

ORIGINAL

Decision No. 25081.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Suspension by
the Commission on its own Motion of
portions of Supplement No. 11 to C.
R.C. No. 10, Local and Interdivision
Freight Tariff of RICHARDS TRUCKING
AND WAREHOUSE COMPANY.)

Case No. 3547.

For Respondent:

Martin H. Richards, representing Richards Truck-
ing and Warehouse Company.

For Protestants:

- C. G. Anthony, G. C. Foster and W. K. Downey, for
Motor Freight Terminal Company.
- H. J. Bischoff, for Rice Transportation Company.
- R. C. Bliss, for Southern Pacific Company and
Pacific Motor Transport Company.
- M. A. Casenave, for Citizens Truck Company.
- J. R. Zimmerman and Charles L. Adely, for Zimmer-
man Bros.
- Charles E. Smith, for Allison Auto Express.
- J. O. Ernst, for Dependable Trucking Company.

BY THE COMMISSION:

O P I N I O N

By an order of this Commission dated March 13, 1933, Sup-
plement No. 11 to C.R.C. No. 10, Local and Interdivision Freight
Tariff of the Richards Trucking and Warehouse Company was suspended
until April 15, 1933, and by other orders has been further suspend-
ed. This suspension was responsive to protests received from inter-
ested competing carriers, alleging that the proposed absorption
rule and the proposed rates would result in rebating, demoralize
the tariffs now in effect, were non-compensatory, and even insuf-

ficient to cover the out-of-pocket costs.

A public hearing was held before Examiner Geary at Los Angeles March 28, 1933, and the matter submitted.

The supplement issued February 10 and made effective March 15, 1933, proposed numerous reductions in the commodity rates applying between Los Angeles and the Los Angeles Harbor points, as described in Section 5 of the tariff, including Group C stations. The Group C points are on respondent's Los Angeles-Long Beach -San Pedro Division and are specifically named as East Long Beach, Long Beach, Long Beach Harbor, Wilmington and San Pedro. The suspension order against the supplement includes Rule 11 $\frac{1}{2}$ and Items 161, 191, 192, 193, 276-A, 287, 288, 325-A, 331, 354-A, 362-A and 375. It will not be necessary to here enumerate the many commodities embraced in the items. The segregations of the weights and rates are not uniform, but Item 161 fairly illustrates the adjustment. This item, covering drugs, toilet preparations and chemicals, provides rates for lots of less than 2000 pounds of 20¢, 2000 pounds and less than 12,000 pounds 17¢, 12,000 pounds and less than 16,000 pounds 12¢, 16,000 pounds and less than 24,000 pounds 10¢, 24,000 pounds and less than 30,000 pounds 8¢, and 30,000 pounds and over 7 $\frac{1}{2}$ ¢.

The Motor Freight Terminal Company, a certificated truck line competing in this territory, and the largest carrier of package freight, has but one rate of 25¢ per 100 pounds for Item 161 commodities, and the rate applies regardless of volume of the weight. The proposed rates, graded as they are on aggregated weights, would reduce the schedule of the Terminal Company from 25¢ to 20¢ or by 20% for 2000 pounds and less, while for a shipment of 30,000 pounds and over from 25¢ to 7 $\frac{1}{2}$ ¢, or by 70%. Certificated

truck lines, members of the so-called George L. Colburn, Agent, Association, handling tonnage principally in heavy lots between Los Angeles and the steamship wharves, would find their standard rates cut by this Item from 20¢ to 17¢ in the 12,000-pound group; from 10¢ to 8¢ in the 24,000-pound group, and from 9¢ to 7¢ in the 30,000-pound group; other items in a somewhat like ratio.

It might here be stated that upon authorization from this Commission dated August 31, 1931, some 17 truck lines, represented by Agent Colburn, operating between Los Angeles and the Los Angeles Harbor steamship wharves, were permitted to publish a master tariff setting forth rates, rules and regulations for the uniform use of practically all of this group of certificated truck operators. Respondent was one of the parties to the tariff, effective October 12, 1931, since which date, because of competitive conditions, many of the original rates have been reduced by practically all of the parties in a supplement December 26, 1931, and respondent again cooperated in maintaining the standard rates as evidenced by his Supplement No. 1 to Tariff C.R.C. No. 11.

