

ORIGINAL

Decision No. _____

34413

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the matter of the application of the Northwestern Pacific Railroad Company for themselves and on behalf of carriers parties to tariffs of the Pacific Freight Tariff Bureau for relief from the Long and Short Haul provisions of Section 21, Article XII of the Constitution and Section 24 (a) of the Public Utilities Act, relating to intermediate class or commodity rates in excess of rates to more distant points.

Case No. 214-H

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- J. J. Geary, for Northwestern Pacific Railroad Company, applicant,
- Seth Mann, and J. S. Willis, for San Francisco Chamber of Commerce,
- J. G. Melvin, for California Fruit Cannery Association,
- Walter E. Nagle and Al Locke, for Santa Rosa Chamber of Commerce,
- C. Haehl, for Cloverdale Producers,
- W. T. Hickok, for California Canneries Company,

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 Northwestern Pacific Railroad Company, in compliance with the orders of this Commission, filed its applications for authority to continue all class and commodity rates published in its Local Freight Tariffs which are in violation of Section 21,

Article XII, of the Constitution and Section 24 (a) of the Public Utilities Act. In justification the applicant presented to the Commission numerous exhibits explanatory of the various violations as they exist in the tariffs to which reference is made.

Exhibit No. 1, covers the class rate situation between Eureka and other points located on Humboldt Bay, on the one hand, and San Francisco on the other, published in applicant's Local Freight Tariff No. 25-B, CRC No. 176, wherein lower class rates are maintained between Humboldt Bay points and San Francisco than to intermediate points. Distance Eureka to San Francisco 283 miles. Low scale:

<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>
60	51	45	39	33	33	30	27	24	21

The high intermediate point from Eureka is Ridgewood, 153 miles, and from San Francisco the high point is Kekawaka, 198 miles, class rates in each instance being:

117	103	96	84	72	72	62	56	50	43
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In defense of this situation applicant shows that the low rates between terminals are necessary to meet the existing direct and active water competition and refers to the fact that the North Pacific Steamship Company, Pacific Coast Steamship Company, The Nelson Line and a great number of so-called "tramp boats", operate in the territory described, carry all classes of freight at strongly competitive rate, as for example; \$2.00 per ton, or 40 cubic feet ship's option, on general merchandise, less carloads, and much lower rates on shipments of larger quantities; they also have a rate of \$1.50 per ton on north-bound shipments of Flour, Grain, Cement, Coal, Salt, Sugar, etc.

Since existing water competition is sufficient to influence and control the rates between the points located on Humboldt Bay and San Francisco and points contiguous thereto, application covered by Exhibit No. 1 will be granted.

Exhibit No. 2, covers the violations existing in class rates between San Francisco and Tiburon, on the one hand, and Sebastopol, on the other. Distance San Francisco to Sebastopol 58.5 miles. Low scale:

23 16 13 12 11 11 10 9 8 7

High rates at intermediate points are:

Miles

52.5	Santa Rosa	25	18	15	13	12	12	12	11	10	9
45.7	Kenilworth	28	20	16	15	-	-	-	-	-	-

In defense of this situation applicant shows that the low rates to Sebastopol are necessary to meet the competition of the short line rates via water and rail of the Petaluma & Santa Rosa Railway, which Company operates a steamer between San Francisco and Petaluma in connection with its electric line Petaluma to Santa Rosa via Sebastopol. The distance from Petaluma to Sebastopol via applicant's line is 21.6 miles as against the 16.7 miles of the Petaluma and Santa Rosa Railway.

Inasmuch as mileage between Petaluma and Sebastopol via applicant's line is 130% of the mileage via its short line competitor and active water competition exists in connection with such short line and is sufficient to influence and control the rates, application covered by Exhibit No. 2 will be granted.

Exhibit No. 3, covers violations in class rates between Shellville Jct. and Sebastopol published in Local Freight Tariff No. 7-A, CRC No. 33, the same low rates as well as the same rates to intermediate points being maintained as are set forth in Exhibit No. 2. Rates from Shellville Jct., a point of interchange with the Southern Pacific Company, have at all times in the past been kept on a parity with rates from San Francisco and Tiburon. This is an arrangement necessary to place San Francisco, Tiburon and Shellville Junction on the same basis in the making of through rates to Sebastopol in order to meet the competition of the Petaluma and Santa Rosa Railway with its boat line through San

Francisco and the Atchison, Topeka & Santa Fe Railway via its barge line through Tiburon.

Distance to Sebastopol from Shellville Junction is 51 miles, from Tiburon 52 miles and from San Francisco 59 miles.

Application covered by Exhibit No. 3 will therefore be granted.

Exhibit No. 4, covers violations in class rates between Petaluma, Corona and Ely, on the one hand, and Sebastopol on the other, published in Tariff CRC No. 33. Explanation of this situation is covered fully under Exhibit No. 2 herein. The distance Petaluma to Sebastopol via applicant's line being approximately 130% of the distance via the line of its competitor the Petaluma and Santa Rosa Railway, application covered by Exhibit No. 4 will be granted.

