

ORIGINAL

Decision No. 41321

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 RATES ON GRAIN AND ARTICLES)
TAKING GRAIN RATES AS DESCRIBED IN)
ITEM NO. 45-C, TARIFF NO. 8243-A,)
C.R.C. NO. 302, BETWEEN LOS ANGELES)
AND YSIDORA TO FALLBROOK INCLUSIVE)
AND FAIDA TO ESCONDIDO INCLUSIVE,)
AND BETWEEN FALLBROOK, ESCONDIDO AND)
LOS ANGELES, HOBART TO ORANGE INCLUS-)
IVE, SANTA ANA TO SERRA INCLUSIVE)
AND MATEO TO STUART INCLUSIVE.)

APPLICATION NO. 2652.

- E. W. Camp and G. H. Baker, for Applicant
- F. P. Gregson, for Associated Jobbers of Los Angeles and others.
- O. T. Helping, for San Diego Chamber of Commerce and others.

LOVELAND, Commissioner:

O P I N I O N

In this application The Atchison, Topeka and Santa Fe Railway Company seeks authority under Section 63 of the Public Utilities Act to increase certain carload rates on grain and articles taking grain rates, as described in its Tariff No. 8243-A, (C.R.C.No.302).

The present rates and those proposed by carrier are shown in the following table:

Tariff:	Between	And	Rates in Cents	
Page :			per 100 pounds	
			Present	Proposed
18	{	{ Los Angeles, Index No. 437	}	}
	{	{ Hobart, Index No. 451, to	}	}
	{	{ Los Nietos, Index No. 456,	}	}
	{	{ inclusive.	}	}
19	{	{ Santa Fe, Index No. 457, to	}	}
	{	{ Orange, Index No. 462, in-	}	12½
	{	{ clusive.	}	}
	{	{ Fallbrook (Santa Ana, Index No. 509 to	10	}
	{	{ Escondido (Serra, Index No. 516, in-	}	}
	{	{ clusive.	}	}
20	{	{ Mateo, Index No. 517, to	}	}
	{	{ Stuart, Index No. 522,	}	11
	{	{ inclusive.	}	}
21	{ Los Angeles	{ Ysidora, Index No. 523, to Fall	}	}
	{	{ brook, Index, No. 528, inclusive.	}	12½
	{	{ Falda, Index No. 530, to Escon-	}	}
	{	{ dido, Index No. 534, inclusive.	}	}

Stations Ysidora to Fallbrook are located on the Fallbrook Branch, which leaves the Los Angeles-San Diego main line at Fallbrook Junction, 83 miles southeast of Los Angeles, and runs in a general northeasterly direction 18 miles to Fallbrook, the terminus.

Stations Falda to Escondido are on the Escondido Branch, the terminus of which is Escondido, this branch leaving main line at Escondido Junction, 3 miles south of Fallbrook Junction, and running in a general southeasterly direction to Escondido, 21 miles from the main line.

It is deemed appropriate at this time to review the rate situation which occasioned application on the part of carrier.

Tariff No. 8243 (C.R.C.No.28) effective May 20, 1907, contained a rate of \$2.50 per ton on grain and articles taking same

rates between Los Angeles and points on the Fallbrook and Escondido Branches.

Rates were not specifically published between Fallbrook, Escondido and points intermediate to Los Angeles, but were held down by the Los Angeles rate.

This tariff contained application clause to the effect that intermediate points to or from which rates were not specifically shown would take rates to or from next more distant point and which was amended from time to time but without substantially changing its import.

Tariff No. 8243 was amended, effective July 31, 1907, by incorporating therein Item No. 50-A, reading:

"Under application of this tariff stations Ysidora to Fallbrook, Cal. (Index Nos. 386 to 389, inclusive), and stations Falda 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."

Effective May 22, 1913, applicant published in its Tariff C.R.C.No. C.I. 98, carload rate of \$2.00 per ton on grain and articles taking same rates between Los Angeles and San Diego and which contained an application clause, reading:

"From and to (in direction indicated) points not named the rates named from and to (in direction indicated) the next more distant point will be the rate to apply."

This tariff was subject to the rules and regulations contained in Santa Fe Tariff No. 8243 (C.R.C.No.28) and superseded rate of \$2.50 per ton in latter tariff between the same points.

Effective July 15, 1913, Tariff C.R.C. No. C.I. 98, was cancelled, the rates concurrently being incorporated in Items 240 and 241 of Amendment No. 43 to Tariff No. 8243 (Supplement No.32 to C.R.C.No.28).

