

Decision No. 27388.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Suspension by the Commission on its own motion of reduced rates on hardware, paint and paint materials, roofing and building materials and articles grouped therewith, named in The Atchison, Topeka and Santa Fe Railway Company's Tariff Cal.R.C. No. CL 1359, and in Items 759 and 759-A of Pacific Motor Transport Company's Local Express Tariff No. 9, C.R.C. No. 13.

Case No. 3830.

**ORIGINAL**

In the Matter of the Investigation by the Commission on its own motion into the rates on hardware, paint and paint materials, roofing and building materials and articles grouped therewith.

Case No. 3870.

W. K. Downey for motor freight Terminal Company.  
Willard S. Johnson for Valley Express Company.  
J. E. Lyons and A. L. Whittle for Southern Pacific Company and Pacific Motor Transport Company.  
Berne Levy and G. E. Duffy for The Atchison, Topeka and Santa Fe Railway Company.  
H. R. Brashear for Los Angeles Chamber of Commerce.  
R. S. Campbell for Union Hardware and Metal Company.  
C. S. McLenegan for Inter-City Transport Company.  
A. W. Brown for Paraffine Companies, Inc.  
G. J. Olsen for Dunham, Carrigan & Hayden Company.  
E. L. McConnell for Valley & Coast Transit Company and Coast Line Express.  
J. E. Gibson for Oakland-San Jose Transportation Company, Inc.  
J. W. Silva in propria persona.  
W. H. Kessler for California State Code Authority for Trucking Industry.  
E. G. Wilcox for Oakland Chamber of Commerce.

WHITSELL, Commissioner:

O P I N I O N

Reduced rates for the transportation of hardware, paint and paint materials, roofing and building materials and articles grouped

therewith from Los Angeles to various points in California filed by The Atchison, Topeka and Santa Fe Railway Company and the Pacific Motor Transport Company were suspended by the Commission (Case 3830) upon representations made by the Motor Freight Terminal Company that they were unreasonably low and detrimental to its interests.<sup>1</sup>

Public hearings were had at Los Angeles and at San Francisco.

The record made at these hearings shows that the suspended rates were published following informal negotiations between respondents and the Los Angeles Chamber of Commerce for the purpose of placing shippers at Los Angeles on a parity with those located at San Francisco. It was contended on behalf of the Chamber of Commerce and of a hardware dealer in Los Angeles that the rates from Los Angeles to points in the San Joaquin Valley and coast territories were on a basis substantially higher than those from San Francisco to equally distant points, making it necessary for shippers located in Los Angeles either to absorb the difference in transportation charges or to forego the business. After adding 40 miles to the distances from Los Angeles to San Joaquin Valley points to compensate for adverse operating conditions over the Tehachapi Mountains, the rates proposed are said to place the two jobbing centers on a substantially comparable basis.

It is not disputed that under the present adjustment jobbers located at San Francisco Bay points have a rate advantage over those located in Los Angeles. Respondents testified that in recent years the rates on hardware and related articles from Los Angeles have been on a substantial parity with those applying from San Francisco and that this parity was disrupted by a reduction in the San Francisco rates made for the purpose of meeting the rates of an unreg-

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<sup>1</sup> The proposed rates are published in A.T. & S.F. Ry. Co. Tariff Cal. R. C. No. CL 1359 and in Items 759 and 759-A of Local Express Tariff No. 9, C.R.C. No. 13 of the Pacific Motor Transport Company.

ulated carrier. Moreover, a witness for protestant admitted that the rates from San Francisco and Los Angeles should be equalized at some midway point. It was his contention, however, that the rates on the commodities here involved were already on an unduly low basis and that any preference and prejudice that might exist should be removed by increasing the rates and restricting the commodity groupings now applying from the San Francisco Bay region, rather than by a further reduction in the rates from Los Angeles. At the conclusion of the hearing respondents stated that the proposed adjustment was compelled by competitive conditions, and offered, with the Commission's approval, to accept protestants' proposal of removing what preference and prejudice there might be by increasing the rates from the San Francisco Bay area instead of further reducing those from Los Angeles, provided that competing regulated carriers would make similar increases.<sup>2</sup> It was suggested by both respondents and protestants that because of the relationship between the rates from the northern and southern jobbing centers the Commission should have before it the entire rate structure.

Following this suggestion, the Commission instituted an investigation (Case 3870) on its own motion into the rates on the commodities here in issue maintained by the various transportation companies operating from San Francisco Bay points to points south thereof, for the purpose of bringing before it the entire adjustment and thereby enabling it to make such order as circumstances might require. The suspension proceeding was reopened for further hearing and consolidated with the investigation proceeding. Further hearing was had at San Francisco.

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<sup>2</sup> In making this offer, however, respondents stated that it would be their purpose to readjust the rates at a later time should it develop that different rates were required to meet unregulated competition.