Exhibits Nos. 1, 2, 3 and 4, cover all the class rate violations. The other exhibits cover violations in commodity rates and since the situation is practically the same in each case, the only difference being in the commodity moved, it will not be necessary to here set out each individual violation. A few examples will be illustrative.

Exhibit No. 5, covers violation in rate on Baskets, Fruit or Berry, less carload, from San Francisco to Sebastopol, of 16 cents per hundred pounds, published in Local and Proportional Freight Tariff No. 38, CRC No. 194. High intermediate point is Kenilworth, rate being 21 cents per hundred pounds.

In defense of this rate applicant shows that via the line of its rail and water competitor the Petaluma & Santa Rosa Railway, there is maintained a rate of 16 cents between same points. Application covered by Exhibit No. 5 will therefore be granted.

Exhibit No. 8, covers violation in rates on empty carriers (namely, Boxes, Butter, Cheese and Eggs; Coops Poultry) returning from San Francisco to stations Petaluma to Sebastopol,

inclusive, published in Tariff CRC No. 194; these carriers are handled free returning, after having passed over the line with a paying load. To intermediate stations south of Petaluma regular rate of 15% of the class rate on packages new is assessed.

In defense of this situation applicant shows that such empty packages are handled free via the line of its rail and water competitor the Petaluma & Santa Rosa Railway between the points in question. While the Commission does not approve of the present adjustment it will permit the violation to continue until such time as the rate situation in this territory is adjusted in its entirety.

Application covered by Exhibit No. 8 will be granted.

Exhibit No. 10, covers violation in rate on Cement, Lime, Plaster and Powdered Lime Rock, carloads, from Petaluma to Sebastopol, of 5 cents per hundred pounds, published in Tariff CRC No. 194.

High rate at intermediate point is 7 cents per 100 pounds Petaluma to Santa Rosa. Justification being the same as set forth for Exhibit No. 2, this application will be granted.

Exhibit No. 11, covers violations in rate on Clay Products, carloads, published in Tariff CRC No. 194, from San Francisco to Eureka of 15 cents per hundred pounds.

High rate at intermediate point is 43 cents, San Francisco to Outlet. Same justification, water competition, is given by applicant as for Exhibit No. 1; application will be granted.

Exhibit No. 25, covers violation in joint rate of \$1.00 per ton applying on Cement, carloads, from Tolenas, Bay Point, Port Costa and Napa Junction to Petaluma via Shellville Junction or Tiburon and thence via applicant's line, published in Pacific Freight Tariff Bureau No. 16-B, F. W. Gomph's CRC No. 101.

High rate at intermediate point is Novato, rate \$1.30 per ton.

In justification of this situation it was shown that this low rate of \$1.00 per ton was first published to meet

actual water competition then existing between these points. While it is admitted that the boat line has since abandoned this service, the competition is still potential and may be resumed at any time. For further illustration of the principles herein involved we refer to the following cases:

Bainbridge Board of Trade vs. L.H. & S.T.L.Ry.Co., 15 I.C.C. 586-594,

Kentucky Wagon Mfg. Co. vs. I.C. R.R.Co., 18 I.C.C. 360-362.

Andley Hill & Co. vs. S. Ry.Co. 20 I.C.C. 225-226.

The application will be granted.

Following is complete list of applicant's tariffs containing violations of the Long and Short Haul provisions of the Constitution.

Local Freight Tariff	No.7-A	CRC No. 33
Local & Proportional Freight Tariff	No.9-A	CRC No.134
" " " " "	No.12-A	CRC No.140
" " " " "	No.14-A	CRC No.149
Local Freight Tariff	No.10-A	CRC No.158
" " " " "	No.25-B	CRC No.176
" " " " "	No.33	CRC No.181
" " " " "	No.31-A	CRC No.188
Local & Proportional Freight Tariff	No.38	CRC No.194
Also		
Pacific Freight Bureau Tariff	No.16-B,	F.W.Gomph's CRC No.101.

All of the violations contained in above named tariffs are set forth in the exhibits filed with the Commission and a satisfactory explanation has been given by applicant showing that such violations are made necessary by reason of competition with water carriers and via a short line rail route. I recommend that authority be issued to continue the present rates in effect which are in violation of the Constitution and of the Public Utilities Act until it may be otherwise ordered upon future investigation in particular cases.

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 Northwestern Pacific Railroad Company 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 class and commodity rates that are higher than rates on the same class or 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;

IT IS HEREBY ORDERED that the Northwestern Pacific Railroad Company and its connections, such connections arising from membership in the Pacific Freight Tariff Bureau, be and they are hereby authorized to continue class and commodity rates as set forth in the applications and exhibits referred to in said opinion and maintain higher rates to 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
H. B. Donald
Alv. Gordon
Edwin O. Edgerton

Commissioners.