

Decision No. 35980.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

**ORIGINAL**

In the Matter of the Investigation on  
the Commission's own motion into the  
rates, rules, regulations, classifica-  
tions, charges, accounting records,  
contracts, practices and operations,  
or any of them, of SOUTH COAST STEAM-  
SHIP COMPANY, a corporation, and J. A.  
CLARK DRAYING COMPANY, LTD., a corpo-  
ration. )

Case No. 3519.

Gwyn H. Baker, for respondents.

Joseph J. Geary, for the Pacific Steamship Company,  
Los Angeles Steamship Company, San Francisco and  
Los Angeles Navigation Company, McCormick Steam-  
ship Company, Nelson Steamship Company, and  
Chamberlin Steamship Company, Ltd.

BY THE COMMISSION:

O P I N I O N

This is an investigation instituted by the Commission on its own motion to determine what if any relationship exists between the South Coast Steamship Company, the J. A. Clark Draying Company, Ltd., and the Coastwise Forwarding Company. The proceeding was instituted following receipt of information to the effect that the Steamship Company was soliciting freight for transportation between San Francisco Bay points and Los Angeles at "very attractive rates". The rates were not shown in any tariffs on file with the Commission, and an informal investigation disclosed that they were being quoted in the name of the Forwarding Company and

in connection with shipments transported over the lines of the Steamship and Draying companies.

A public hearing was held before Examiner Geary at San Francisco March 22, 1933, and the matter submitted.

The South Coast Steamship Company is a California corporation engaged in the transportation of freight by vessel between San Francisco Bay points and Los Angeles Harbor and elsewhere. It operates the Steamer "Daisy" on a weekly schedule. Its Local Freight Tariff No. 5, C.R.C. No. 5, filed with the Commission, names rates, rules and regulations governing service between Oakland, Richmond, Monterey and San Francisco on the one hand and Los Angeles Harbor on the other.

The J. A. Clark Draying Company, Ltd., likewise a California corporation, is engaged in the transportation of freight by auto truck between Los Angeles and the Los Angeles Harbor. Rates and rules governing this service are contained in its Local Freight Tariff No. 1, C.R.C. No. 1, likewise on file with the Commission.

Coastwise Forwarding Company is a fictitious name under which E. S. Lester does business. This company does not file tariffs with the Commission nor recognize its regulatory authority. It is owned entirely by Mr. Lester and maintains no other employees. Its activities consist principally of soliciting canned goods, issuing shipping documents therefor, and collecting charges thereon. More specifically it operates as follows: shipments are solicited by Mr. Lester "all over Southern California" for pool car shipments between Southern California and San Francisco Bay points. A Steamship Company solicitor furthermore carries with him the shipping forms of the Forwarding Company, although

it was not admitted that he actively solicited for it. Northbound shipments are ordinarily brought to the Steamship Company dock at San Pedro, where they are received by a Steamship Company employee, who signs for them in the name of the Forwarding Company. There is no physical handling of the shipments from the time they are placed on the dock until they are loaded into the vessel by the Steamship Company's stevedores. Two copies of an "Enclosure Receipt and Delivery Order" are given the shipper or drayman. A third copy is retained for the Forwarding Company. The shipments so accumulated are combined and forwarded as a carload under one steamship company bill of lading, showing the Forwarding Company as both the consignor and consignee. Meanwhile a memorandum or manifest showing the details of the consolidation is sent to San Francisco, where delivery is made by the Steamship Company, not according to the bill of lading which it issued but in line with the "submarks" and the Forwarding Company manifest. The handling of southbound shipments is largely similar. Whatever service, such as receiving or delivering shipments, collecting charges, issuing shipping documents, etc., is performed at the northern end, is done by and through the office of the Steamship Company and without charge to the Forwarding Company. Fifty to sixty per cent. of the southbound shipments are transported from San Pedro to Los Angeles by the Draying Company, in whose office at 125 Santa Fe Avenue, Los Angeles, the Forwarding Company maintains its headquarters rent free. The gratuities of both the Steamship and Draying companies were explained as resulting from "good will", "friendly connections", and the like.

