

Decision No. 28760.

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation
by the Commission upon its own Motion
into the lawfulness of rates, rules,
regulations and practices of common
carriers engaged in the transportation
of property between San Francisco on
the one hand and Sacramento and Stock-
ton and other points in the State of
California, on the other hand.

Case No. 4103.

McCutchen, Olney, Mannon & Greene, by Allan P. Matthew,
John C. Stone, L. I. McKim and F. W. Mielke, for
The River Lines.
James Broz, for Valley Motor Lines and Valley Express Co.
G. E. Duffy and Berne Levy, for The Atchison, Topeka and
Santa Fe Railway Company and Central California Trac-
tion Company.
H. H. McElroy, for Southern Pacific Company.
L. N. Bradshaw, H. E. Poulterer and J. L. Amos, Jr., for
The Western Pacific Railroad Company, Sacramento
Northern Railway and Tidewater Southern Railway.
Roy B. Thompson, for the Truck Owners Association of
California.
Thomas S. Louttit and J. Richard Townsend, for the Stock-
ton Traffic Bureau, City of Stockton, Stockton Port
District, Stockton Chamber of Commerce and San Joa-
quin County Farm Bureau Federation.
Edwin G. Wilcox, for the Oakland Chamber of Commerce.
Carl R. Schulz, for the Islais Creek Grain Terminal.

WARE, Commissioner:

O P I N I O N

By petition filed with the Commission, California Transporta-
tion Company, Sacramento Navigation Company, both corporations, and
N. Fay and N. A. Fay, copartners doing business as Fay Transportation
Company, all conducting a unified transportation service by vessel be-
tween points on the inland waters of the State of California under the

fictitious name of The River Lines, alleged that the present store-door to store-door rates charged for the transportation of property by common carriers between San Francisco and East Bay cities on the one hand and Sacramento and Stockton on the other were unduly low and insufficient. An order instituting an investigation upon the Commission's own motion for the purpose of determining the sufficiency and lawfulness of such rates was sought.

Pursuant to this request, the Commission on February 1, 1936, issued its order of investigation in the above entitled proceeding naming as respondents all common carriers furnishing a store-door pick-up and delivery service between San Francisco Bay district on the one hand and Sacramento and Stockton on the other and territory adjacent thereto, particularly for the purpose of determining whether or not the store-door to store-door rates maintained by said carriers between said points were adequate, sufficient and reasonable.

Public hearings were had at Stockton and Sacramento on February 11, 13, 18 and 19, 1936, on which latter date the matter was taken under submission.

Dock to dock or terminal to terminal rates are not in issue. The question presented for determination here involves the sufficiency of the differential added by respondents to their dock to dock or terminal to terminal rates in constructing store-door to store-door rates.

The record indicates that in the territory here involved, store-door service was first made available March 7, 1931, by Pacific Motor Transport Company, an express corporation and subsidiary of Southern Pacific Company, a common carrier by rail. Shortly thereafter, other respondent carriers operating between San Francisco Bay district and Sacramento and Stockton extended similar service.

The terminal to terminal class rates in effect before the store-door service was inaugurated, as well as now, and the original and presently effective store-door rates between San Francisco on the one hand and Sacramento and Stockton on the other are as follows:

: Terminal : to : Terminal				:	Store-Door to Store-Door				:	Present Rates			
				:	Effective Mar. 7, 1931				:				
1	2	3	4	:	1	2	3	4	:	1	2	3	4
Stockton	25	22½	20	:	35	33	30	27	:	35	30	28	25
Sacramento	34	29½	25	:	44	40	35	33	:	44	40	35	33

In addition to class rates, less carload any quantity commodity rates generally equal in volume to 4th class rates and quantity commodity rates subject to minima of 4,000, 8,000, 10,000 pounds and over are maintained by respondents between the points here involved. In volume the 4,000 pound scale ranges from the 4th class rates to 3 cents per 100 pounds less than 4th class. A very substantial portion of the less carload and less truckload traffic is said to move under these commodity rates.

The differential between terminal to terminal class rates and store-door to store-door class rates ranges from 7½ to 10½ cents per 100 pounds. Between terminal to terminal and store-door to store-door less carload commodity rates the differential is in many cases substantially less.¹

The River Lines propose the cancellation of all store-door rates, including split delivery rates and rules, between San Francisco, Oakland, Alameda, Emeryville, Berkeley, Richmond and South San Francisco on the one hand, and Martinez, Avon, Port Chicago, Pittsburg, Antioch,

¹ Prior to the inauguration of store-door to store-door service there were very few less carload commodity rates in this State.

