

Decision No. 30738

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
THE TRUCK OWNERS ASSOCIATION of Cali-
fornia, a non-profit corporation, for
the approval of minimum rates, rules
and regulations, for the transporta-
tion of canned goods and dried fruits
between San Joaquin Valley points and
Stockton and San Francisco Bay points.

Application No. 20745

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, operat-
ing motor vehicles over the public
highways of the State of California,
pursuant to Chapter 223, Statutes of
1935, for the transportation for com-
pensation or hire of any and all com-
modities, and accessorial services
incident to such transportation.

Case No. 4088

(Part "P")

In the Matter of the Investigation and
Establishment of rates, charges, clas-
sifications, rules, regulations, con-
tracts and practices, or any thereof,
of Common Carriers of property.

Case No. 4145

(Part "C")

ADDITIONAL APPEARANCES

- W. G. Stone, for the Sacramento Chamber of Commerce
J. Richard Townsend, J. C. Sommers and C. O. Burgin, for
Stockton Traffic Bureau, City of Stockton, Stockton Port
District, Stockton Chamber of Commerce and San Joaquin
County Farm Bureau Federation
T. P. Wadsworth, for Western Pacific Railroad and Tidewater
Southern Railway
R. M. Grose, for Marine Terminal Association of Central
California
W. J. Lane, for Dried Fruit Association of California
G. S. Beach, for Cannerymen's League of California
Merritt D. McCarl, for the Port of Oakland
R. C. Wilcock, for California Fig Growers & Packers, Inc.,
Diebert Bros. & Snyder, Del Mar Packing Co., Enoch Pack-
ing Co., R. Fair, Koligian Bros., Lion Packing Co.,
Markarian Fig Gardens, Memorie Fruit Co., Pacific Raisin
Co., Puccinelli Packing Co., Tusen Packing Co., Vagin
Packing Co., and West Coast Growers & Packers
W. J. Withers, for Foster & Wood Canning Co., A. Hershel Co.,
G. W. Hume Co., Manteca Canning Co., Mor-Pak Preserving
Corporation, Pacific Grape Products Co., Pacific Packing
Co., The Packwell Corporation, Ripon Canning Co., Inc.,
Stockton Food Products, Inc., Tri Valley Packing Assn.,
Turlock Cooperative Growers.

BY THE COMMISSION:

OPINION ON FURTHER HEARING

These proceedings involve rates for the transportation of property by radial highway common carriers, highway contract carriers and common carriers.¹ The parts with which we are here concerned relate to rates for the transportation of canned goods and dried fruits between San Joaquin Valley points on the one hand and San Francisco Bay points, Stockton and Sacramento on the other hand. They were entered upon following petition of The Truck Owners' Association of California (Application No. 20745) alleging that destructive competitive practices were threatening the ability of the carriers to perform satisfactory service and that a prompt stabilization of rates must be accomplished if the public is to be assured of adequate transportation facilities. The Association proposed that rates filed with the Interstate Commerce Commission by certain highway carriers be adopted by this Commission pending the completion of a more extensive investigation.

After public hearing in these matters the Commission issued its Decision No. 29252 of November 9, 1936, establishing for radial highway common and highway contract carriers what on the record then before it appeared to be just, reasonable and non-discriminatory minimum rates. Common carrier rates were not disturbed. Upon receipt of petitions by various interested parties the effective date of said order was suspended, further hearings were had at San Francisco before Examiner Howard G. Freas and briefs were filed.

The record upon further hearing is much more comprehensive than that developed originally. Twenty-five persons, many of them

1

A full discussion of the purposes for which these proceedings were instituted will be found in 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.

experienced carrier and industrial traffic men, testified and 88 additional exhibits were introduced. Considerable evidence concerning common carrier rates was adduced,² the value of added or accessorial services performed by the different types of carriers was probed, and competitive conditions in the marketing of canned goods and dried fruit were discussed exhaustively.

Fred E. Chesnut, senior engineer of the Commission's Transportation Department, presented a study of the reasonable minimum cost of transporting canned goods and dried fruits by motor truck within the territory involved. This study was based upon interviews with operators handling from 60 to 75 per cent of the canned goods and dried fruit traffic in the territory, upon an analysis of numerous questionnaires distributed to operators, and upon data collected in connection with the preparation of similar studies in other proceedings. The witness stated that the majority of the less-than-truckload transportation was performed by common carriers and that the cost of handling small shipments of dried fruit and canned goods was much the same as the cost of handling general merchandise, except that because of their greater density these particular commodities tend to produce a relatively high load factor. Costs developed in this study are:

