

Decision No. 29915.

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Establishment of
maximum or minimum, or maximum and
minimum rates, rules and regulations
of all Radial Highway Common Carriers
and Highway Contract Carriers operating
motor vehicles over the public highways
of the State of California, pursuant to
Chapter 223, Statutes of 1935, for the
transportation for compensation or hire
of any and all commodities and accessor-
ial services incident to such transporta-
tion.

Case No. 4088
Part "Q"

In the matter of the Investigation and
Establishment of rates, charges, classi-
fications, rules, regulations, contracts
and practices, or any thereof, of Common
Carriers of property.

Case No. 4145
Part "D"

A P P E A R A N C E S

J.L. Amos, Jr. and L.W. Bradshaw, for Western Pacific
Railroad Co. and Sacramento Northern Railway.
Edward Stern and A.L. Demek, for Railway Express Agency.
Roy Thompson and Edward M. Berol, for Truck Owners'
Association of California.
Frank Kensinger for Loose-Wiles Biscuit Company.
W.G. Stone, for Sacramento Chamber of Commerce.
T.G. Differding, for Oakland Chamber of Commerce.
James L. Roney, for Sussman, Wormser Company.
Edwin G. Wilcox, for San Francisco Chamber of Commerce.
McCutchen, Olney, Mannon & Greene by F.W. Mielke and
J.C. Stone for The River Lines.
Irving Lyons and L.R. Keith, for California Packing Corpn.
J.J. Deuel, for California Farm Bureau Federation.
J.E. Lyons and Frank C. Nelson, for the Southern Pacific
Company.
George Hurst and G.E. Duffy, for The Atchison, Topeka and
Santa Fe Railway Company.
John E. McCurdy, for the Poultry Producers of California.
Carl Schulz, for Chichester Transportation Company.
H. M. Hayes, for Intercity and Pioneer Express Company.
R.T. Boyd, for California Brewers' Institute.
Irving Lyons, for Cannery League of California
Lloyd B. Hughes, for Montgomery Ward & Company.

(The appearances listed above were entered during the hearings in Part "Q" of Case No. 4088 and Part "D" of Case No. 4145. For other appearances in these proceedings, see Appendix "A" of Decision No. 28761, dated April 27, 1936, in Part "A" of Case No. 4088; Decision No. 29252, dated November 9, 1936 in Part "P" of Case No. 4088, and Part "C" of Case No. 4145; Decision No. 29480, dated January 25, 1937, in Part "M" of Case No. 4088, and Part "B" of Case No. 4145.)

BY THE COMMISSION:

INTERIM OPINION AND ORDER

These proceedings involve rates for the transportation of property by radial highway common carriers, highway contract carriers¹ and common carriers. The parts with which we are here concerned deal particularly with rates between San Francisco, South San Francisco, Alameda, Oakland, Emeryville, Berkeley and San Leandro (hereinafter referred to as San Francisco Bay points) on the one hand and Sacramento, North Sacramento and certain territory contiguous thereto on the other. They were entered upon at the request of The Truck Owners' Association² of California and upon its representation that in order to eliminate unfair and harmful competition it was necessary and in the public interest that the Commission approve or establish, at least temporarily, just, reasonable and non-discriminatory minimum rates for transportation between the points involved.³ Attached to the Association's petition is an exhibit containing the minimum rates, together with rules and reg-

¹ Decision No. 28761 of April 27, 1936 in Part "A" of Case No. 4088 (39 C.R.C. 703) and Decision No. 29480 of January 25, 1937 in Part "B" of Case No. 4145 contain a full discussion of the purposes for which these proceedings were instituted.

² The Truck Owners' Association of California, hereinafter referred to as the Association, is a non-profit corporation which includes in its membership a large number of highway common, radial highway common and highway contract carriers.

³ Minimum rates were established in Part "A" of Case No. 4088 (Decision No. 28761, 39 C.R.C. 703) for the transportation of property in lots of less than 4000 pounds between these and other points. By Decision No. 28831 in the same proceeding the transportation of shipments in lots of more than 4000 pounds at a lesser total charge than the highest charge prescribed in Decision No. 28761 for a shipment weighing less than 4000 pounds was prohibited. The issues here, however, are much more embracing; they include shipments weighing in excess of 4000 pounds as well.

ulations governing the application thereof, which the Commission has been asked to establish.

Public hearings were held upon a consolidated record before Examiner Howard G. Freas at San Francisco.

various interested parties requested the exclusion of rates for the transportation of numerous commodities. Rates on the property⁴ referred to in the footnote will not be embraced by the order herein.