Respondents, the Atchison, Topeka and Santa Fe Railway Company and Pacific Motor Transport Company, submitted no further testimony, but rested their case on the record and offer made at the previous hearing.

Protestant, Motor Freight Terminal Company, introduced a number of exhibits intended to show that not only the proposed rates but also those now in effect from Los Angeles are unduly low. According to these exhibits the cost of transporting less than carload commodities, exclusive of the line haul, is 46.83 cents per 100 pounds. Protestant has added to these terminal costs the purported cost for line hauls of various lengths and has apportioned the charges so obtained between first, second, third and fourth class to show that the cost of transporting these commodities is very substantially in excess of the rates here proposed. It contends that if the rates of The Atchison, Topeka and Santa Fe Railway Company and the Pacific Motor Transport Company are further reduced, it will have to do likewise or forego the traffic and that it is not in a position either to reduce its rates or to sacrifice tonnage. This protestant further contends that the wide range of commodities included in these various groupings is unreasonable, unnecessary and unjustifiable and that unless the present practice of continually enlarging these groupings is curbed existing rate structures will be completely revolutionized to the detriment of transportation companies generally. It points out that numerous commodities are included in both the hardware and grocery grouping and that in certain instances the rates on a commodity vary according to whether the article is shipped as hardware or as groceries.

Witnesses for the Valley & Coast Transit Company, Coast Line Express, and Inter-City Transport Company likewise testified that in their opinion the mixtures permitted under these items were too broad.

The Valley Express Company joined in the proposal of the Motor Freight Terminal Company and adopted the testimony of its witnesses.

A witness for a hardware distributor in San Francisco testified that his concern distributed hardware under class rates prescribed by this Commission<sup>3</sup> for over twenty years without any difficulty; that in recent years conditions have been somewhat disrupted through commodity rate publications made by the various carriers, and that he preferred to see the relationship existing under the old class rate structure maintained. He expressed himself in favor of a further extension of the various commodity items but admitted that an elimination of these items would correct certain of the existing difficulties, although he did not advocate such a change.

The figures shown in protestants' exhibits, although not seriously challenged, cannot be accepted as an absolute yardstick. If they are correct, substantially all the less than carload rates in this State are greatly depressed. However the record is convincing that in general the existing rates for the transportation from Los Angeles of the commodities here in issue are not unduly high and that any reduction either in the volume of these rates themselves or by an extension of the commodity grouping would needlessly impair protestants' operations. It further shows that on the whole the rates from the San Francisco Bay area are on a depressed basis and that they will not be unduly high if increased by the amount of the reductions respondents propose in the rates from Los Angeles and by a restriction in the commodity grouping so as to make it conform to that in effect from Los Angeles.

Under the circumstances the Commission should order the respondents in Case 3830 to cancel the suspended rates and to remove the

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<sup>3</sup> Traffic Bureau of the Merchants Exchange vs. Southern Pacific Co. et al., 1 C.R.C. 95.

alleged preference and prejudice by increasing the rates from San Francisco by the amount of the reduction proposed under the suspended rates and by restricting the commodity groupings to coincide with those now applying from Los Angeles. Respondents in Case 3870 competing with those in Case 3830 should be required to maintain rates not lower than those to be established by the Pacific Motor Transport Company and The Atchison, Topeka and Santa Fe Railway Company. Should it appear in making this adjustment that in particular instances the rates herein established work an undue hardship upon distributors in the San Francisco Bay area or that they cannot be maintained for competitive reasons, the Commission should permit such changes as the circumstances may require, provided corresponding changes are made in the rates from Los Angeles if similar conditions obtain.

The following form of order is recommended:

O R D E R

This matter having been duly heard and submitted,

IT IS HEREBY ORDERED that respondents, The Atchison, Topeka and Santa Fe Railway Company, Gilroy Express, Hall Consolidating Company, Highway Transport Company, Holmes Express, Intercity Transport Lines, Inc., Oakland-San Jose Transportation Company, Inc., Pacific Motor Transport Company, Pioneer Express Company, J. W. Silva, Valley & Coast Transit Company, Valley Express Co. and Valley Motor Lines, Inc., be and they are hereby required to establish within thirty (30) days from the effective date of this order on not less than ten (10) days' notice to the Commission and the public, the rates prescribed in the opinion which precedes this order.

IT IS HEREBY FURTHER ORDERED that respondents, The Atchison, Topeka and Santa Fe Railway Company and Pacific Motor Transport

Company, be and they are hereby required to cancel the rates suspended in Case 3830 on or before the effective date of those herein established.

IT IS HEREBY FURTHER ORDERED that upon the cancellation of the suspended rates, our order of May 7, 1934, and as extended in Case 3830 be and it is hereby vacated and set aside and that proceeding discontinued.

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 24<sup>th</sup> day of September, 1934.

Leon Anthony

W. J. Carr

M. S. Lammie

Walter P. Mason

Commissioners.