Pacific Railway to Stockton, thence Atchison, Topeka & Santa Fe Railway, as published by F. W. Gomph, Agent for Pacific Freight Tariff Bureau, in Tariff No. 34-E, CRC No. 110.

High rate at intermediate point in each case is 60½ cents per hundred pounds at Wild.

In justification of this situation applicant shows that the Pacific Coast Steamship Company in connection with rail line carriers maintains rate of 17 cents per hundred pounds on this commodity between San Francisco and Los Angeles and to meet this

competition it is necessary to make this low rate from San Francisco and Oakland, also to extend same to include canneries located on Oakland, Antioch & Eastern Railway at Oakland and on Western Pacific Railway at Fruitvale and San Leandro, thus putting them on an equal footing with canneries located in San Francisco.

It being found that actual water competition exists sufficient to influence and control the rates between San Francisco and Oakland, on the one hand, and Port San Pedro and San Diego, on the other, and that the low rates are reflected to interior points contiguous to all points named above, these applications covered by Exhibits Nos. 15, 16 and 17, and all others of like nature, will be granted.

Exhibit No. 111, covers violations in rate on flour, straight carloads, or flour and bran, mixed C.L, from Los Angeles to San Diego and National City of 10 and 14 cents per 100 pounds, respectively, published in applicant's Commodity Tariff No. 11988, CRC No. 295.

High rate at intermediate point is Los Angeles to San Onofre, 17½ cents per 100 pounds.

The conditions in this instance are the same as exist in the class rate situation between same points, which is fully set forth in decision in Case No. 214-B. Therefore this and applications covering similar violations will be granted.

Exhibit No. 114, covers violation in rate on coal, c.l., from San Francisco, Oakland and Richmond to Stockton of 4½ cents per 100 lbs., published in applicant's Commodity Tariff No. 9373-B (CRC No. 256).

High rate at intermediate point is San Francisco to Werner, 7 cents per 100 pounds.

In defense of this situation applicant directs attention to steamer rate of 5½ cents per 100 pounds in effect from San Francisco to Stockton via California Navigation & Improvement Company and to rate of 4½ cents per 100 lbs. and lower charged by scow schooners. Therefore this and applications covering

similar situations will be granted.

Exhibit No. 129, covers violation in rate on stone, C.L., from San Diego to Santa Barbara of 15 cents per 100 pounds, published in Pacific Freight Tariff Bureau No. 30-B, (CRC No. 111). Higher rates are maintained at intermediate points, the high points being Dulah and Carpenteria.

In defense of this situation applicant quotes rate in effect from San Diego to Santa Barbara via Pacific Coast Steamship Company of 15 cents per 100 pounds, in view of which this and applications covering similar situations will be granted.

COMPETITION AS BETWEEN SEA PORTS

Exhibit No. 132, covers violation in rate of 3½ cents per 100 pounds on Guano and Phosphate Rock, C.L., from San Diego to Nadeau Park, published in Pacific Freight Tariff Bureau Tariff No. 42-B (CRC No. 105).

High rate at intermediate point is San Diego to San Juan, 12 cents per 100 pounds.

In defense of this rate applicant avers that it is the same as is in effect via Southern Pacific Company from San Pedro to Nadeau Park, that the Guano originates in foreign countries reaching San Pedro and San Diego via water and that competition through San Pedro necessitates equalization of rate through San Diego.

Since actual "port competition" exists between the points in question and is sufficient to influence and control the rates this and other applications covering similar situations will be granted.

LONG LINE MEETING RATES VIA SHORT LINE

Exhibit No. 9, covers violation in rate of 20 cents per hundred pounds on asphalt, carloads, from Bakersfield to Pasadena, published in Tariff CRC No. 255. High rate at intermediate point is 24 cents at Santa Anita.

In defense of this low rate applicant shows that the

distance Bakersfield to Pasadena, via its line, is 273 miles and via the line of its competitor the Southern Pacific Company the distance is only 180 miles and that this rate is published by the Southern Pacific Company. Since the distance via applicant's line is 182% of the distance via its short line competitor this application covered by Exhibit No. 9 and similar applications will be granted.

Exhibit No. 12, covers violation in rate of 37½ cents per hundred pounds on canned goods, carloads, from Los Angeles to Exeter, distance 403 miles. High rate at intermediate point is 44½ cents at Seville, 388 miles from Los Angeles. The distance from Los Angeles to Exeter via the Southern Pacific Company is 242 miles and rate of 37½ cents is published between these points by that Company. Since, therefore, the distance via applicant's line is 167% of the distance via the line of its competitor the Southern Pacific Company, this application covered by Exhibit No. 12 and similar applications will be granted.

Numerous exhibits were filed covering situations similar to those set forth above in explanation of Exhibits Nos. 9 and 12, wherein applicant is forced to meet via its longer and more circuitous route the rates established by its short line competitor the Southern Pacific Company. All of these exhibits show that the distance via applicant's line varies from 110 to 210% of the distance via the short line. This is considered sufficient justification for the violations and such applications will be granted.

In view of all the facts and circumstances appearing as hereinbefore set forth these applications will be granted until it may be otherwise ordered upon future investigation in particular cases, and applicant will be permitted to continue to charge lower commodity rates between the points where it meets short line and water competition and to maintain higher rates at the intermediate points as published in its tariffs.

This adjustment of non-intermediate rates is reflected at points beyond point of origin or destination, at points between

point of origin or destination or at Branch Line points, by combination on some one or other of the low rates from or to points shown or on a progression of same; such combinations and progressions are sometimes published in, or made by use of other tariffs than the one containing the low rates.

This practice is entirely justifiable and the granting of petitions containing such violations carries with it the authority to continue the application of such rates.

I therefore submit the following form of order:

O R D E R

The Atchison, Topeka & Santa Fe Railway Company(C.L.) having applied to this Commission for an order granting relief from the provisions of Section 21 of Article XII of the Constitution of California and for authority to continue intermediate commodity rates that are higher than rates on the same commodity between more distant points, as set forth in the exhibits and tariffs referred to in the opinion which precedes this order and a hearing having been held, and the Commission being fully apprised in the premises, and basing its conclusions on the foregoing findings of fact, as set forth in said opinion;

IT IS HEREBY ORDERED that the Atchison, Topeka & Santa Fe Railway Company(C.L.) and its connections, such connections arising from membership in the Pacific Freight Tariff Bureau, be and they are hereby authorized to continue commodity rates as set forth in the application and exhibits referred to in said opinion and maintain higher rates at intermediate points; provided that this authorization shall not be construed to pass on the reasonableness of the intermediate rates or any other matter, except the application of the Long and Short Haul clause of the State Constitution and the Public Utilities Act. and,

IT IS FURTHER ORDERED that this authority will extend to rates from and to points more distant than the terminals between which violations are hereby authorized when combinations are made over the low rates at the terminals.

All the rates herein authorized are of course subject to complaint, investigation and correction if in conflict with any provision of the Constitution or of the Public Utilities Act.

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 19th day of June, 1916.

Max Thelen
A. L. Lovelland
Alex Gordon
Edwin O. Edgerton

Commissioners.