	Length of Haul - Miles		
	50	100	200
<u>Less than truckload</u>			
1-100 pounds	\$.8805	\$.9382	\$1.0520
100 - 2000 pounds	.4920	.5495	.6650
2000 - 4000 "	.3520	.4090	.5240
4000 - 10000 "	.2890	.3460	.4615
Over 10000 "	.1903	.2480	.3625
<u>Truckload</u>			
20000 pounds	.0869	.1455	.2620
30000 "	.0774	.1255	.2205
40000 "	.0760	.1211	.2130

² The minimum highway carrier rates contained in Decision No. 29252, supra, were necessarily affected to a considerable extent by the existing common carrier rate structure. For competitive reasons and

In addition this study treats differences in service which to some extent influence the routing via truck versus rail carrier, such as time in transit, demurrage, fumigation in transit, minimum weight requirements, loading and unloading, and drayage beyond rail facilities.

Roy B. Thompson, Secretary of The Truck Owners' Association, and Joseph Diviny, President of the Teamsters' Union, Local No. 85, presented evidence to the effect that labor and material costs had increased substantially after completion of the Chesnut study.

California Farm Bureau Federation called several contract truck operators' and shippers' representatives to describe operating practices of highway carriers, particularly in the transportation of canned olives for the Lindsay Ripe Olive Company, an association composed of some 186 San Joaquin Valley olive growers. These witnesses stated that a very favorable load factor can be maintained in this operation, due to the fact that the company ships full loads of olives from Lindsay to San Francisco, Oakland, Stockton and Sacramento and usually provides return loads of tin cans, box shooks, fertilizers, spray materials or caustic. The operators did not submit cost records or estimates, but claimed to have operated profitably in the past at rates of 19½ cents per 100 pounds from Lindsay to San Francisco, Oakland and Sacramento, and 15 cents per 100 pounds from Lindsay to Stockton. They suggested these as proper minimum rates for this transportation, but conceded on cross-examination that due to increased labor charges at the ports additional charges should be established where the carrier supplies helpers to perform

2 (Cont'd)

by law the Commission was obliged to observe the lowest common carrier rates as maximum in developing minimum rates for radial and contract carriers. The common carrier rates were not uniform and the resulting minimum rate structure necessarily reflected the difference in the rates of the several carriers.

unloading. They said also that loads average 15 tons, and proposed that figure as a truckload minimum weight, with rates 20 per cent higher for a minimum weight of 20,000 pounds.

Witnesses for The Truck Owners' Association testified concerning loading and unloading practices at the ports of San Francisco, Oakland and Stockton and at certain warehouses and industries in the San Joaquin Valley. They asserted that the cost of loading a rail car was not the proper measure to be used in fixing a differential over the rail rates when the truck operator performed or assisted in the performance of loading or unloading, but that such differential should be computed on a time basis.³ They stated that rail cars were frequently loaded directly from the plant production line, whereas truck shipments had to be stacked and stored awaiting arrival of the truck, and then be moved to the loading platform. This latter method of handling, they said, was more expensive than the former, even though the truck driver might actually place and distribute the load upon the truck. On cross-examination these witnesses admitted that in estimating the extra cost of loading trucks over the cost of loading rail cars they had not considered the investment or expense of maintaining spur tracks and conveyor belts. As a substitute for the deductions originally established to apply where the carrier's employees do not assist in loading or unloading, they recommended

3

In Decision No. 29252, *supra*, the following rule was provided:

"Rule No. 40 - LOADING AND UNLOADING: (Applies only to shipments on which the minimum weight is 30,000 pounds or greater).

"(a) Where the shipper performs the loading without the assistance of the driver or other employee of the carrier, a deduction of $\frac{1}{2}$ cent per one hundred pounds from the minimum rates herein established will be made.

"(b) Where the consignee performs the unloading without the assistance of the driver or other employee of the carrier, a deduction of $\frac{1}{2}$ cent per one hundred pounds from the minimum rates herein established will be made."

rules similar to those in Items Nos. 90 and 110 of Pacific Southwest Freight Tariff Bureau Local Freight Tariff No. 9, M.F. - I.C.C. No. 9, introduced as Exhibit PC-2 in these proceedings.⁴

Stockton Traffic Bureau led an attack against the rail car-load rates with the expressed purpose of showing that the existing rates are unreasonably low and depressed, that rates measured by standards of reasonableness heretofore recognized by this Commission and the Interstate Commerce Commission would exceed rates based upon the cost of performing the same service by highway vehicles, and that consequently highway carrier costs should be the basis of fixing rates for both rails and trucks.

