

Decision No. 7593

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

ORIGINAL

In the Matter of the Failure of Woodworth Campbell,
Agent, in the name and on behalf of N. Fay & Son,
Wheeler Transportation Company,
Vehmeyer Transportation Company,
Rio Vista Lighterage Company,
Heringer & Scott, and
Island Transportation Company, common carriers,
to comply with that part of Decision No. 7986
of August 23, 1920 of the Railroad Commission
of the State of California, directing and re-
quiring each of said applicants in the proceed-
ing covered by said decision to keep methodical
and comprehensive records of revenues and ex-
penses, and on March 15, 1921 to furnish the
Commission with a full report of revenues,
expenses, valuation of property, depreciation
account, etc., covering operations under the
increased rates authorized in aforesaid
decision, for the first six months, September
1920 to February 1921, inclusive.

CASE NO. 1641.

ON THE COMMISSION'S
OWN MOTION.

Frank S. Brittain and T. C. Nelson, for Solano County
Farm Bureau, et al., Complainants, and
California Farm Bureau Federation.

Sanborn, Roehl & Smith, by Arthur B. Roehl, for
River Transportation Company, Fred F. Ball,
Heringer & Scott, Island Transportation Company,
Rio Vista Lighterage Company, Sheckler-Hoffman
Transportation Company, and Wheeler Transportation
Company, Defendants.

Creed, Jones & Dall, by C. G. Dall, for N. Fay & Son.
Defendants.

J. C. Sommers, for Stockton Chamber of Commerce.

LOVELAND and MARTIN, COMMISSIONERS:

O P I N I O N

This is a proceeding initiated under date July 11, 1921,
on this Commission's own motion, calling upon carriers named above
to appear and show cause for failure to comply with the terms of

Decision No. 7986, in Application No. 5841, decided August 23, 1920.

In this decision applicants were instructed to keep methodical and comprehensive records of revenues and expenses and to furnish the Commission, on March 15, 1921, with a full report of the revenues and expenses, and the valuation of the property, depreciation, etc., covering operations under the rates authorized in the decision for the six-months period September 1920 to February 1921, inclusive. From these reports the Commission was to determine whether or not further action would become necessary in connection with the rates authorized. The increases permitted to go into effect August 27, 1920 were estimated to range from 24 per cent to 26 per cent.

At the time this citation was issued the carriers named in this proceeding had failed to fully comply with the Commission's order, for the reports submitted were entirely unsatisfactory and did not give the information sought.

Prior to Decision No. 7986 (Application No. 5841) this Commission had rendered, August 17, 1920, its Decision No. 7983, in Application No. 5728, wherein practically all rail and many boat common carriers within the State of California were authorized to increase rates in line with the increases authorized by the Interstate Commerce Commission in its Decision of July 29, 1920, Docket Ex Parte 74, which increases were granted under the provisions of Transportation Act 1920 (Esch-Cummins Act). The general increases authorized by Decision No. 7983 were 25 per cent in all freight rates and 20 per cent in all passenger fares, and included with the carriers were a number of boat lines, defendants in this proceeding; also the regular standard lines - California Navigation & Improvement Company, California Transportation Company, Farmers Transportation Company, Sacramento Transportation Company, Producers Transportation Company, and Southern Pacific Company.

These six companies operate in the same competitive territory and, therefore, any order issued in this proceeding affecting the rates of defendants would naturally be reflected in the operating revenues of the competing lines.

The situation which brought about the present proceeding resulted from Case No. 1616, filed June 4, 1921 by the Solano County Farms Bureau, et al., vs. River Transportation Company, et al., calling into question only the rates on specified commodities - grain, beans, onions and potatoes.

Although the two proceedings - Cases 1616 and 1641 - were not consolidated it was understood that testimony presented in either of the proceedings would be used in the instant case wherever considered relevant. Hearings were held at Stockton on July 6 and at San Francisco in the months of July, August and September, 1921. Transcript of testimony in the two cases covered 896 pages; the defendants in Case No. 1641 presented 13 exhibits, the Commission, through its Auditing Department 5 exhibits, and in Case No. 1616 complainants filed 5 exhibits and the Commission 1. Briefs have been received and the matter is now ready for a decision.