After publication of the \$2.00 rate between Los Angeles and San Diego, carrier's agents applied this rate at points on the Fallbrook and Escondido Branches, taking Item 50-A as authority therefor and, on this being brought to the attention of the traffic officials, 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 make them non-applicable to traffic moving to or from points on the branches. This petition was set down for public hearing, but in the meantime applicant reissued its tariff and in the new publication, Tariff No. 8243-A (C.R.C.No.302), effective October 26, 1914, the present rates as set forth in preceding table were specifically shown. This necessitated new petition, which was filed with the Commission as Application No. 1749, and set for hearing at Los Angeles August 11, 1915.

Insufficient reasons having been advanced by applicant in support of its request to increase rates, same was denied without prejudice (Decision No. 2850 of October 29, 1915). Application now before the Commission is substantially a renewal of that previously made, and it was stipulated between interested parties that the former petition and testimony in relation thereto be made a part of and considered in connection with the present application.

In the course of hearing it was developed that the back country in the vicinity of Escondido and Fallbrook has gone into poultry raising on an extensive scale, and it is contended by protestants that any increase in the freight rate from Los Angeles will naturally be manifested in the ultimate cost of marketing their output and eventually borne by consumer. Tonnage statement furnished by carrier for fiscal year ending June 1916, discloses a movement between points embraced in application of approximately 1743 tons of grain and articles taking same rates, most of which

applicant's witness testified consists of poultry food.

Petitioner, in justification of proposed increases, alleges unjust discrimination between Los Angeles and San Diego on this branch line traffic and desires to remove the discrimination by increasing the Los Angeles rates, which it claims to be subnormal.

A knowledge of the relative situation will be gained by the following showing:

Between	Rates in Cents per 100 Pounds			
	Los Angeles		San Diego	
And	Miles	Rate	Miles	Rate
Fallbrook Jct.:	83	: 10	43	: 10
Escondido "	85	: 10	40	: 10
Fallbrook	101	: 10	61	: 10
Escondido	107	: 10	61	: 10

In support of its contention that proposed rates are fair and reasonable, applicant directs attention to rate of 10 cents per 100 pounds between Los Angeles and Fallbrook Junction and Escondido Junction and alleges that the branch line points should take a differential of at least $2\frac{1}{2}$ cents over the junction points; also that by comparison with 10 cent rate between San Diego and branches, the Los Angeles rate is unreasonably low.

It is pertinent to state here that an argument of this kind to be forceful must do more than make a mere contrast of rates. It must be accompanied by a showing that the rates used in comparison are reasonable and properly adjusted.

Applicant has failed to fortify its position with evidence tending to show the justness of the comparative rates above mentioned, apparently relying on a mere ipse dixit declar-

ation that discrimination exists and, therefore, should be removed by increasing the Los Angeles rate.

It is true. some comparisons were made to show that proposed rates are not inconsistent with those prevailing in other districts, but such information, while enlightening, is not fully comparable.

A stronger test of reasonableness in this case is the placing in juxtaposition of rates between points comprehending an actual movement, which is well exemplified by measurement of the Los Angeles rate with that applying between San Diego and the branches.

The alleged discriminatory condition could be equally remedied by reducing the San Diego branch-line rate and applicant has made no attempt whatever to show that the latter rate is eminently fair and not above its proper level in the general adjustment. In a situation of this kind the most logical method of procedure would be to determine just and reasonable rates between the branch lines and points of conflicting interest, viz: Los Angeles and San Diego.

It is usually the practice to maintain a somewhat higher rate basis for joint main and branch line service than for a purely main-line haul of similar distance and this feature would be given due weight if the Commission were asked to fix a proper and reasonable rate for the movement in question, but in this case applicant merely asks for specific rates of 11 and 12½ cents per 100 pounds and not for the establishment of just and reasonable rates.

I find that the testimony does not justify granting applicant's prayer for rates of 11 and 12½ cents per 100 pounds, as set forth in the pleading and recommend that application be denied without prejudice.

I submit the following form of order:

O R D E R

The Atchison, Topeka & Santa Fe Railway Company, having applied under Section 63 of the Public Utilities Act for authority to increase carload rates on grain and articles taking same rates between Los Angeles and Fallbrook-Escondido and intermediate points from 10 cents per 100 pounds to 11 and 12½ cents per 100 pounds, respectively, as shown in the opinion which precedes this order, and a public hearing having been held, and the Commission being fully apprised in the premises,

IT IS HEREBY ORDERED that the application be denied without prejudice.

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 28th day of Feb 1917.

Max Heber

H. S. Leonard

W. G. Gordon

Francis R. Decker

Commissioners.