In support of the proposed rates a witness for the Association introduced a study (Exhibit QD-1) purporting to show the cost of transporting property between the points involved. This study is based upon others previously introduced by Fred H. Chesnut, Assistant Engineer for the Commission, in Parts "A" and "H" of Case No. 4088. The figures developed by Mr. Chesnut are adopted for any quantity movements. Other less than truckload costs are developed from starting costs shown in Decision No. 28761 in Part "A" of Case No. 4088. In the case of truckload costs Mr. Chesnut's figures are modified to reflect a driver's salary of 75 cents per hour to which is added compensation and unemployment insurance making a total of 82 cents per hour as compared with 67

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- (a) milk, cream, buttermilk, cottage cheese, pot cheese and unflavored ice cream mix, when transported in milk shipping cans, in bottles, in cases or crates or in bulk in tanks,
- (b) Fresh fruit and fresh or green vegetables,
- (c) Automobiles,
- (d) Telephone Directories,
- (e) Livestock,
- (f) Nuts, edible; Beans; Peas; Lentils, dried,
- (g) Baggage,
- (h) Grain, Grain Products and Feed, Animal or Poultry as described under those headings in the Western Classification No. 66, C.R.C. No. 611 of M.A. Cummings, Agent, supplements thereto and reissues thereof; also crushed or ground clam, mussel or oyster shells,
- (i) Fertilizer,
- (j) Insecticides and Fungicides, agricultural,
- (k) Hay and Straw,
- (l) Cotton, Cotton seed, cotton meal and cotton cake,
- (m) Shipments weighing less than 100 pounds transported by Railway Express Agency, Inc.,
- (n) Commodities covered by Cases Nos. 4079 and 4086.

cents used in the Part "H" study. Fifteen minutes per ton for loading and unloading including delays is used.⁵ Bridge tolls are also treated in the Association study.

The exhibit also contains a schedule of class rates designed to return the costs of transporting property in less truckload lots. This schedule is constructed by use of a percentage spread between first, second, third and fourth class of 100%, 85%, 70% and 60%. It assumes that 12% of the less than truckload traffic transported under class rates is rateable at first class, 17% at second class, 30% at third class and 41% at fourth class, and that 60% of all less than truckload traffic moving between San Francisco Bay cities and Sacramento is transported at commodity rates equal to 60% of first class.⁶ The rates thus developed subject to common carrier store-door rates as maximum are submitted for the Commission's approval.⁷

The Association also proposed split pick-up and split delivery rules; certain exceptions to classification ratings; less than truckload store-door commodity rates for the transportation of fruit and vegetables, groceries and hardware; and store-door class and commodity rates for the transportation of property in truckload lots. The witness testified

⁵

The costs thus developed of transporting property between the points involved are as follows:

<u>Less than Truckload</u>				
	<u>Any</u>	<u>4,000</u>	<u>8,000</u>	<u>12,000</u>
	<u>Quantity</u>	<u>Pounds</u>	<u>Pounds</u>	<u>Pounds</u>
Cost per ton	\$8.553	\$6.782	\$6.293	\$6.069
<u>Truckload</u>				
		<u>20,000</u>	<u>30,000</u>	<u>40,000</u>
		<u>Pounds</u>	<u>Pounds</u>	<u>Pounds</u>
Cost per ton		\$4.006	\$3.48	\$3.38

⁶

This is the formula used by Witness W.S. Johnson, Assistant Rate Expert for the Commission, in presenting a study of the problem of providing minimum rates sufficient to return the cost of transportation by truck developed by the Commission's Engineering Division in Part "A" of Case No. 4088, with the exception that he assumed that 60% of less than truckload traffic moved at commodity rates equivalent to 50% of the first class rates between the same points.

⁷ The rates said to be necessary to return costs and those proposed

that the proposed rates are of the same general level as the presently effective rail rates between the points involved⁸ and that they will not produce revenue in excess of the cost of performing the service by truck. It is not unmindful that rates lower than those here proposed are now maintained by common carriers by vessel (particularly by The River Lines) and as to such rates it alleges that, to the extent they are lower, they are unduly and unreasonably low and insufficient.

⁹
The River Lines concur in the representations made by the Association and contend that the rates now in effect for the transportation of property by vessel between the points involved are unduly low and insufficient. Its witness testified that in only two of the past five years has it earned a profit upon its capital investment. The witness attributed this unfavorable showing to the depressed level of rates resulting from the heretofore unregulated truck competition coupled with a continuing increase in operating expenses caused by economic conditions over which his concern has no control. The River Lines

7 (continued)

for less than truckload shipments are as follows:

<u>Minimum Weight</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>
Any Quantity	66 (47½)	56 (43)	46 (38½)	39½ (36)
Lots of not less than 4,000 Pounds	52½ (47½)	44½ (43)	36½	31½
Lots of not less than 8,000 Pounds	48½ (47½)	41½	34	29
Lots of not less than 12,000 Pounds	47	40	33	28

All rates shown are in cents per 100 pounds. Whenever the proposed rates differ from those said to be necessary to return costs, they are shown in parentheses.