Stockton and Sacramento on the other hand, and in their stead, the re-establishment of rates on the following basis:

1. Any quantity class rates equal in volume to the terminal to terminal class rates plus $13\frac{1}{2}$ cents per 100 pounds.
2. Commodity rates on groceries and grocers' supplies and on hardware, paint and paint materials, roofing and building materials and miscellaneous articles as described under those captions in Pacific Motor Transport Company Tariff No. 8, C.R.C. No. 13, equal in volume to the 4th class rates as constructed in paragraph 1, except that on lots of not less than 8,000 pounds, 10 cents per 100 pounds be added to the terminal to terminal 4th class rate.
3. If, in lieu of an allowance to shipper or consignee as the case may be, rates are now published which include either a pick-up or a delivery service, but not both, such rates shall be republished to reflect the same differential under respondents' store-door to store-door rates as at present.
4. Rates maintained by respondents at points beyond the territory referred to in paragraph 1, which when applied immediately would defeat the proposed rates, shall either be increased to the level of the proposed rates or maintained as at present under relief from the long and short haul provisions of the Public Utilities Act and the Constitution.

The physical service of picking up and delivering property to and from respondents' terminals, docks and depots is largely performed by city draymen under contract with the carriers. However, some of the respondents perform this service themselves. The cost of furnishing pick-up and delivery service varies in different localities. In San Francisco, where the majority of respondents render this service through draymen, the cost is said to range from $8\frac{1}{2}$ to 9 cents per 100 pounds for any-quantity shipments and as low as 5 cents per 100 pounds for shipments weighing 8,000 pounds and over.² At Sacramento, Stockton and other points in issue, the cost of rendering this service

² J.C. Stone, Traffic Manager, The River Lines, testified that his concern's contract with Federated Terminals, an association of drayage concerns in San Francisco, provided among other things the following:

"Where weight of shipment transported from one consignor to one consignee on one bill of lading is 235 pounds or less, 20 cents. That serves as a minimum charge."

"Where weight of shipment transported from one consignor to one consignee on one bill of lading is 236 pounds to 4,700 pounds, $8\frac{1}{2}$ cents per 100 pounds. Where weight of shipment transported from one consignor to one consignee on one bill of lading is 4701 pounds to 8,000 pounds, \$4 per shipment. Where weight of shipment transported from one consignor to one consignee on one bill of lading is 8,001 pounds or over, 5 cents per 100 pounds."

has been shown to be not less than 5 cents and as high as $7\frac{1}{2}$ cents per 100 pounds. From the evidence thus presented it is apparent that the added cost of rendering store-door service over terminal service is not less than $13\frac{1}{2}$ cents and possibly as high as $16\frac{1}{2}$ cents per 100 pounds on any quantity lots and not less than 10 cents per 100 pounds on quantity lots of 8,000 pounds or more. The evidence thus offered was confirmed by the testimony of representatives of other respondents and stands neither challenged nor contradicted.

Although the reasonableness of the terminal to terminal class rates in and of themselves is not in issue, convincing evidence was offered establishing them as subnormal and severely depressed by reason of acute rail, water and truck competition. Indeed such rates between the San Francisco Bay district on the one hand and Stockton on the other are said to be as low as if not lower than, any other scale of class rates for similar distances in the United States. It seems clear from the record that these rates at best are not so high as to be productive of sufficient revenue to assist in defraying the added expense of rendering store-door service.

The rail line respondents advanced no objection to the increases in store-door rates resulting from The River Lines' proposal, conceding that such increases are justified by the added expense incurred in rendering the service. However, they do object to the proposal in several particulars. Their position may be stated as follows:

1. If the store-door rates are to be increased, then the terminal to terminal rates should likewise be increased sufficiently to preserve a differential between the two sets of rates of 10 cents per 100 pounds.
2. The dock to dock or terminal to terminal rates, rules and regulations of all respondents operating between San Francisco Bay district on the one hand and Stockton and Sacramento on the other should be uniform in their application, particularly with respect to the free return of empty containers and C.O.D. shipments.
3. Elimination of split delivery rules and rates at Sacramento and Stockton will result in discrimination and long and short haul departures.

The rail lines presented no evidence in support of maintaining a uniform differential of 10 cents per 100 pounds between terminal and store-door rates by means of corresponding increases in the terminal rates other than the statement that an increase in this spread is not desirable. They appear to be apprehensive that a greater differential between the two sets of rates will have a tendency to encourage shippers and receivers to dray their own shipments to and from the depots and terminals instead of availing themselves of the through store-door to store-door service. However, the reasonableness of the terminal to terminal rates is not in issue in this proceeding.

The rail lines furthermore pointed out that The River Lines load and discharge less carload traffic to and from their vessels at docks and piers along the San Francisco waterfront at their terminal to terminal rates. This service seems to be somewhat akin to trap car service rendered by the rail lines at terminal to terminal rates where the line haul revenue amounts to \$15.00 or more. Each class of carrier possesses those slight advantages that accrue from the physical characteristics attending the method of operation employed.