All of the defendants have furnished, for the period covered by the order, information as to their property investment, the volume of traffic, operating revenues and expenses. It would serve no good purpose to reproduce the statements, but mention will be made of the results:

	Value of Property	Periods Covered	Number of Reports	Net Operative Revenues	Depreciation
W. Fay & Son	\$ 60400.00	Aug. 31-July 1	10	\$ 4370.00	Included
Wheeler Transp. Company	37662.90	Oct. 1-July 1	9	6606.79	"
Vehmeyer Transp. Company	28150.00	Aug. 27-Feb. 27	6	* 163.65	None
Rio Vista Lighterage Co.	83505.00	Sept. 1-July 1	10	2518.89	Included
Heringer & Scott Co.	36332.62	Sept. 1-July 1	10	* 18.10	None
Island Transp. Company	666751.99	Aug. 27-May 27	9	11400.47	None

*Loss

Three of the companies included depreciation in their expense items, while three did not and of the six companies only two, the Wheeler Transportation Company and N. Fay & Son show satisfactory net results after payment of all expenses and depreciation.

The records and books of the principal defendants were checked by our auditing department, but the results obtained were not materially different from those set forth in the statements filed as exhibits by defendants. In two cases interest items were erroneously charged as operating expenses, but elimination of the amounts creates no vital change in the net results.

The companies are not keeping books in accordance with any classification of accounts and it was impossible to make a positive check of the revenues and expenses; the data assembled by the audit investigation was secured from memorandum day books. A number of the carriers, because of the small volume of business handled, do not employ bookkeepers.

The annual reports of the five companies not included in this proceeding, operating regularly at points between San Francisco and Sacramento, viz., the California Navigation & Improvement Company, California Transportation Company, Farmers Transportation Company, Sacramento Transportation Company and Producers Transportation Company show that three of them suffered a net loss after charging out depreciation, and two of these three companies did not earn sufficient to even pay operating expenses and taxes. The net results obtained by operation of the Southern Pacific Company boats are not obtainable; the annual reports of this company do not reflect a segregation of the operation of the boat lines as distinct from the revenues of the company as a whole.

For the purposes of this opinion we deem it unnecessary to enter into an extensive discussion of the testimony and exhibits

dealing with the valuation of the properties, for the reason that the total net operating revenues and the corporate income of the twelve common carrier companies operating in this competitive territory do not produce a satisfactory or reasonable return upon the investments necessary to continue the service. There are, however, certain aspects of the situation which in our judgment are worthy of reflection.

The testimony given in this proceeding and in others dealt with by the Commission within the past few years involving the rates for these companies would indicate that during the summer months the boats of the combined carriers have been unable in normal years to properly and promptly handle all of the tonnage offered and that more boats could be used during the peak season for a short period of time if they were available. This situation was gone into in considerable detail in Application No. 2924, Southern Pacific Company to increase steamer rates between San Francisco and Sacramento, Decision No. 4968, decided December 17, 1917 (14, C.R.C. 742). The evidence would also indicate that the traffic is one way and that full cargoes in both directions are the exception rather than the rule.

To move practically a season's traffic within a short period of time necessitates considerable expenditure for equipment, and much of this equipment remains idle for the greater portion of the year, but must be provided in order to properly perform the service demanded by the public. Defendants contend these conditions and the uncertainties of the tonnage demonstrate that the present rates are not excessive and that they cannot be reduced. As illustrative of the situation, the Rio Vista Lighterage Company had a prosperous year during 1920, due to the fact that they carried between 120,000 and 130,000 head of sheep, while at the time the

hearing was held they had handled but 2,200 sheep, and estimated that the entire number to be carried during the year 1921 would not be in excess of 10,000, as compared with a total of 130,000 in the year 1920. Notwithstanding the great falling off in the business, equipment must be provided to handle the traffic when it does offer.

Two of the defendants, Wheeler Transportation Company and Island Transportation Company, are engaged in outside activities, the Wheeler Transportation Company handling through its office certain services of competing lines, for which it receives a commission, and it is claimed the earnings from this branch of the service should not be reflected in the net results of common carrier activities. The Island Transportation Company, as a side line, engages in the buying and selling of wood, and the wood when transported on its boats is charged the regularly published tariff rates, therefore any net profit received from the wood operations cannot be included in the net revenue of the common carrier boats. It is difficult to separate accurately these outside activities where the financial relationships are so close as in the present case and the employees of the common carrier are used in performing, in part, the business devoted to this outside service. It would seem, however, that proper amounts for handling this extra service should be charged and this the defendants claim to have done. The protestants, in their briefs, would add these outside earnings to the net of the operating companies and have endeavored by this method to show there has been a fair net profit. We do not believe, however, that this procedure is proper or would be sustained in law, the defendants having shown, or endeavored to show, by the testimony that the burden of conducting these outside activities

are not being paid out of the common carrier fund.

