

Decision No. 30729.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

CERTIFICATED HIGHWAY CARRIERS, INC.,  
a corporation,

Complainant

vs.

Case No. 4219

Pacific Motor Transport Company, a  
corporation, The Atchison, Topeka  
and Santa Fe Railway Company, a corpor-  
ation, Southern Pacific Company, and  
Visalia Electric Railroad Company,  
a corporation,

Defendants.

Wallace K. Downey, for the Complainant.

G.E. Duffy and E.C. Pierre, for The Atchison, Topeka  
& Santa Fe Railway Company, defendant.

R.E. Wedekind and J.E. Lyons by R.E. Wedekind, for  
the Southern Pacific Company, Pacific Motor Transport  
Company and Visalia Electric Railroad Company,  
defendants.

BY THE COMMISSION:

O P I N I O N

Complainant alleged that certain rules published by defendants,  
relating to the advancing of drayage or trucking charges, were and are  
unjust, unreasonable, discriminatory, prejudicial, and contrary to the  
provisions of the Public Utilities Act.<sup>1</sup> It prayed that defendants  
be required to cease and desist from maintaining said rules.

A public hearing was had at Los Angeles before Examiner  
McCaffrey and the matter was submitted on briefs.

1

Complainant is a non-profit corporation composed of highway trans-  
portation companies operating under certificates of public convenience  
and necessity from this Commission. Defendant Pacific Motor Transport  
Company, a wholly owned subsidiary of the Southern Pacific Company,  
operates as an express corporation. The other defendants are railroad  
corporations.

Defendants maintain in tariffs on file with this Commission rules which provide, in substance, that charges directly incidental to the transportation of freight on which a line haul is received, may be advanced to connecting railways, ocean carriers, inland water carriers, Railway Express Agency, Inc., Pacific Motor Transport Company, shippers, warehouses, storage houses, dray lines, motor truck lines or motor transportation companies. These rules contain an exception, however, providing that no drayage or trucking charges will be advanced for movements from points outside the switching limits or corporate limits of the point where freight is received from truck carriers or draymen. It is to this exception that complainant objects.

Lloyd V. Branch, auditor of the Pacific Freight Lines and Keystone Express System, as well as treasurer of the complainant corporation, asserted that the assailed rules result in inconvenience and delays in connection with shipments originating at points on the lines of his companies and destined to points served by defendants. He referred, for example, to a shipment originating on the Pacific Freight Lines at Santa Barbara and turned over to the Atchison Topeka and Santa Fe Railway Company (hereinafter referred to as the Santa Fe) at Los Angeles for delivery to a point beyond on the latter carrier's lines. He pointed out that upon the refusal of the Santa Fe to advance the

2

A rule typical of those here involved is contained in Item No. 3910 of The Atchison, Topeka & Santa Fe Tariff No. 8117-0, C.R.C. No. 724. This rule reads as follows:

"Charges directly incidental to the transportation of freight, on which this Company receives a line-haul, may be advanced (see Exceptions Nos. 1 and 2) to connecting railways, ocean carriers, inland water carriers, Railway Express Agency, Inc., Pacific Motor Transport Company, shippers, warehouses, storage houses, dray lines, motor truck lines or motor transportation companies. Parties to whom such charges are advanced must furnish satisfactory guarantee covering refund thereof in event collection cannot be made at destination.

EXCEPTION NO. 1- No drayage or trucking charges will be advanced for movements from points outside the switching limits or corporate limits (see Note) of the Point where freight is tendered to this Company.

EXCEPTION NO. 2- Customs duties, charges incidental to re-conditioning of freight, the cost of the articles shipped or any part thereof, must not be advanced.

NOTE- At Los Angeles, drayage or trucking charges will be advanced on shipments having origin within the following described area:\*\*\*"

inbound charges it was necessary for the Pacific Freight Lines to hold the shipment at Los Angeles until such charges could be collected from the consignee. According to the witness a delay of at least three days was occasioned, and the only alternative would have been to bill the shipment over the Santa Fe with the inbound charges as a "C.O.D." item. On cross-examination he conceded that the Pacific Freight Lines' Agent at Santa Barbara had knowledge of the present rules, and that the delay could have been avoided by requiring prepayment of charges.

Branch further stated that the companies he represented would be willing to furnish a bond to the defendants, insuring them against any financial loss which might result from their inability to collect charges previously advanced. He was of the opinion that, in any event, the monthly advances to the Pacific Freight Lines, for example, would not exceed fifty dollars.

