

Decision No. 27345

RECEIVED
SEP 11 1934

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application)
of F. W. GOMPH, as Agent for all)
carriers, parties to Pacific Freight) Application No. 19507.
Tariff Bureau Tariff No. 221, C.R.C.)
No. 528, for authority to amend Item)
No. 435 of said tariff.)

Edward C. Kenwick, James E. Lyons, Gerald E. Duffy
and L. N. Bradshaw, for applicant.

BY THE COMMISSION:

O P I N I O N

This is an application by F. W. Gomph as agent for all carriers, parties to Pacific Freight Tariff Bureau Tariff No. 221, C.R.C. No. 528, for permission under Section 63 of the Public Utilities Act to amend Section 3 of Item 435-A of the tariff, so as to read as follows:

"Where stockyard companies make a charge for furnishing hoof weights to carriers, such charge shall accrue against the shipment in addition to the rates named in this tariff or other tariffs governed by the rules published herein."

The application also seeks permission to publish the proposed rule in connection with the rates on livestock in Item No. 1101-A of Southern Pacific Company's tariff No. 645-D, C.R.C. No. 3118.

A public hearing was held at San Francisco August 23, 1934, before Examiner Geary, and the case being duly submitted is now ready for an opinion and order.

The usual notices were issued and in addition individual notification of the hearing was forwarded to principal shippers of livestock to be affected by the change but no one appeared in

opposition to the application.

Applicant's witnesses introduced a number of exhibits showing the history of the rates and analysed the livestock movement.

Prior to January 25, 1932, the date upon which the interstate livestock rates were published in accordance with Decision in Docket No. 17,000, Part 9, (176 I.C.C. 1) all rates within the State of California applying to livestock were named in dollars and cents per car and no weights were necessary on which to compute the freight charges. At page 92 of the Interstate Commerce Commission decision, the following language is employed:

"It is customary at the larger markets for the stockyards company, which weighs the livestock on the hoof after it is sold, to furnish those weights to the carriers without charge therefor, and the carriers use them as the basis for collection of freight charges."

Shortly after the changed rates on livestock were published, some of the stockyards on the Pacific Coast began the assessing of a certain amount per car against the carriers for furnishing them with the hoof weights of the livestock. In most cases this charge was 50 cents per car and is now being assessed principally at South San Francisco and Los Angeles.

Effective May 20, 1933, a rule similar to the one here proposed was published in certain interstate tariffs and requests were made on the Interstate Commerce Commission to suspend the publication; the petitions, however, were denied and the rule is now in effect on interstate traffic. With two different rules in the tariffs, an unsatisfactory situation has developed within California as between the competing carriers. This is fully illustrated by referring to the shipments of livestock from Westwood, California. When the stock moves all intrastate via the Western Pacific, that carrier must absorb the charge assessed by

the stockyard companies for furnishing the hoof weight. However, if the shipments are transported via the Southern Pacific Company, which carrier moves the Westwood traffic through Nevada to reach the same destinations in California, the interstate tariffs govern, and the shipper must either furnish the hoof weights or pay carrier the 50 cent charge for securing the same.

It is a common practice in connection with many commodities for railroads throughout the United States to accept shippers' weights (who furnish them without a charge) as the basis for assessing freight charges and there appears to be no reason why this method should not be applied in connection with the livestock; especially in view of the fact that the stock is always hoof weighed for the benefit of the buyer and seller. It would also seem that the stockyards charge the owner of the animals for the weighing and when an additional charge is assessed against the railroads, the same service is paid for twice.

We are of the opinion that the arrangement for securing weights of livestock on the hoof and the rule in connection with the rail charges should be uniform. Upon consideration of all of the facts above, we are of the opinion and find that the proposed rule should be permitted to go into effect and the application should be granted.

ORDER

This application having been heard and submitted,

IT IS HEREBY ORDERED that the applicant F. W. Gomph, as agent for all carriers parties to Pacific Freight Tariff Bureau Tariff No. 221, C.R.C. No. 528, is hereby authorized to amend Section 3 of Item 435-A, and that the Southern Pacific Company be authorized to amend Item No. 1101-A of its tariff No. 645-D, C.R.C. No. 3118, as set forth in the application. The amended rule to be published in tariffs effective within 30 days from the

date of this order and upon not less than ten (10) days notice in the manner prescribed in Section 14 of the Public Utilities Act.

Dated at San Francisco, California, this 11th day of September, 1934.

Leon White

M. H. Cunn

M. B. Lewis

Walter W. ...

Commissioners.