

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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IN THE MATTER OF THE APPLICATION OF STEAM :
AND ELECTRIC INTERURBAN RAILROADS AND BOAT :
LINE COMMON CARRIERS TO INCREASE FREIGHT :
AND PASSENGER RATES AND FARES. :

Application
No. 5728

Steam Railroads

Amador Central Railroad
Arcata and Mad River Railroad
Atchison, Topeka & Santa Fe Railway Co.
Bay Point & Clayton Railroad Co.
California Central Railroad Co.
California, Shasta & Eastern Railway Co.
California Southern Company
California Western Railroad & Navigation Co.
Cement Tolenas & Tidewater Railroad Co.
Holton Interurban Railway Co.
Indian Valley Railroad Co.
Lake Tahoe Railway & Transportation Co.
Los Angeles & Salt Lake Railroad Co.
McCloud River Railroad
Modesto & Empire Traction Co.
Nevada California & Oregon Railway
Nevada County Narrow Gauge Railroad Co.
Northwestern Pacific Railroad Co.
Pacific Coast Railway Co.
Pajaro Valley Consolidated Railroad Co.
Sacramento Valley and Eastern Railway
San Diego & Arizona Railway Co.
Santa Maria Valley Railroad Co.
Sierra Railway of California
Southern Pacific Company
Stockton Terminal & Eastern Railroad Co.
Sunset Railway Co.
The Western Pacific Railroad Co.
Tonopah & Tidewater Railroad Co.
Trona Railway Co.
Ventura County Railway Co.
Yosemite Valley Railroad Co.

Electric Interurban Lines

Central California Traction Co.
Fresno Traction Railway Co.
Pacific Electric Railway Co.
Peninsular Railway Co.
Petaluma & Santa Rosa Railroad Co.
Sacramento Northern Railroad
San Francisco-Oakland Terminal Railways
San Francisco-Sacramento Railroad
San Ramon Valley Railroad
Tidewater Southern Railway Co.
Visalia Electric Railroad Co.

Boat Lines

California Navigation & Improvement Co.
California Transportation Co.
Farmers Transportation Co.
Island Transportation Co.
Monticello Steamship Co.
N. Fay & Son
Outer Harbor Dock & Wharf Co.
Pacific Steamship Co.
Sacramento Transportation Co.
Southern Pacific Co.
White Flyer Line - (W. S. Scammell & Co. Inc. Agents)
Producers Transportation Company

- ✓ H. C. Booth and Elmer Westlake, for Southern Pacific Railroad Company and San Diego & Arizona Railroad Company.
- E. W. Camp, for Atchison, Topeka & Santa Fe Railway Company.
- Lester J. Hinsdale, for Western Pacific Railroad Co.
- Frank Karr, for Pacific Electric Railway Company, Visalia Electric Railroad Company and Peninsular Railroad Company.
- A. S. Halsted, for Los Angeles & Salt Lake Railroad Company.
- ✓ H. C. Booth, E. W. Camp, Lester J. Hinsdale, A. S. Halsted and Elmer Westlake, for Northwestern Pacific Railroad and other carriers not responding separately.
- Jesse H. Steinhart and J. J. Goldberg, for San Francisco and Sacramento Railroad Company.
- ✓ F. P. Griffiths, for Pacific Steamship Company.
- E. H. Maggard, for Petaluma & Santa Rosa Railroad Company.
- ✓ Heller, Powers & Ehrman and Charles R. Detrick, for Sacramento Northern Railroad.
- J. B. Holman, for Santa Maria Valley Railroad Co.
- ✓ Sanborn & Roehl, for California Navigation & Improvement Company, Sacramento Transportation Company, Farmers Transportation Company, California Western Railroad & Navigation Company and Nevada-California-Oregon Railroad.
- D. M. Swobe, for McCloud River Railroad.
- Seth Mann, for San Francisco Chamber of Commerce.
- F. M. Hill, for Fresno Traffic Association.
- Allan P. Matthew, for Cannery League of California and the California White & Sugar Pine Manufacturers' Association.
- James A. Keller, Traffic Manager, for Pacific Portland Cement Company, Consolidated.
- A. Larsson, for California Redwood Association.
- R. T. Boyd, for Oakland Chamber of Commerce.
- J. C. Sommers, for Stockton Chamber of Commerce.
- Clarence M. Oddie, for American Short Line Railroad Association.
- H. O. Temple, for Trona Railway.
- Leon E. Gray, for City of Oakland.
- John S. Willis, for Foreign Commerce Association of the Pacific Coast, California Bean Dealers Assn. and Salt Producers Exchange of California.