⁸ A study of the rates proposed shows that while this may be true generally there are a number of instances in which the proposed rates are lower than the existing rail rates.

⁹ The River Lines is the name under which the California Transportation Company and Sacramento and San Joaquin River Lines, Inc., conduct a unified operation of common carrier vessel service between the points involved.

therefore, urge that rates not lower than those proposed by the Association for truck transportation be prescribed for transportation by vessel in lieu of rates now in effect.

W. G. Stone, Traffic Manager, Sacramento Chamber of Commerce, stressed the necessity for stabilization of transportation rates in order to insure to the public the maintenance of efficient transportation service and facilities.

The rail lines contend that to the extent the proposed store-door class rates have been depressed to meet common carrier land rates they are insufficient to return the estimated cost of truck transportation developed by the Association. They further contend that to extend the application of carload rail rates to apply to the alleged faster store door service by truck under the broad pick-up and delivery limits proposed will require the establishment of a like service by rail. This they do not believe should be done at the present time. They argue that to apply the proposed truck rates to industries not served by spur track facilities would place them at a disadvantage for the reason that such shippers now perform their own pick-up and delivery service from the rail carriers team tracks. In addition to the extended pick-up and delivery limits proposed, they point to the liberalized packing requirements, to the modification of classification rules and to the split pick-up and delivery rules embraced in the Association's proposal.

A witness for the Cannerymen's League of California states that if vessel or truck rates are increased, canned goods traffic will be diverted to the rail lines and that an increase in proprietary trucking may be anticipated, all of which he states will result in a loss of revenue to the carriers whose rates are increased and particularly to The River Lines, thereby offsetting additional revenue which they may gain from other traffic as the result of the increase in rates. He

also questioned the load factor used in the Association's cost study.

A witness for the California State Brewers' Institute urged that transportation rates be maintained on a reasonably low basis. He expressed no opinion as to what he considered "a reasonably low basis" but stated that rate increases would create an incentive for his constituents to engage in proprietary trucking.

The record does not justify any revision in the rates of the Pacific Motor Transport Company or of the rail lines operating between the points here involved. It does show, with certain exceptions however, that rates lower than those maintained by the Pacific Motor Transport Company and the rail lines are unreasonably low and insufficient both for highway and for water carriers. These rates will again be reviewed in a proceeding involving rates for the transportation of property between points in California, generally north of Gaviota Pass and the Tehachapi Mountains.¹⁰ Pending the review, therefore, on a more comprehensive record, of rates for all forms of transportation applying throughout Central California, the Commission should, with the exceptions just referred to, prescribe as minima for both highway and water carriers between the points here in issue, the rates now maintained by the Pacific Motor Transport Company and by the rail lines.

Upon consideration of all of the facts of record we are of the opinion and find:

1. Truck transportation costs and competitive conditions justify and require the establishment of minimum rates for radial highway common and highway contract carriers no lower than those set forth in Appendix "A", attached to the order herein, for the transportation of the property between the points for which rates are provided in said appendix.

2. Neither the actual competitive transportation rates of competing carriers nor the cost of other means of transportation justify the maintenance by common carriers of pick-up and/or delivery rates, or terminal to terminal carload rates for the transportation of the property involved in these phases of these proceedings lower than the rates set forth in said appendix.

¹⁰ Parts "U" and "F" of Cases Nos. 4088 and 4145, respectively, set for hearing at San Francisco on August 3, 1937.

INTERIM ORDER

Public hearings having been held in the above entitled proceedings and based upon the evidence received at the hearings and upon the conclusions and findings set forth in the preceding opinion,

IT IS HEREBY ORDERED that the rates, rules and regulations contained in Appendix "A" attached hereto and hereby made a part hereof be and they are hereby established and approved effective fifteen (15) days from the effective date of this order as the just, reasonable and non-discriminatory minimum rates, rules and regulations to be charged, collected and observed by any and all radial highway common carriers and highway contract carriers, as defined in the Highway Carriers' Act engaged in the transportation of the property and between the points for which rates are provided in said Appendix "A".