F.C. Nelson and E.C. Pierre, assistant general freight agents respectively for the Southern Pacific Company and Santa Fe, called by complainant, testified that under present rules their lines advance charges to the Pacific Motor Transport Company, to drayage firms within Los Angeles and to The River Lines in the Sacramento Valley. They stated, however, that shipments from points on the system of Pacific Motor Transport Company to points on the Santa Fe generally moved on through billing. While conceding that both the Southern Pacific Company and Santa Fe advance charges to connecting rail lines, these witnesses explained that most of this type of traffic moved on through billing and that that revenue was distributed by monthly interline settlements.

Testifying for defendants, witness Pierre stated that the present rules for advancing charges were substantially the same as those in effect in other parts of the United States and that a careful investigation revealed no dissatisfaction with such rules among the shipping public. He was apprehensive that if a concession were made here in favor of certificated carriers, similar treatment would have to be made in favor of radial highway common carriers and highway contract carriers

that the practice would spread through other states and that the aggregate amount required to be advanced might become considerable.

C.M. Scott, local treasurer of the Southern Pacific Company, testified that the supervision of indemnity bonds, made necessary by any extensive addition to the list of carriers to whom charges may be advanced, would involve considerable extra work and expense. E.E. Balling, station auditor of the Southern Pacific Company, stated that such addition would greatly increase the detail work of the agency force and the freight accounting department.

The record shows that drayage charges for movements from points within the switching limits or corporate limits of the point where freight is tendered are uniformly advanced by defendants and as to such traffic complainant or those it represents are in no way prejudiced. The discrimination, if any, must result from defendants' refusal to advance what may be termed "line-haul" charges to truck carriers, while at the same time and under like conditions advancing such charges to connecting railroads,<sup>3</sup> to inland water carriers and to the Pacific Motor Transport Company.

Section 22(a) of the Public Utilities Act provides in part:

"Every common carrier shall afford all reasonable, proper and equal facilities for the prompt and efficient interchange and transfer of passengers, tonnage and cars, loaded or empty, between the lines owned, operated, controlled or leased by it and the lines of every other common carrier, and shall make such interchange and transfer promptly without discrimination between shippers, passengers or carriers either as to compensation charged, service rendered or facilities afforded.\*.\*"

It seems clear from this section that charges of one common carrier may not be advanced at an interchange point, unless the same

---

<sup>3</sup> As pointed out by defendants, the arrangements between railroads whereby shipments are handled on through billings and charges are distributed by monthly interline accounts are in the nature of reciprocal agreements and are not, strictly speaking, advances of inbound charges. It appears, however, that in instances where provision for through billing is not made, charges of connecting railroads are advanced by defendants.

service is rendered to all other common carriers similarly situated. On this record the circumstances and conditions attending the advancing of line-haul charges to highway common carriers, or to express corporations generally, are not so distinguishable as to warrant treatment different from that now accorded connecting railroads, inland water carriers and the Pacific Motor Transport Company.<sup>4</sup>

There is little in this record to suggest that the advancing of charges is a service which defendants should be required to perform. However, in the event they elect to continue to advance charges to connecting railroads, to inland water carriers or to selected express corporations, they must extend the same service to all common carriers subject to the Public Utilities Act at like points and under like circumstances and conditions. Defendants will be directed to so adjust their tariffs and practices that discrimination in advancing charges, now existing against highway common carriers and express corporations other than Pacific Motor Transport Company and Railway Express Agency, Inc. will be removed.

#### O R D E R

This matter being at issue upon complaint and answer on file, public hearing having been had and the Commission having given careful consideration to the matters and things involved,

---

<sup>4</sup> In Decision No. 27890 of April 13, 1935, in Case No. 3853, the Commission vacated its order suspending rules for advancing charges filed by Pacific Motor Transport Company, containing substantially the same provisions as those here assailed. However, in that decision the Commission said: "It may be that on a more comprehensive record and under changed conditions the proposed rules would be prejudicial or discriminatory to the truck carriers."

IT IS HEREBY ORDERED that Pacific Motor Transport Company The Atchison, Topeka and Santa Fe Railway Company, Southern Pacific Company and Visalia Electric Railroad Company, be and they are and each of them is hereby ordered and directed to cease and desist on or before thirty (30) days from the effective date of this order, on not less than ten (10) days' notice to the Commission and to the public, and thereafter abstain from maintaining tariff rules providing for the advancing of transportation charges to connecting railroad corporations, to common carriers by vessel operating between points on the inland waters of this state, to the Pacific Motor Transport Company or to other common carriers unless said privilege and service be similarly accorded to all common carriers as defined in the Public Utilities Act at like points and under like circumstances and conditions.

This order shall become effective twenty (20) days from the date hereof.

Dated at San Francisco, California, this 28<sup>th</sup> day of

March, 1938.

William H. Hall  
Leonard H. Hall  
Harry R. Hall  
Raymond H. Hall  
Ray L. Hall  
Commissioners