- J. A. Olson, for W. S. Seammell & Company
- Henry Riddiford, for Lumbermen's Exchange.
- Fred P. Gregson, for Associated Jobbers of Los Angeles, Imperial Valley interests, Owens River interests and Blythe interests and California Portland Cement Company.
- I. W. Stewart and A. B. Shaw, Jr., for Palo Verde Valley.
- Andrews, Toland, Gregg & Andrews, by A. B. Andrews, for Outer Harbor Dock & Wharf Company.
- Frank V. Cornish, for East Bay Cities.
- Jess E. Stephens, for City of Los Angeles.
- George W. Sanborn, in propria persona.
- O. H. Helpling, for Riverside Portland Cement Co.
- L. R. Bishop, for Producers Transportation Company of Sacramento and Oakland Chamber of Commerce.

BY THE COMMISSION:

O P I N I O N

This is a joint application by practically all of the steam railroads, electric interurban railroads and boat lines operating in California.

The Commission is asked to authorize these carriers to increase freight and passenger rates and to assess a surcharge upon passengers occupying sleeping and parlor cars on all intrastate business to the same extent as authorized by the Interstate Commerce Commission in an order made on the 29th day of July, 1920.

At the hearings herein applicants introduced no evidence except the order of the Interstate Commerce Commission above mentioned, together with the applications made to that Commission which resulted in such order.

Applicants took the position that evidence of value of property used in the service, gross and net income, etc.

such as is usually introduced in a proceeding of this kind was wholly irrelevant because the Interstate Commerce Commission, acting under the Act of Congress ordinarily designated the Esch-Cummins Act, had authorized an increase of rates for carriers under its jurisdiction and in determining the amount of such increases had included all revenue earned by these carriers in interstate as well as interstate business.

The Esch-Cummins Act provides among other things that the Interstate Commerce Commission shall fix rates for carriers under its jurisdiction in the following manner: Either treating the carriers of the United States as a whole, or as a whole in each of such rate groups or territories as the Commission may from time to time designate, to fix the value, using certain prescribed methods, of the property devoted to the service of the public and to so fix rates as to return to the owners of these properties 5½% net earnings, or in the discretion of the Commission 5½% plus ½%, the additional ½% to be administered by the Commission under conditions laid down in the Act.

The Interstate Commerce Commission divided the United States into four groups - eastern, southern, western and Mountain Pacific. California is embraced within the Mountain Pacific group. It concluded that for the Mountain Pacific group 25% increase of freight rates and 20% increase of passenger rates was necessary in order that the carriers enjoy the 6% net earnings provided by the Federal law.

The Railroad Commission of California is confronted with these alternatives -- either it must proceed and take evidence as to valuation, revenues and expenses, competitive conditions, long and short haul violations and the various other factors to which consideration is given in reaching a

conclusion as to the reasonableness of rates, and come to a conclusion based on the conditions in California alone, regardless of the effect the income produced by the rates thus fixed would have upon the action of the Interstate Commerce Commission, or it must proceed in harmony with the decision of the Interstate Commerce Commission and put into effect the assumption that state rates would be increased in harmony with its decision.

We have given this matter very careful consideration and in doing so have attempted to give weight to the probable consequences of proceeding upon either of these alternatives. We realize that without requiring more evidence than is now before us in this proceeding to impose on intrastate business the identical percentage authorized by the Interstate Commerce Commission would in effect be the fixing through us of state rates by the Interstate Commerce Commission. Whether or not this constitutionally may be done is a question we do not consider it our function to decide. On the other hand, to proceed in the usual manner as though this were entirely an independent proceeding would result in serious delay, as it is evident that to gather and submit adequate data upon which to base a sound judgment of what practically all transportation rates in California ought to be, would require many months and all possibility of immediate relief to the carriers found to be imperative by the Interstate Commerce Commission, would disappear.