J. C. Sommers, Traffic Manager of the Stockton Chamber of Commerce, introduced a historical rate study to show the effect of motor truck competition upon the rail rate structure. He pointed out that the present rates were the result of a series of sharp reductions, many of which were specifically flagged as having been published to

4

These rules are as follows:

Item No. 90 - DEMURRAGE CHARGES: All rates, except as otherwise provided in individual items, published herein shall include driver's assistance for loading and unloading of the vehicle at no extra charge, except where the loading or unloading of any commodity consumes more than twenty (20) minutes per ton to handle, an extra charge will be assessed on the following basis:

2-ton truck	\$1.00 per hour	5-ton truck	\$1.50 per hour
3-ton truck	1.25 per hour	6-ton truck	2.00 per hour

Item No. 11 - EXTRA HELP: Rates named in this tariff are all based on truck and driver only. Where it is necessary for carrier to furnish additional help, which shall not be done except at the request of the shipper or the consignee, such help shall be charged for at the rate of \$1.00 per man per hour or fraction thereof. Where inside, upstairs or other pick-up or delivery is requested, add 5 cents per 100 pounds to the rate and 25 cents to the minimum charge.

5 meet highway competition. He compared ton-mile and car-mile earnings under existing rail rates with those accruing under a rate of 10 cents published to apply for the transportation of canned goods from Sacramento to San Francisco, which rate was held both by this Commission and the Interstate Commerce Commission to be unreasonably low.⁶ He showed that in nearly all instances the present rail rates from San Joaquin Valley points to San Francisco yield lesser car-mile and ton-mile earnings than would have accrued under such rate of 10 cents. In connection with these comparisons, Sommers pointed out that Southern Pacific Company Terminal Tariff No. 230-J, C.R.C. No. 3183, provides that subject to a minimum rate of 10 cents the carrier will perform the unloading of cars at San Francisco, Oakland, Alameda, Richmond and Stockton, or will absorb the cost of such unloading not to exceed 40 cents per ton. This absorption applies, however, only when the shipment moves by off-shore vessel beyond the ports specified, and the witness admitted that such off-shore movement to intrastate points was negligible.

5

The history of rates for representative hauls is as follows:

<u>To:</u>	<u>San Francisco</u>	<u>Commodity</u>	<u>Rate</u>	<u>Date Effective</u>
<u>From:</u>			(38½	7/1/22
Fresno		Canned Goods	(25	8/6/29
			(15	10/15/30
Tulare		Canned Goods	(37	9/13/27
			(30	12/5/27
			(27½	8/6/29
			(20	10/15/30
Fresno		Dried Fruits	(31½	1/10/23
			(25	9/13/27
			(15	9/21/30
Visalia		Dried Fruits	(34	1/10/23
			(30	9/13/27
			(18	9/21/30
			(15	8/20/32

⁶ In Re Canned Goods in California, 38 C.R.C. 216, 188 I.C.C. 539.

Witness Sommers also presented a series of exhibits comparing existing rail rates with rates prescribed by this Commission and the Interstate Commerce Commission on the commodities here involved and upon other commodities which he believed to be comparable from a transportation standpoint, showing that the present rail rates are well below such so-called "reasonable" rates in almost every case.⁷

C. O. Burgin, Traffic Manager of the Port of Stockton, introduced exhibits comparing the lowest of the so-called "reasonable rates" with rates based upon the costs developed by witness Chesnut for highway operation. He demonstrated that almost invariably the estimated cost of performing the transportation by truck was less than such so-called "reasonable" rail rates.

D. D. Byrnes, Traffic Manager of the Sun Maid Raisin Growers' Association, an association composed of some 4,000 members handling approximately one-third of the annual production of raisins in California, stated that the increased rates proposed by the Stockton Traffic Bureau would not unduly burden the dried fruit traffic and that there was a substantial movement of this tonnage at the higher rates prior to the advent of truck carriers. He was of the opinion that rates from Fresno to Stockton and San Francisco of 14½ cents and 23½ cents, respectively, would be sufficiently low to permit the traffic to move freely. He conceded, however, that there is a limit to the extent to which the rates to the ports can be increased with-

7

The present canned goods rates were compared with rates based on 35% of the 1st class rates prescribed by the Interstate Commerce Commission in I.C.C. Docket 14999 (113 I.C.C. 52), in Consolidated Southwestern Cases (123 I.C.C. 203), and in San Joaquin Valley Case (1 I.C.C. 95).

Rates on dried fruit were compared with rates based on 38% of 1st class and on 65% of 4th class, using the base scales referred to in the preceding paragraph of this note.