IT IS HEREBY FURTHER ORDERED that all radial highway common carriers and highway contract carriers as defined in the Highway Carriers' Act, be and they are hereby ordered to cease and desist on or before fifteen (15) days from the effective date of this order and thereafter abstain from charging, collecting or observing rates, rules or regulations lower in volume or effect than those set forth in said Appendix "A".

IT IS HEREBY FURTHER ORDERED that all common carriers, as defined in the Public Utilities Act, insofar as they maintain rates, rules and regulations lower in volume or effect than those set forth in said Appendix "A" be and they are hereby ordered and directed to establish on or before fifteen (15) days from the effective date of this order on not less than five (5) days' notice to the Commission and to the public rates, rules and regulations no lower in volume or effect than those set forth in said Appendix "A".

IT IS HEREBY FURTHER ORDERED that all common carriers as defined in the Public Utilities Act, be and they are hereby ordered to cease and desist on or before fifteen (15) days from the effective date of this

order and thereafter abstain from charging, collecting or observing rates, rules or regulations lower in volume or effect than those set forth in said Appendix "A" for the transportation of property in pick-up and/or delivery service, or in terminal to terminal service in carload lots.

IT IS HEREBY FURTHER ORDERED that to the extent rates, rules and regulations for like transportation have been established by Decisions Nos. 28761 of April 27, 1936, and 28831 of May 22, 1936, in Part "A" of Case No. 4088 and by Decision No. 28760 of April 27, 1936 in Case No. 4103, said rates, rules and regulations are superseded by the order herein.

IT IS HEREBY FURTHER ORDERED that the Commission shall have and it does hereby retain jurisdiction of these proceedings for the purpose of establishing or approving the just, reasonable and non-discriminatory maximum and minimum or maximum or minimum rates, charges, classifications, rules and regulations to be charged, collected and observed by radial highway common carriers and highway contract carriers both for transportation service hereinabove described and for such other transportation and accessorial service as may from time to time appear proper in the light of other or further evidence received herein and for the purpose of establishing and prescribing such rates as will provide an equality of transportation rates for the transportation of the articles and commodities here involved between all competing agencies of transportation.

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

Dated at San Francisco, California, this 1st day of July 1937.

William M. ...
Leon ...
Ralph ...

Commissioners.

A P P E N D I X "A"

1. Except as provided in paragraph 6, hereof, minimum rates provided in this appendix apply for the transportation of shipments of property between all points within the corporate city limits of San Francisco, South San Francisco, Oakland, Alameda, Emeryville, Berkeley and San Leandro on the one hand and all points within the corporate city limits of Sacramento and North Sacramento on the other hand.

2. Minimum rates provided in this appendix will not apply on shipments of:

(a) Milk, cream, buttermilk, cottage cheese, pot cheese and unflavored ice cream mix, when transported in milk shipping cans, in bottles, in cases or crates or in bulk in tanks.

(b) Fresh fruit and fresh or green vegetables,

(c) Automobiles,

(d) Telephone Directories,

(e) Livestock,

(f) Nuts, edible; Beans; Peas; Lentils, dried,

(g) Baggage,

(h) Grain, Grain Products and Feed, Animal or Poultry as described under those headings in the Western Classification No. 66, C.R.C. No. 611 of M.A. Cummings, Agent, supplements thereto and reissues thereof; also crushed or ground clam, mussel or oyster shells,

(i) Fertilizer,

(j) Insecticides and Fungicides, agricultural,

(k) Hay and Straw,

(l) Cotton, Cotton seed, cotton meal and cotton cake,

(m) Property weighing less than 100 pounds transported by Railway Express Agency, Inc.,

(n) Commodities covered by Cases Nos. 4079 and 4086.

3. The term "shipment" means a quantity of property received from one shipper on one shipping order or bill of lading at one point of origin for one consignee at one destination. (See paragraph 4 for exception.)

4. Split Pick-up or Split Delivery.

(a) Under the conditions set forth in paragraph (e) hereof at charges provided in paragraph (c) hereof, shipments may be picked up from more than one consignor, and/or at more than one point of origin (providing the second and succeeding points of origin are intermediate between the first point of origin and destination).

(b) Under the conditions set forth in paragraph (e) hereof at the charges provided in paragraph (d) hereof, shipments may be delivered to more than one consignee, and/or at more than one destination (providing the first and succeeding destinations are intermediate between the point of origin and the last destination).

(c) Charges upon split pick-up shipments as described in paragraph (a) hereof shall be computed upon the weight of each component part at the rate applicable for the entire shipment from the highest rated point of origin to destination, plus a sum equal to one cent per 100 pounds for the weight of each pick-up but in no case less than 25 cents per pick-up.

