Decision No. 27789.

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Suspension by the Commission on its own Motion of Item 32 of Supplement No. 6 to ASBURY TRUCK COMPANY'S Local Freight Tariff No. 4, C.R.C. No. 4.

Case No. 3947.

F. H. Asbury and D. L. Campbell, for Asbury Truck Company.

G. E. Duffy, for The Atchison, Topeka and Santa Fe Railway Company, as its interests may appear.

W. K. Downey, for Motor Freight Terminal Company, protestant.

BY THE COMMISSION:

O P I N I O N

Asbury Truck Company, the respondent here, filed with the Commission to become effective December 26, 1934, Supplement No. 6 to its Local Freight Tariff C.R.C. No. 4, in which is contained Item 32 providing that shipments of oil well supplies, heavy machinery, pipe, steel and tanks originating at any point on respondent's line will be transported to Los Angeles at 60% of the rate applicable to like shipments moving from Los Angeles to such points of origin.[1]

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[1] Respondent's tariff provides rates over eleven routes and for lateral departures therefrom for the service of oil fields in what are known as "Los Angeles Basin", "Coastal Fields", "Midway Fields" and "Kettleman Hills Fields". The eleven routes are as follows:

1. Between Salinas and Los Angeles and Los Angeles Harbor points, Calif., via the Coast Highway.
2. Between Fresno and Los Angeles and Los Angeles Harbor points, via Bakersfield, Calif., and the Ridge and/or Tehachapi routes.
3. Between Los Angeles and Los Angeles Harbor points and San Bernardino, Calif., via the Foothill and Valley Boulevards.

Upon representations made by Motor Freight Terminal Company, a common carrier competing with respondent in the greater portion of the territory here involved, that the proposed item if permitted to become effective would result in rates which would be unduly low and detrimental to its interests, the Commission suspended the item pending a determination of its lawfulness.

A public hearing was had before Examiner Geary at Los Angeles January 17, 1935.

Respondent testified that there was a movement of scrap iron of approximately 600 tons per month from the oil fields in the San Joaquin Valley and about 200 tons per month from those in the Santa Barbara district; that this traffic was being transported by unregulated carriers at rates of approximately the volume of those here proposed; that respondent could not secure any portion thereof under its present rates but believed that it could participate in the traffic if the proposed rates were established. It argued that it had equipment suitable for the transportation of this tonnage, returning empty to Los Angeles on which it could be handled at very little additional cost. In fact, the only additional cost of any consequence, it contended, is that of loading and unloading the shipments. The tonnage is said to be

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4. Between Owenyo and Los Angeles and Los Angeles Harbor points, via Mojave, Calif.
5. Between Los Angeles and Los Angeles Harbor points and San Diego, Calif., via the Coast or Inland routes.
6. Between Los Angeles, Los Angeles Harbor points and Imperial Valley points, via Coast or Inland routes to San Diego, Calif., and via State Highway to Imperial Valley.
7. Between Los Angeles and Los Angeles Harbor points and Santa Monica Bay, Calif., points.
8. Between San Bernardino and Needles, Calif., via National Old Trails Road.
9. Between San Bernardino, Calif., and Imperial Valley points and California-Arizona State Line via Ocean-to-Ocean Highway.
10. Between Bakersfield and McKittrick, Fellows, Taft and Maricopa, Calif.
11. Between Fresno and Coalinga and Alcalde, Calif.

moving in lots of from three or four tons up to 20 tons.

Protestant estimated that the scrap iron tonnage flowing between these points was probably twice that suggested by respondent. It contends however that a substantial portion thereof is being transported by men who purchase it in the oil fields and transport it as their own property, and that the unregulated carriers which participate in the movement have in general filed with the Code Authority tariffs naming rates of the volume of those now maintained by respondent.