No evidence was offered by the rail lines with respect to the necessity or desirability of the maintenance of uniform rates and rules on free return of empty containers and C.O.D. shipments.

Little evidence was offered in support of the abolition of split delivery rates. Under ordinary circumstances and in the absence of proprietary truck competition, the maintenance of split delivery rates should be discouraged as tending to break down the rate structure, decrease revenues and thus impair the efficiency of the transportation system of the State. However, split delivery rates are now in effect between San Francisco and East Bay cities on the one hand and points beyond the territory involved in this proceeding and the objection advanced by the rail carriers that the abolition of such rates and

rules would create long and short haul violations and result in discrimination is not without merit.

Moreover, the propriety of common carriers maintaining split delivery rates is in issue in Case 3773.³ By Decision No. 27259 the Commission issued a proposed general order concerning split deliveries and other matters involved in that proceeding. In accordance with the order in that decision, exceptions to the proposed general order were thereafter filed and further hearings had. By Supplemental Opinion and Order issued today in Case 3773, the Commission adopted General Order No. 92 governing split pick-up and delivery rates. In view of the foregoing no order should be made in this proceeding cancelling split delivery rates.

No objections to the proposed increases were advanced by those representing shippers and chambers of commerce.

Respondents maintain a terminal to terminal "all-freight" rate of 10 cents per 100 pounds subject to a minimum weight of 20,000 pounds applicable between San Francisco and East Bay cities on the one hand and Stockton and intermediate points on the other hand. Under the proposal here, the lowest store-door to store-door commodity rate that might be constructed between the same points for shipments weighing 20,000 pounds is 27 cents per 100 pounds. Commodity rates so constructed would result in a differential of 17 cents per 100 pounds over the terminal to terminal "all-freight" rate.

Furthermore, the carload "all-freight" rate of 10 cents applies from store-door served by private industry track to store-door private industry track and its use would result in lower charges than the proposed 27-cent commodity rate basis on all shipments weighing

³ In re Investigation by the Commission on its own motion of the rates, rules, regulations, etc., of The Atchison, Topeka & Santa Fe Railway Co. et al.

7,410 pounds or more. Of course, store-door service includes loading and unloading while trap car or carload services do not. While it seems obvious that an added expense is incurred in performing loading and unloading services, whether undertaken by the carrier or shipper, there is no evidence in this record of assistance in determining the value of such services.⁴ At least, the cost of such services plus the 10-cent "all-freight" rate would still defeat a store-door commodity rate of 27 cents per 100 pounds on shipments weighing between 8,000 and 9,000 pounds. Although the record is convincing that the cost of performing store-door service is at least 10 cents per 100 pounds higher than the cost of performing terminal service, the Commission may not under the provisions of the Public Utilities Act require the establishment of store-door commodity rates for shipments weighing 8,000 pounds or more as high as proposed when it clearly appears that such rates would be defeated by the existing 10-cent "all-freight" rate. Furthermore, the proposal here made to restrict the application of commodity rates regardless of quantity to those commodities specifically described under the captions, groceries and grocers' supplies, hardware, paint and paint materials, roofing and building materials, is not justified on this record.

In addition to the store-door rates between San Francisco Bay cities on the one hand and Stockton and Sacramento on the other, such rates to and from points beyond San Francisco and Oakland to and including Santa Clara and San Jose and beyond Stockton and Sacramento to and including Gustine, Turlock, Denair, Waterford, Milton, Waterloo, Wood-

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In case 4081, In re Investigation by the Commission on its own motion into rates, rules and practices of highway carriers for the transportation of cement, etc., decided November 4, 1935, a charge of $\frac{1}{2}$ cent per 100 pounds was established as a minimum accessorial charge for unloading cement. The record there made indicated that cement, being sacked in uniform sacks weighing approximately 95 pounds each, was relatively economical to handle.

bridge, Clements, Folsom, Loomis, Yuba City and Zamora are also in issue. The publication of rates of the volume proposed by The River Lines between San Francisco Bay cities and Sacramento and Stockton necessitates increases in the store-door rates to and from the points named beyond San Francisco, Stockton and Sacramento, or the prescription of higher rates for shorter distances than for longer distances. The record fully justifies these resulting increases.

Upon consideration of all the facts of record, I am of the opinion and find that respondents' store-door to store-door class and commodity rates for the transportation of property in lots of less than 8,000 pounds between the points here involved are unjust and unreasonably low in violation of Section 13 of the Public Utilities Act to the extent by which they are less than the rates set forth in Appendix No. I, attached hereto and made a part hereof.

