

Decision No. 29549.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 THE ATCHISON, TOPEKA & SANTA FE RAIL-
 WAY COMPANY, SOUTHERN PACIFIC COMPANY
 (Pacific Lines), and THE WESTERN PACIFIC
 RAILROAD COMPANY, for authority to can-
 cel allowances now made in their exist-
 ing tariffs of \$1.00 per car for weigh-
 ing certain shipments of potatoes and/or
 onions.

Application No. 20891

ORIGINAL

G. E. Duffy and E. C. Pierre for The Atchison,
 Topeka & Santa Fe Railway Company.
 A. L. Whittle and J. E. Lyons for Southern Pacific
 Company.
 L. N. Bradshaw for The Western Pacific Railroad
 Company.
 Ernest Marx for Weyl-Zuckerman & Co. and General
 Potato and Onion Distributors, Ltd.,
 protestants.

BY THE COMMISSION:

O P I N I O N

This is an application under Section 63(a) of the Public Utilities Act for authority to increase certain charges on carload shipments of potatoes and onions received by the applicants from boats or barges at Stockton, Middle River, Orwood, Isleton and Terminous. It is proposed to cancel items in applicants' tariffs which provide that the actual cost of weighing these commodities not to exceed \$1.00 will be absorbed by the rail lines when they enjoy a line haul.

A public hearing was had at San Francisco on January 11, 1937, before Examiner Mulgrew.

Applicants allege that at the time these absorption provisions were established potatoes and onions were not packed in containers of

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The items are:

Nos. 4819 and 4870-A of Atchison, Topeka and Santa Fe Tariff No. 8117-N, C.R.C. No. 659.

No. 525-I of Southern Pacific Company Tariff No. 230-J, C.R.C. No. 3183.

Nos. 99-B and 99-1-A of Western Pacific Railroad Company Tariff No. 35-J, C.R.C. No. 245.

uniform weight to the extent that prevails under existing trade practices. In the past it was necessary, due to the lack of weight uniformity, to track scale or obtain by other means the actual weight of each carload. Under those circumstances, the rail carriers attached value to the fact that shippers furnished actual scale weights. On shipments originating at points served by water carriers, competition between transportation agencies prompted the rail carriers to compensate shippers for at least some part of the expense of weighing the produce in order to maintain a competitive position. At the present time interstate shipments of potatoes and onions, in sacks, are subjected to published estimated weights for standard shipping containers.² On California intrastate traffic, although estimated weights are not filed with the Commission, weights of identical volume are observed. They are said to be authorized through the medium of weight bulletins issued by the Transcontinental Freight Bureau. For these reasons applicants contend the absorption provisions are no longer necessary. They further contend that because the items are restricted to a certain territory and to traffic handled in a particular manner, they prefer certain shippers of potatoes and onions and prejudice others, and that there are no valid reasons for absorbing the cost of weighing potatoes and onions and failing to provide allowances when shippers of other commodities furnish rail lines with actual weights.

Ernest Marx, Vice-President of Potato and Onion Distributors, Ltd., a subsidiary of Weyl-Zuckerman & Co., protested the granting of the application. He contended that there were no recent developments which justified a change in the prevailing practices, and that the

² These weights as shown in witness Pierre's Exhibit No. 2 are:

When packed and invoiced as:	Estimated weight will be:
15 lbs. per sack	15½ lbs. per sack
25 " " "	25½ " " "
50 " " "	50½ " " "
100 " " "	101 " " "

furnishing of actual weights still was of value to the carriers for the reason that when shippers weigh the produce at the point where it is sacked they are able to adhere more accurately to the net weight shown for each size container than when the net weights are estimated by the loaders. Thus he contends the carriers do not transport weights in excess of the invoiced amounts.

The record shows that a schedule of estimated weights on potatoes and onions moving in interstate commerce was filed with the Interstate Commerce Commission at the Commission's request. Why a similar schedule has not been filed with this Commission inasmuch as the same basis of weights is observed on California intrastate traffic is not shown. The practice of assessing charges on estimated weights instead of on actual weights without filing such estimated weights with this Commission results in a violation of Section 14(a) of the Public Utilities Act.³ It should be discontinued.

Upon consideration of all the facts of record we are of the opinion and find that the application should be granted.

O R D E R

This matter having been duly heard and submitted,

IT IS HEREBY ORDERED that applicants, The Atchison, Topeka and Santa Fe Railway Company, Southern Pacific Company and The Western Pacific Railroad Company, be and they are hereby authorized to cancel absorption of actual cost not to exceed \$1.00 per car for weighing potatoes and onions received from boats and barges at Stockton, Middle River, Orwood, Isleton and Terminous, published in Items Nos. 4219 and 4370-A

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This section provides: "Every common carrier shall file with the Commission and shall print and keep open to public inspection schedules showing the rates, fares, charges and classifications for the transportation between termini in this State of persons and property from each point on its route to all other points thereon * * *."

of Atchison, Topeka and Santa Fe Tariff No. 8117-N, C.R.C. No. 659; Item No. 525-I of Southern Pacific Company Tariff No. 230-J, C.R.C. No. 3183; and Items Nos. 99-B and 99-1-A of Western Pacific Railroad Company Tariff No. 35-J, C.R.C. No. 245, on not less than five (5) days' notice to the Commission and the public and not later than sixty (60) days from the effective date of this order.

The effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 19th day of February, 1937.

Walter H. ...
John ...
Frank ...
Ray ...
Commissioners.