(d) Charges upon split delivery shipments as described in paragraph (b) hereof shall be computed upon the weight of each component part at the rate applicable for the entire shipment from point of origin to the highest rated point of destination, plus a sum equal to one cent per 100 pounds for the weight of each delivery but in no case less than 25 cents per delivery.

(e) Shipments shall originate on one shipping order or one bill of lading on one day. Shipments shall weigh (or transportation charges shall be computed upon a weight of) not less than 4,000 pounds. No shipment shall be accorded both split pick-up and split delivery.

5. When the charges accruing on a shipment based upon actual weight exceed the charges computed from a rate based upon the next greater unit of minimum weight, the latter will apply.

6. In the event the application of the common carrier terminal to terminal less-carload rates, rules and regulations for the same transportation of the same shipment of property from and to the same points results in a lower aggregate charge than the charge resulting from the application of the minimum rates provided herein, such lower charge shall apply, provided however, that an additional charge of not less than 1/2 cent per 100 pounds shall be assessed for the service of loading and 1/2 cent per 100 pounds for the service of unloading, where such service is performed by the carrier transporting the shipment and not covered by the common carrier rail rate.

7. Subject to the preceding paragraphs, the rates provided in sub-paragraphs (a), (b) and (c) hereof, whichever are the lower, shall be the minimum rates:

(a) Less-than-Truckload Rates.

(1) CLASS RATES

Between any point within the city limits of San Francisco, South San Francisco, Alameda, Oakland, Emeryville, Berkeley and San Leandro, California

and

any point within the city limits of Sacramento and North Sacramento, California

	Rates in cents per 100 pounds			
	1	2	3	4
Any quantity	47½	43	38½	36
Minimum Weight 4,000 lbs.	47½	43	38	32½
Minimum Weight 8,000 lbs.	47½	43	35½	30½
Minimum Weight 12,000 lbs.	47½	41½	34	29

(1) Governed by the less-than-carload ratings published in Western Classification No. 66, C.R.C. No. 611 of M. A. Cummings, Agent, by Pacific Freight Tariff Bureau Exception Sheet No. 1-P, C.R.C. 597 of M. A. Cummings, Agent, and by the exceptions contained in P.M.T.Co. Tariff No. 9, C.R.C. No. 13 and the W.P.R.R.Co. Tariff G.F.D. 663-A, C.R.C. No. 352.

(a) Less-Than-Truckload Rates (Concluded).

COMMODITY RATES

COMMODITY	FROM	TO	Rates in cents per 100 lbs.	
			Rate	Minimum Weight in Pounds
FRUIT and VEGETABLES, canned or in glass, in packages,	Sacramento No. Sacramento	San Francisco	25	16,000
		So. San Francisco		
FRUIT, dried, in packages,	San Francisco So. San Francisco Alameda Oakland Emeryville Berkeley San Leandro	Alameda	26	Any Quantity
		Oakland		
		Emeryville		
		Berkeley		
		San Leandro		
FRUIT, dried, in packages,	San Francisco So. San Francisco Alameda Oakland Emeryville Berkeley San Leandro	Sacramento	31½	Any Quantity
		No. Sacramento		
GROCERIES and GROCERS' SUPPLIES, as described in Item No. 1580 series of Pacific Motor Trans- port Company Local Ex- press Tariff No. 9, C.R.C. No. 13, and Item No. 430 series of The Western Pacific Rail- road Company Freight Tariff G.F.D. 663-A, C.R.C. No. 352.	San Francisco So. San Francisco Alameda Oakland	Sacramento	27½	16,000
		No. Sacramento		
HARDWARE, PAINT and PAINT MATERIALS, ROOF- ING and BUILDING MAT- ERIALS and MISCELLAN- EOUS ARTICLES as des- cribed in Item No. 1590 series of Pacific Motor Transport Company Local Express Tariff No. 9, C.R.C. No. 13, and Item No. 440 series of The Western Pacific Rail- road Company Freight Tariff G.F.D. 663-A, C.R.C. No. 352.	Emeryville Berkeley San Leandro		27½	16,000

(b) Rates lawfully on file with the Commission in Pacific Motor Transport Company No. 9, C.R.C. No. 13 and in The Western Pacific Railroad Company Tariff No. 663-A, C.R.C. No. 352,

(c) The lowest carload common carrier rail rates lawfully on file with the Commission together with the classifications, rules and regulations which produce and govern such rates plus an additional charge of not less than 1/2 cent per 100 pounds for the service of loading and 1/2 cent per 100 pounds for the service of unloading, where such service is performed by the carrier transporting the shipment and not covered by the common carrier rail rate.