Respondent operates under two tariffs, the first (C.R.C. No. 10) having its origin a number of years ago, naming class and commodity rates between all points served by it in Southern California, including Los Angeles and the Harbor, and second (C.R.C. No. 11), the tariff adopted by the certificated association operators, applying only on shipments received from or delivered to the steamship wharves. Respondent provides in Section 9 of its Local Tariff C.R.C. No. 10 rates between Los Angeles and steamship wharves in Long Beach Harbor district. These rates are also based on quantity lots, viz., 20¢ per 100 pounds for weights over 250 and not over 1500 pounds, the rates gradually reducing as the weight increases, to as low as 7¢ per 100 pounds for quan-

titles over 50,000 pounds. The Section 9 rates are not restricted in any manner and therefore must be applied as maximum at the intermediate points. The tariff also provides in Item 80 a rate of 6¢ per 100 pounds for freight of all kinds in lots of 1000 tons or more per month from one or more consignors to one consignee and one destination. Many of the rates in this Section 9 are lower than those proposed in Supplement No. 11, under suspension in this proceeding.

Tariff Circular No. 2 of this Commission provides that whenever class or commodity rates are named in an individual tariff or different tariffs applicable between specific points, the lower of such rates is the lawful rate, unless some combination of class rates or of commodity rates or of class and commodity rates makes a lower through rate. Under this rule the lower rates found in either one of the two tariffs is the lawful rate to assess at the intermediate points.

The proposed any-quantity commodity rates would all be materially lower than those now assessed by competitors handling only package freight, while the rates applying to truck load quantities would in many instances reduce those published in the agreed association tariff authorized by this Commission. Also, the rates which are based on a stated total tonnage per calendar month introduce a procedure not authorized in the tariffs of associated companies between Los Angeles and the harbor wharves.

There was no testimony by respondent to test the costs for performing the services although the general statement was offered that the rates were presumed to reflect some profit. Respondent's annual report however for the year 1932 shows a deficit of \$4,782.14, and there were operating losses for a number of years prior thereto.

Protestants gave testimony and presented an exhibit to show that the rates proposed would not result in a profit, and considered by themselves would fail to produce even the out-of-pocket costs; also they would further demoralize the existing unsatisfactory conditions among the truckers between Los Angeles and the Harbor.

Rule 11 $\frac{1}{2}$ was most vigorously protested and criticized. This rule proposes an allowance of 2¢ per 100 pounds when the freight is loaded on the carrier's equipment by the consignor, and a like allowance of 2¢ per 100 pounds when it is unloaded by the consignee, subject to a minimum weight of 17,000 pounds and a rate of not less than 5¢ per 100 pounds. This absorption would give to the shipper an allowance of \$6.80 for performing the loading and the unloading of 17,000 pounds. It was admitted that respondent in handling ordinary freight could complete the same service at a cost of approximately \$1.60; thus the rule would in effect give to the shipper a premium of \$5.20 above his cost incurred for the loading and unloading of the lading. Protestant attempted to justify the rule by explaining that demurrage charges for truck delays might be assessed in some situations, and also that the rule was already in the tariff of a competitor. The competitor's tariff however was not protested and will be the subject of our further consideration.

The facts are convincing that the proposed rates taken as a whole would imperil the general rate structure and accomplish no results beneficial to either the carriers or the shippers.

O R D E R

This case having been duly heard and submitted, full investigation of the matters and things involved having been had,

and basing this order on the findings of fact and the conclusions contained in the preceding opinion,

IT IS HEREBY ORDERED that respondent Richards Trucking and Warehouse Company be and it is hereby ordered and directed forthwith to cancel on or before May 15, 1933, the suspended Rule and Items in Supplement No. 11 to its Local and Interdivision Freight Tariff C.R.C. No. 10.

IT IS HEREBY FURTHER ORDERED that upon the cancellation thereof this proceeding be and it is hereby discontinued and our suspension order of March 13, 1933, be vacated and set aside.

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

C. C. Seavey
L. A. Anderson
M. J. Carr
M. B. Haines
M. J. ...
Commissioners.