This, however, is not the most serious result of independent action by this state. If this Commission under the circumstances that now confront us, fixes state rates regardless of the order of the Interstate Commerce Commission, and if such rate fixing resulted in a return to the

railroads of the Mountain Pacific group less than 6% authorized by the Interstate Commerce Commission, either the Interstate Commerce Commission must further burden interstate commerce with rates high enough to make up the deficit resulting from the California action or if legally possible the Interstate Commerce Commission would be compelled to over-rule this Commission, or the Esch-Cummins Act would be a demonstrated failure.

It appeals to us that if each state in a given group insists upon wholly independent action and judgment, that the whole spirit and purpose of the Esch-Cummins Act is in danger of nullification.

That Act in terms provides a scheme whereby individual railroads and particular states are expected, and no doubt will, produce more than a 6% earning upon the rate base fixed by the Interstate Commerce Commission. This is clearly indicated in the Act because it is provided that where a given railroad earns more than 6% the overplus is devoted to certain prescribed purposes.

There can be no doubt that in order to prevent the annihilation of some of the less profitable roads it was the purpose of Congress to authorize rates which because of the necessity of maintaining a parity for all roads in a given competitive territory would return the more profitable roads an unreasonable earning, and faced with the alternative of providing rates which would only make a reasonable earning for the profitable roads and which would destroy the others, Congress determined that rates would be so adjusted as to permit the weaker roads to exist and to continue to function, but at the same time deprive the more profitable roads of the result of overplus of earnings.

It is obvious that this plan cannot work if each state or a given group insists upon a determination of its own as to what contribution should be made to the common group income.

It must be realized that the Interstate Commerce Commission, a national body entitled to the respect and confidence of the country, acting under the mandate of Congress, has proceeded impartially, using the best available information and the best judgment of its members in the determination reflected in the order referred to. It has evidently in good faith sought to carry out the mandate of Congress.

It is our deliberate judgment that it is the duty of this Commission to cooperate in every reasonable way to give the Esch-Cummins Act a fair trial and, rather than to attempt to impair the success of this legislation, to so act as to make it successful. Not merely on the general proposition that all laws should have a fair test, but on the more definite situation that now confronts this country. We must all realize that the transportation companies have resumed control of the various railroad properties under difficult circumstances and in view of the vital needs of this country for adequate transportation it is the duty of all citizens and officials to further any movement looking to the bettering of the transportation business.

We feel that regardless of any opinion we might have as to the wisdom or unwisdom of the Esch-Cummins Act, it is the foundation upon which the regulation of the railroads now rests and to shake that foundation would be against the public interest.

We do not mean to say that this Commission has abdicated its functions in rate fixing, as we believe that

our determination to grant the prayer of applicants is sustainable upon the ground of reasonableness. Furthermore, we realize that we have a heavy responsibility in the matter of adjusting state rates which inevitably will become necessary upon the imposition of a percentage increase. The shippers who appeared before us in this proceeding have taken a very commendable position. Practically without exception they have stated their conviction that the railroads must have relief in increased rates in order adequately to give service. Furthermore they believe that this Commission should cooperate with the Interstate Commerce Commission and make effective its order increasing rates. They do urge, however, that this Commission keep control of the matter of adjustment of rates after the imposition of a percentage increase.

The carriers have agreed that they will, as promptly as possible, make adjustments or change rates in agreement with their patrons wherever possible without resort to this Commission and as to all disputes or disagreements which may arise they will be promptly referred to this Commission for decision.

As to the carriers who are before this Commission and who might not be considered to be directly authorized by the Interstate Commerce Commission to increase rates, it is to be remembered that they are in competition with the carriers who will charge increased rates and it is necessary that the relationship of rates between the carriers be maintained.

We will, therefore, authorize all carriers applicant herein to increase freight charges 25% and passenger fares 20% with a surcharge on Pullman fares of 50% which will accrue to the carriers and we will further order that this proceeding be kept open for the purpose of considering

adjustments of rates and all further appropriate matters which properly may come before us herein.

