

Decision No. 27359.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Suspension by
the Commission on its own Motion
of Item No. 545-B of THE RIVER LINES
Local and Joint Freight Tariff No.
1, C.R.C. No. 1.

Case No. 3215.

For Respondent: McCutchen, Olney, Mannon & Greene,
by Allan P. Matthew.

For Protestants as their interests may appear:
G. E. Duffy, for The Atchison, Topeka and Santa
Fe Railway Company.
J. E. Lyons and A. L. Whittle, for Southern
Pacific Company.
J. I. Amos, for The Western Pacific Railroad Com-
pany and Sacramento Northern Railway.

HARRIS, Commissioner:

O P I N I O N

This is an investigation instituted by the Commission on its own motion for the purpose of determining the lawfulness and propriety of a reduced rate published by respondent for the transportation of groceries and grocery supplies between its docks at San Francisco, Oakland and Alameda (Encinal Terminals) on the one hand, and Sacramento on the other.¹

The matter was submitted at a public hearing had at San Francisco May 21, 1934.

¹ The rate is contained in Item 545-B of The River Lines Local and Joint Freight Tariff No. 1, C.R.C. No. 1, filed to become effective April 9, 1934, and to expire June 30, 1934. It was suspended April 7, 1934. Respondent stated that if the rate were allowed to go into effect it would be its purpose to extend the expiration date to December 31, 1934.

Respondent's present rate for the transportation of groceries and grocery supplies between these points is 20 cents per 100 pounds regardless of quantity. By the suspended publication it is proposed to reduce it to 15 cents "when the aggregate weight of shipments northbound (upstream) from one point of origin on one day from one or more shippers to one consignee is 14,000 pounds or over *** * provided that the charge on individual shipments shall not be less than the established minimum of 50 cents (50¢), and also provided that shipments upon which the freight charges are prepaid shall not be included in computing aggregate weight of 14,000 pounds referred to above".

The record shows that groceries and grocery supplies are now being transported by unregulated trucks from San Francisco to Sacramento at rates which, when consideration is given to the cost of delivery from respondent's dock to consignee's place of business, are lower than those here proposed; that the service of these unregulated carriers is as fast, if not faster, than that given by respondent; and that respondent has been definitely informed by substantial shippers now using its service that they will be unable to continue to do so unless a rate of the volume of that here sought is established.

Publication of the proposed rate is opposed by The Atchafalaya, Topeka and Santa Fe Railway Company, Southern Pacific Company, The Western Pacific Railroad Company and Sacramento Northern Railway. These carriers maintain a comparable service at rates the same as respondent's present rate on shipments of 4000 pounds or over, and 2½ or 3 cents per hundred pounds higher on smaller lots. They contend that they would be unable to compete under the differential that would be established if the suspended rate was permitted to go into effect. They are particularly concerned however with the

manner in which the rate is being published. To permit split receipts as here proposed, they contend, is to introduce an innovation into the rate-making of inland water and rail carriers, which may have a far reaching effect.²

Respondent concedes that the manner in which the suspended rate is to be published is ordinarily undesirable but stresses the need of meeting unregulated competition by means of a 15-cent rate and points out that to do so without the proposed restriction would materially and needlessly reduce its revenue inasmuch as only about 25% of the groceries transported by it from San Francisco to Sacramento are here involved.

The record clearly shows that respondent must either publish a rate substantially of the volume of that here proposed or forego this traffic. There is no suggestion that the rate is not compensatory. The question of the propriety of publishing rates in this manner is in issue in Case 3773, In Re Investigation of Rates, Rules, etc., of A.T. & S.F. Ry. Co. et al., now awaiting briefs. For the purpose of meeting actual unregulated competition therefore and without prejudice to whatever conclusions may be reached on the more extensive record in Case 3773, the Commission's suspension order of April 7, 1934, in this proceeding should be vacated and the suspended rate permitted to become effective.

The following form of order is recommended:

O R D E R

This case having been duly heard and submitted,

² In the event the suspended rate is permitted to become effective, it is protestants' purpose to seek permission to make like publication for the purpose of meeting respondent's and unregulated competition.

IT IS HEREBY ORDERED that the Commission's order of April 7, 1934, and as extended May 7, 1934, suspending until June 9, 1934, Item 545-E of Local and Joint Freight Tariff No. 1, C.R.C. No. 1, of The River Lines, be and it is hereby vacated and set aside and this proceeding discontinued as of May 17, 1934.

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

Dated at San Francisco, California, this 14th day of May, 1934.

C. J. Seney

W. J. Cunn

M. B. Harris

Commissioners.