I recommend the following form of order:

O R D E R

Public hearings having been had in the above entitled proceeding, and basing this order on the findings of fact and the conclusions contained in the opinion which precedes this order,

IT IS HEREBY ORDERED that The Atchison, Topeka and Santa Fe Railway Company, a corporation; Pacific Motor Transport Company, a corporation; Southern Pacific Company, a corporation; Stockton Terminal and Eastern Railroad, a corporation; The Western Pacific Railroad Company, a corporation; Sacramento Northern Railway, a corporation; Tidewater Southern Railway Company, a corporation; Modesto & Empire Traction Company, a corporation; Central California Traction Company, a corporation; Valley Express Co., a corporation; W.E. Hibbitt, doing business

as Sacramento Motor Transport; C. L. Dickman, doing business as Dickman Overnight Car Service; Walter J. Johnson and Rose A. Johnson, copartners, doing business as Johnson Truck Lines; Valley Motor Lines, Inc., a corporation; Angelo Piccardo, doing business as Amador County Freight Lines; El Dorado Transportation Company, Inc.; H. A. Higdon and W. H. Sheets, doing business as Overland Transfer Company; J. L. Fithian and L. Sposito, doing business as Roseville-Lincoln Truck Line; W. L. Warner, doing business as Sacramento Auto Truck Company; Sacramento-Corning Freight Lines, Ltd.; Mrs. Louise Beanland, Executrix of the Estate of R. H. Beanland, doing business as Stockton-Murphys Freight Line; United Motor Transport Lines, Inc., a corporation; The California Transportation Company, Sacramento Navigation Company, corporations, and Nahum Fay and Norvin Fay, copartners, all doing business as The River Lines, be and they are hereby ordered to cease and desist on or before June 1, 1936, and thereafter abstain from applying, demanding, collecting or receiving for the transportation of property in lots of less than 8,000 pounds moving under store-door to store-door, or pick-up and delivery, class and commodity rates, between San Francisco, Oakland, Alameda, Emeryville, Berkeley, Richmond, Martinez, South San Francisco, Santa Clara and San Jose on the one hand and Gustine, Turlock, Denair, Waterford, Milton, Stockton, Waterloo, Woodbridge, Clements, Folsom, Sacramento, Loomis, Yuba City, Zamora and intermediate points on the other hand, rates less than the class and commodity rates set forth in Appendix No. I attached hereto and made a part hereof.

IT IS HEREBY FURTHER ORDERED that the above named respondents and each of them be and they are hereby ordered and directed to establish on or before June 1, 1936, upon not less than five (5) days' notice to the Commission and the public

for the transportation of property in lots of 8,000 pounds and less moving under class and commodity rates between the points set forth in the preceding paragraph, store-door to store-door, class and commodity rates no lower than those set forth in Appendix No. I hereof.

IT IS HEREBY FURTHER ORDERED that in all other respects this proceeding be and it is hereby 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 27th day of April, 1936.

M B Lewis
Leon A. [unclear]
M J [unclear]
Walter [unclear]
Frank R. [unclear]
Commissioners

CASE NO. 4103

APPENDIX NO. I

Pick-up and Delivery Rates in Cents per 100 Pounds

BETWEEN

AND	San Francisco					Emeryville, Oakland, Alameda, Berkeley, Richmond.			
	1st Class	2nd Class	3rd Class	4th Class		1st Class	2nd Class	3rd Class	4th Class
Sacramento	47½	43	38½	36	:	47½	43	38½	36
Stockton	38½	36	33½	30½	:	38½	36	33½	30½
Martinez	30½	27½	25	24	:	27½	26½	25	24
Avon	30½	29½	26½	25	:	30½	27½	25	24
Port Chicago	30½	29½	26½	25	:	30½	29½	26½	25
Pittsburg	30½	29½	27½	26½	:	30½	29½	26½	25
Antioch	30½	29½	27½	26½	:	30½	29½	27½	26½
Rio Vista	42	38	33½	30½	:	42	38	33½	30½
Locke	42	38	33½	30½	:	42	38	33½	30½

NOTE NO. 1 Commodity rates on groceries and grocers' supplies and on hardware, paint and paint materials, roofing and building materials and miscellaneous articles as described under those captions in the various pick-up and delivery tariffs of respondents, in lots of less than 8,000 pounds, shall be not less than the fourth class rates set forth above between the same points.

NOTE NO. 2 Class and commodity rates herein set forth contemplate the performance of pick-up and delivery service. Rates published to include pick-up or delivery service but not both may be less than the prescribed rates by amounts not to exceed 5 cents per 100 pounds.

NOTE NO. 3 Class and commodity rates from to or between other points involved in this proceeding shall be increased to the extent necessary to avoid departures from the long-and-short-haul provisions of the Public Utilities Act and the State Constitution which would otherwise be created by publication of the rates set forth above.