O R D E R

Application having been made to the Railroad Commission of the State of California by practically all the steam and electric interurban railroads and boat common carriers engaged in the transportation of persons and property in this state for an order authorizing the increasing of intrastate freight and passenger rates in harmony with the increase authorized under the provisions of the "Transportation Act 1920" (Esch-Cummins Act) by the Interstate Commerce Commission in its Docket Ex Parte 74 decided July 29th, 1920, all of which is set forth in the applications and exhibits on file with this Commission; public hearings having been held on said application and the Commission being fully advised in the premises hereby finds as a fact that the application should be granted. Basing our order on this finding of fact and on the further findings contained in the Opinion which precedes this order;

IT IS HEREBY ORDERED that the application should be and the same is hereby granted and that the applicants steam and electric interurban railroads and boat common carriers are hereby authorized to establish the following increased rates within thirty days from the date of this Order.

Freight Rates

All applicants, steam and electric interurban railroads and boat line common carriers may increase freight rates as follows:

All freight rates including switching and special service may be increased 25%.

Absorptions

Where tariffs now provide for the absorption by one carrier of the charges of another carrier in specific amounts, such absorptions will be revised in harmony with increases in charges herein authorized.

Passenger Fares and Charges

All steam and electric interurban railroad and boat line common carriers applicants herein may make the following increases:

1. All passenger fares and charges may be increased 20%. The term "passenger fares" may be considered to include standard local or inter-line fares; excursion, convention, and other fares for special occasions; commutation and other multiple forms of tickets; extra fares on limited trains; club car charges.

No increases may be made in street car fares within any municipality except that the Pacific Electric Railway Company is hereby authorized to increase all of its passenger fares 20%.

2. Excess baggage rates may be increased 20%, provided that where stated as a percentage of or dependent upon passenger fares, the increase in the latter will automatically effect the increase in the excess baggage charges.
3. A surcharge upon passengers in sleeping and parlor cars may be made amounting to 50% of the charge for space in such cars, such charge to be collected in connection with the charge for space, and to accrue to the rail carriers.
4. Milk and cream are usually carried in passenger trains, and the revenue therefrom is not included in freight revenue. Rates on these commodities may be increased 20%.

Disposition of Fractions

In computing and applying all increased rates authorized herein, fractions will be treated as follows:

Where rates are stated in amounts per one hundred pounds or any other unit, except as provided in the succeeding paragraph, fractions of less than one-fourth of a cent will be omitted. Fractions of one-fourth of a cent or

greater, but less than three-fourths of a cent will be stated as one-half cent. Fractions of three-fourths of a cent or greater, will be increased to the next whole cent. This rule will also be followed in computing passenger fares.

Where rates are stated in dollars per car load, including articles moving on their own wheels, when not stated in amounts per one hundred pounds, or per ton, amounts of less than 25¢ will be dropped; thus, \$25.24 will be stated as \$25. Amounts of 25¢ or more, but less than 75¢ will be stated as 50¢; thus, \$25.65 will be stated as \$25.50. Amounts of 75¢ or more, but less than \$1.00 will be raised to the next dollar.

Divisions

Where carriers earn specific amounts as their compensation out of through rates or fares, such amounts will be increased in the same percentages as the through rates or fares. Where the divisions of carriers participating in through rates or fares are in fixed amounts per unit and are absorbed by other carriers, such absorptions will be increased in the same percentage as the through rates or fares.

Minima

Present minimum rates or charges are not to be disturbed.

Long and Short Haul Violations

Carriers affected by this Order are hereby authorized to publish rates, fares and charges in accordance with this Order, which may be in violation of section 21 of the State Constitution and of section 24 of the Public Utilities Act.

Publication of Tariff

The rates authorized herein may be published on one day's notice in a blanket supplement to all tariffs. Such supplement may be similar in character or the same as authorized by the Interstate Commerce Commission.

Adjustments

This proceeding will be kept open for the purpose of considering adjustments of rates and all appropriate matters which may properly be brought before the Commission.

Adjustments will be necessary and carriers will be expected to deal promptly and effectively therewith, to the end that such readjustments may be made in as many instances as practicable without forcing an appeal to this Commission.

Dated at Los Angeles, California
this 17th day of August, 1920.

Edwin O. Edgerton
H. D. Loveland
Frank R. Devlin
H. H. Brundage
Dwight Martin
Commissioners.