

Decision No. 28748.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

MOTOR FREIGHT TERMINAL COMPANY,  
a corporation,  
Complainant,

vs.

PACIFIC MOTOR TRANSPORT COMPANY, a  
corporation, and THE ATCHISON, TOPE-  
KA AND SANTA FE RAILWAY COMPANY, a  
corporation,  
Defendants.

**ORIGINAL**

Case No. 3596.

Wallace K. Downey for complainant and for Valley Express  
Company and Valley Motor Lines, Inc., interveners on  
behalf of complainant.

James E. Lyons and Burton Mason for Pacific Motor Trans-  
port Company, defendant.

Gerald E. Duffy and Berne Levy for The Atchison, Topeka  
and Santa Fe Railway Company, defendant.

BY THE COMMISSION:

O P I N I O N

The complainant in this proceeding, the Motor Freight Ter-  
minal Company, is a transportation company operating under the juris-  
diction of this Commission as a common carrier of freight by motor  
trucks between Los Angeles on the one hand and Fresno, San Luis Obis-  
po and Calexico and intermediate points on the other. It is alleged  
that complainant is in direct and forceful competition with the de-  
fendants and that the rate carried in Pacific Motor Transport Compa-  
ny Tariff No. 9, C.R.C. No. 13, of 40 cents per 100 pounds between  
Los Angeles and Hanford, Fresno, Porterville, Visalia, Tulare and

Bakersfield; the rate of 50 cents per 100 pounds between Los Angeles and San Francisco, Oakland, San Jose, Stockton, Sacramento and Modesto; the rate of 40 cents per 100 pounds between Los Angeles and Nyland, Calipatria, Westmorland, Brawley, Imperial, El Centro, Holtville and Calexico; and the rate of 40 cents per 100 pounds appearing in The Atchison, Topeka and Santa Fe Railway Tariff No. 14815-B, C.R.C. No. 670, between Los Angeles and Fresno-Oil Junction for the transportation of tires and tubes, are unjust, unnecessary, insufficient and non-compensatory, in violation of Section 13 of the Public Utilities Act, and are unduly preferential in violation of Section 19 of the Statute and of Section 21 of Article XIII of the Constitution.

Complainant prays that defendants be required to cease and desist from the alleged violations of the Statute and of the Constitution and be required to maintain in the future higher rates which shall be just, reasonable and sufficient and in conformity with the law.

Public hearings were conducted before Examiner Geary at Los Angeles September 13 and oral argument was had under date of October 18, 1933.

Complainant publishes commodity rates for transportation of tires and tubes between Los Angeles and Bakersfield of 63 cents, Fresno of 65 cents and El Centro of 65 cents, and also transports the commodities under class rates to its Coast Division as far north as San Luis Obispo. All of its rates and charges are higher than those assessed by the defendants.

Exhibits were introduced by complainant's witnesses purporting to prove that the defendant railroads are transporting rubber tires and tubes at charges less than the actual cost of performing the service. The cost figures were assembled from those used in

Western Trunk Line territory, and while they to some extent reflect costs they can at best be considered as only approximate and therefore not controlling in the instant proceeding.

An exhibit introduced by witness for defendant shows that the rates first became effective March 20, 1932, were applied originally as terminal in application, and were limited to a minimum weight of 2000 pounds. Effective July 5, 1932, the minimum weight requirement was eliminated and the rates made to apply to any quantity. A restriction as to the intermediate application has also been removed. The record conclusively shows that prior to the withdrawal of the 2000 pounds minimum requirement defendants received practically no tonnage of tires and tubes. Immediately after the discontinuance of this weight restriction the tonnage increased from practically nothing to a substantial figure. The witness for defendant Southern Pacific Company showed that in April 1933 the Pacific Motor Transport Company transported a total of 382,673 pounds, in May 527,939 pounds and in June approximately 300,000 pounds. The figures given by The Atchison, Topeka and Santa Fe Railway Company, operating within a limited district in the San Joaquin Valley, show that in July 1932 the total tonnage secured was but 2,221 pounds, while in May 1933 it was 27,192 pounds. The testimony of all the defendants' witnesses clearly demonstrated that shippers refused to patronize the rail carriers when rates were based on the minimum weight of 2000 pounds and immediately after this restriction was removed the tonnage increased. It is the contention of defendants that in publishing the rates they were merely endeavoring to meet the charges assessed by contract or wild-cat operators, who while requiring quantity shipments at point of origin, would make split deliveries and thus in fact handle small quantity lots. It is shown that these

contractors have made rates as low as 30 cents to Modesto and 40 cents to San Francisco, as against the protested rates of 40 cents to Modesto and 50 cents to San Francisco, and that shippers have indicated to the railroads that they would return their business to the contract truckers if the minimum weight or the rates were disturbed.

It is defendants' contention that the rates, while less than reasonable, are compensatory and the best obtainable under the competitive circumstances and result in a profit. The rates have been in effect almost two years and have resulted in the development of a heavy tonnage to the defendants and to the convenience of the shipping public. Any change in the rates at this time would result in a return of the traffic to the non-certificated carriers.

The complainant operates only as far north as Fresno on the San Joaquin Division and San Luis Obispo on the Coast Division of the Southern Pacific Company, whereas the rates under protest apply into a very large territory not served by this complainant.

The record further shows that the rates under protest assessed by these two defendants are at the present time in effect by the coastwise steamship lines between San Francisco and Los Angeles and into practically the entire northern territory by the Valley Express Company, a certificated truck operator.

Upon this record we conclude and find that the assailed rates have not been shown to be less than reasonably compensatory rates, for the resulting net revenue is in excess of the actual out-of-pocket costs, and they are shown to be the best rates obtainable in the competitive conflict with the unregulated truck operators.

The case should be dismissed.

#### 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 the above entitled proceeding  
be and it is hereby dismissed.

Dated at San Francisco, California, this 5<sup>th</sup> day  
of February, 1934.

C. C. Seaver  
Lionel C. Whiteley  
W. H. Can  
W. B. Harris  
W. L. Johnson  
Commissioners.