The Forwarding Company manifests show that on the individual shipments charges for the port-to-port service have generally been assessed and collected on basis of 15 cents per 100

pounds, minimum 75 cents per shipment, plus wharfage and toll. For the transportation between Los Angeles Harbor and Los Angeles an additional charge of 10 cents per 100 pounds has been made. This charge is apparently assessed without regard to the total weight of the shipment, as freight bills offered in evidence show lots ranging from 16,359 to 62,279 pounds. Drayage at San Francisco is charged for at 5 cents per 100 pounds. On shipments billed through, the entire charge is frequently collected by the Forwarding Company.

As heretofore stated, the Forwarding Company files no tariff with the Commission. The rates of the Draying Company are  $7\frac{1}{2}$  cents Los Angeles Harbor to Los Angeles, minimum 36,000 pounds, and 7 cents Los Angeles to Los Angeles Harbor, minimum 24,000 pounds. In connection with the  $7\frac{1}{2}$ -cent rate the tariff provides that when necessary to make two or more deliveries an additional charge of 3 cents per 100 pounds will be made on the total weight of the entire shipment, subject to a minimum charge of \$1.00 per delivery. The less than carload rates of the Draying Company are greatly in excess of 10 cents per 100 pounds.

On the Steamship Company manifests covering the so-called pool cars the prevailing rate is  $13\frac{1}{2}$  cents per 100 pounds. Certain shipments aggregating less than 20,000 pounds are shown at a rate of 25 cents. Rates of  $13\frac{1}{2}$  cents subject to a 36,000 pound minimum and 25 cents less than carload are published in Item 265 of South Coast Steamship Company Tariff C.R.C. No. 5. The  $13\frac{1}{2}$ -cent rate applies on carload shipments of canned goods and articles grouped therewith transported between San Francisco and Los Angeles Harbor; between Oakland and Los Angeles Harbor the rate is 15 cents. The less than carload rate of 25 cents applies between both San Francisco and Oakland, and Los Angeles

Harbor. Shipments to or from Oakland, Richmond and Alameda have been included in the consolidated lot at the 13½-cent rate, although to or from Oakland the rate is 15 cents while no rate is published to or from Richmond or Alameda. In fact the tariff does not provide for service to or from Alameda.

Since the Forwarding Company commenced operations, June 10, 1932, all of the port-to-port transportation has been performed by the Steamship Company. The close connection between these companies at the time of the inception of the Forwarding Company is further shown by the fact that bills for purchases of articles such as rubber stamps, stationery, etc., were paid for by the Steamship Company. Mr. Lester testified that while the Forwarding Company was entirely of his own creation, an officer of the Steamship Company was informed of the plans before the operations were commenced, and offered no objection.

The record clearly shows that the Steamship Company fostered the Forwarding Company from the very beginning and used it to accord to less than carload shippers of canned goods rates lower than those contained in its lawfully published tariffs. The Draying Company, while apparently having no connection with the Forwarding Company except that of granting it free office space, has openly deviated from its established tariff. Our order will require both these respondents to discontinue their unlawful practices and to collect all outstanding undercharges. No order will issue against the Forwarding Company at this time, as it is not a respondent to this proceeding. Unless its operations are immediately abandoned or brought into conformity with the law the Commission will take such further action as it may deem necessary.

#### O R D E R

This matter having been duly heard and submitted and

being now ready for decision,

IT IS HEREBY ORDERED that respondents South Coast Steamship Company and J. A. Clark Draying Company Ltd. immediately cease and desist from granting to the Forwarding Company the gratuities and privileges referred to in the opinion which precedes this order.

IT IS HEREBY FURTHER ORDERED that respondents South Coast Steamship Company and J. A. Clark Draying Company Ltd. forthwith diligently and in good faith proceed to collect and collect all undercharges outstanding against the Coastwise Forwarding Company, and not later than August 1, 1933, report under oath to the Commission the amount of undercharges they have collected; and if all have not been collected then report in detail the proceedings taken looking to their collection.

IT IS HEREBY FURTHER ORDERED that respondents South Coast Steamship Company and J. A. Clark Draying Company Ltd. hereafter abstain directly or indirectly from charging, demanding, collecting or receiving any charges for transportation services greater or less than or different from those shown in their lawfully filed tariffs.

IT IS HEREBY FURTHER ORDERED that the Commission retain jurisdiction in this proceeding to take such further steps and make such further orders as shall be necessary to insure compliance with the law by these several respondents,

Dated at San Francisco, California, this 8th day of May, 1933.

C. C. Kearney  
Leon A. Kelley  
M. A. C.  
W. B. Harris  
Walter W. ...  
commissioners.