Protestants presented but little testimony or exhibits as to the reasonableness of the rates involved, making their record upon the economic necessities of the situation; the only testimony introduced at the preliminary hearing, at Stockton, on July 6, 1921, with reference to the rates was in connection with an exhibit showing the rates as of September 17, 1918, as compared with the rates in effect at the present time.

By their testimony and exhibits defendants met the issue as to the reasonableness of the entire rate structure by showing the results obtained in the handling of the business as a whole. There is a great difference in the character of testimony required to test the reasonableness of an entire rate schedule covering all traffic of a number of competing carriers and that required to test the reasonableness of individual rates on selected commodities between definite points, and whether a readjustment of the entire schedule of rates can be made depends largely upon whether the gross amount of tonnage carried affords the carrier, inclusive of operating expenses, taxes and depreciation, a reasonable return upon the value of the property devoted to the public service.

The I.C.C. in *Railroad Commission of Kansas vs. Atchison, Topoka & Santa Fe*, 22 I.C.C. 407-410, said:

"The railway may not impose an unreasonable transportation charge merely because the business of the shipper is so profitable that he can pay it; nor, conversely, can the shipper demand that an unreasonably low charge shall be accorded him simply because the profits of his business have shrunk to a point where they are no longer sufficient.

"The effect of a rate upon commercial conditions, whether an industry can exist under particular rates or a particular adjustment of rates, are matters of consequence, and facts tending to show these circumstances and conditions are always pertinent. But they are only a single factor in determining the fundamental question. A narrowing market, increased cost of production,

"overproduction, and many other considerations may render an industry unprofitable, without showing the freight rate to be unreasonable."

The rates here complained of have not been shown to be unreasonable, judged from the standpoint of net results to the transportation companies. We believe, however, that very careful consideration should be given by the carriers to a voluntary reduction as a matter of public policy, although the record shows transportation facts which would not, in law, warrant this Commission to order the reductions. Furthermore, it would appear that tonnage is now being diverted to automobile trucks and to the competing rail carriers because of the present high freight rates. We, therefore, recommend that defendants herein give consideration to reductions in the principal commodities of at least 20 per cent to meet the present economic situation for the benefit of defendants and the shipping public and thus assist in a return to normal conditions.

Each of the defendants in this proceeding will furnish the Commission with statements of revenues and expenses for calendar months beginning with October 1921 and continuing until further notice, the statements to be filed in the office of the Commission not later than the 15th day of the following month; books to be kept in a systematic manner and the data covering each transaction carried in such detail as to be readily checked by the Commission's accounting department. The following classification shall be employed in making the monthly reports, viz.,

Revenue - segregated as to freight, passenger, towing rentals and miscellaneous,

Expenses - segregated as to labor, fuel, repairs and maintenance,

Commissary supplies.

Other supplies,
Dockage and wharfage,
Rents,
Officers salaries,
Office expenses,
Agency expenses,
Insurance,
Loss and Damage,
Taxes,
Miscellaneous.

The record will be held open for such further action
as may seem necessary.

O R D E R

This proceeding having been instituted by the Commission on its own motion, the defendant carriers involved in the matter in interest having filed answers, a full investigation having been had, basing its order on the foregoing findings of fact and the findings of fact contained in the opinion preceding this order,

IT IS HEREBY ORDERED that

M. Fay & Son,
Wheeler Transportation Company,
Vehmeyer Transportation Company,
Rio Vista Lighterage Company,
Heringer and Scott, and
Island Transportation Company

file monthly statements of revenues and expenses as outlined in the opinion, filing same at the office of the Commission on or before the fifteenth day of each month, until otherwise ordered.

IT IS HEREBY FURTHER ORDERED that this proceeding remain open for such further action as may appear necessary.

The foregoing opinion and order are hereby approved
and ordered filed as the opinion and order of the Railroad Com-
mission of the State of California.

Dated at San Francisco, California, this 6th day
of October, 1921.

A. W. Loveland.

Charles H. Lawrence

W. H. Anderson
Commissioners.