Protestant transports a substantial volume of tonnage to Los Angeles from both the San Joaquin Valley and the Santa Barbara territory, as well as from other points at which it competes with respondent, at rates similar to those respondent now maintains.[2] The shipments from the oil fields consist of such commodities as drilling bits, machinery and sundry supplies, mostly used and returned for repairs. Protestant testified that it had received no complaints to the effect that its rates were too high, but that it was told that if the rates here under suspension were permitted to become effective it would have to meet them or lose the business it now enjoys, including the traffic which the same shippers move in the opposite direction. Doing so would result in substantial and alleged needless losses in protestant's revenue.

In April 1933 at the time it applied for a certificate of public convenience and necessity respondent testified to the effect that the rates then proposed, which were the same as or higher than those now in effect, were on an unduly depressed basis and would result

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2 Protestant's average tonnage from the San Joaquin oil fields to Los Angeles has been between 250 and 300 tons per month, and from the Ventura and Santa Barbara districts between 50 and 75 tons per month.

"in an operating loss, in that moneys which would otherwise be set aside as a reserve for depreciation will not be earned."[3] The rates then proposed were said to be the best that could be obtained under the then existing conditions. Because of substantial purchases of supplies before prices increased and the practice of rebuilding equipment in its own shops respondent's operating costs apparently have not materially changed. The record shows however that the cost of equipment, material and supplies has advanced during the past two years. Protestant believes the proposed rates to be "on the border line" of out-of-pocket costs if sizable shipments are considered, and below out-of-pocket costs if shipments moved in small quantities.

Neither Motor Freight Terminal Company nor The Atchison, Topeka and Santa Fe Railway Company, which likewise competes in a substantial portion of the territory here involved, offers any objection to respondent's meeting actual unregulated competition, provided that the rates published are for that purpose only and do not unnecessarily reduce rates for the transportation of other commodities. They suggest that scrap iron transported via unregulated carriers moves in substantial quantities, and that a minimum should therefore be established in connection with rates published to meet such competition.

By respondent's own testimony practically all of the business which it is hoping to secure by the publication of these rates consists of scrap iron from the oil fields in the San Joaquin Valley and in the Ventura-Santa Barbara districts. Its witnesses admitted that it had made no survey to determine what if any tonnage was moving to Los Angeles from other points by unregulated carriers. It affirmed the posi-

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3 Pages 139 and 141 of transcript in Application 18634.

tion taken by its witness during the hearing in Application 18634 heretofore referred to, and made no attempt to justify these rates on other than a bare out-of-pocket cost theory.

Inasmuch as unregulated carriers generally are said to have filed rates based on respondent's tariff, the record is not convincing that reduced rates are necessary for the purpose of meeting unregulated truck competition, even as to the transportation of scrap iron from the oil fields to Los Angeles. Clearly however the record does not disclose a need at this time for a 40% reduction in the existing rate structure of regulated carriers between the extensive territories here involved on commodities other than scrap iron. Respondent will be required to cancel the rates under suspension without prejudice to its right to file for the transportation of scrap iron having value for remelting purposes only, such rates as may be necessary to meet the actual competition of unregulated carriers.

O R D E R

This matter having been duly heard and submitted,

IT IS HEREBY ORDERED that respondent Asbury Truck Company be and it is hereby ordered and directed on or before February 20, 1935, on not less than five (5) days' notice to the Commission and the public, to withdraw the rates here involved without prejudice to the filing of such other rates for the transportation of scrap iron from the oil fields in the San Joaquin Valley and the Ventura-Santa Barbara districts as may be actually necessary hereafter to meet the competition of unregulated carriers.

IT IS HEREBY FURTHER ORDERED that upon the cancellation of the suspended rates our order of December 22, 1934, be and it is hereby vacated and this proceeding discontinued.

Dated at San Francisco, California, this 28th day of January, 1935.

Leon Whitsell

W J Carr

M B Harris

Wm. J. Carr [illegible]

Frank R Devlin

Commissioners.