Rates on both commodities were compared with rates prescribed by this Commission for the transportation of petroleum products in tank cars (Decision No. 29267 of November 9, 1936, in Case No. 4079).

out causing a diversion of the traffic to an all-rail movement east. This witness also suggested that rates be prescribed between "any quantity" and 20,000 pounds on an intermediate weight bracket of approximately 10,000 pounds. He explained that this would render unnecessary the present practice of consolidating the smaller shipments into carloads and distributing by truck from central destinations, and would eliminate extra handling costs.

A. F. Johnson, Secretary-Treasurer of The Packwell Corporation, stated that in the course of his employment it was necessary to determine in advance of the season all the component cost elements which make up the total cost per case of canned goods. He introduced a cost study which indicated that canned fruit, at least, can be packed more economically at points near the orchards, even under the proposed rates. Based on this study he asserted that a rate increase would not divert business from the valley canneries.

Several other witnesses, representing numerous other growers and packers in the San Joaquin Valley, concurred in the proposal of the Stockton Traffic Bureau. These persons were anxious to have Stockton accorded full benefit of its geographical location, and apparently were willing to accept a substantial increase in rates in order to accomplish this purpose. They did not believe that the proposed higher rates would restrict the flow of traffic, injure the canned goods and dried fruit industries, or prejudice sales.

The San Francisco and Oakland Chambers of Commerce stoutly defended the existing rail rate structure, arguing that the proposal of the Stockton interests would produce excessive rates, would disrupt established community relationships and would place the ports of San Francisco and Oakland at a competitive disadvantage with the port of Stockton. M. J. McCarthy, traffic witness testifying on behalf of

the San Francisco Chamber of Commerce, introduced a number of rate studies designed to illustrate the extent of the increases and the differentials in rates between Stockton and San Francisco which would result from the granting of the proposal.⁸ He asserted that it would increase existing rail rates from 8.5 per cent to 125 per cent, and would create rate differentials ranging from 4 cents to 14 cents in favor of Stockton and against San Francisco, whereas the present differential between Stockton and San Francisco on a wide variety of commodities does not exceed 3 cents.

Exhibits PC 40 and 41, prepared by witness McCarthy, are of particular interest. The first shows that the average per cent which the commodity rates from San Joaquin Valley points bear to the corresponding 5th class rates is identical for both San Francisco and Stockton. The second shows that the percentage relationship between commodity rates from San Joaquin Valley points to Stockton and to San Francisco is consistent with the relationship between the corresponding 5th class rates to the same points.

Witness McCarthy corroborated the statements of other witnesses that the great bulk of the dried fruit and canned goods tonnage moving into Stockton or San Francisco Bay ports is ultimately shipped to interstate or foreign points. He pointed out, however, that the final destination cannot always be determined at time of shipment, and asserted that in view of the difficulty of determining

⁸ The term "proposal" as hereinafter used shall be deemed to mean the basis advocated by the Stockton Traffic Bureau, i.e., that carload rates of rail carriers and truckload rates of highway carriers be based on the cost of performing the transportation by highway vehicles. In some instances, however, the rate studies introduced by opposing parties have been based upon comparisons with rates measured by the various standards of reasonableness which the Stockton Traffic Bureau has advanced to support their contention that reasonable rail rates will exceed the cost of performing the transportation by highway vehicles, rather than upon the truck cost rates themselves.

the intrastate or interstate character of a shipment it is desired that interstate and intrastate rates be uniform. Accordingly, he presented considerable evidence and numerous exhibits concerning interstate and export rates, purporting to show that an increase in rates to the ports would divert intercoastal traffic to an all-rail movement, and would cause considerable tonnage now moving through San Francisco Bay ports or Stockton to be handled through the port of New Orleans.

C. S. Beech, appearing for the Cannerymen's League of California, a non-profit organization whose members were said to handle approximately 71 per cent of the canned goods packed in northern California, strenuously protested any increase in rates or any adjustment which would disrupt existing community relationships. This witness stated that the success of the canning industry in California was attributable in a large part to the fact that canneries are located near the orchards and fruit is canned immediately after picking. In this way full flavor and texture is retained. He said that expedited service now makes it possible to can at San Francisco Bay points or Stockton, however, and predicted that an increase in transportation costs would cause canners to abandon their inland plants in favor of port canneries, thus eliminating entirely the canned goods movement from the San Joaquin Valley.⁹

W. J. Lane testified on behalf of the Dried Fruit Association of California, an association composed of members who were said to handle approximately 95 per cent of the total dried fruit production in California. This witness stated that the sale of dried fruit

9

Certain members of the Cannerymen's League who are located near Stockton took issue with the evidence submitted by witness Beech. It was stipulated that his testimony reflected only the opinion of the individual members of the Traffic Committee of the Cannerymen's League, and the firms they represent.

was highly competitive at foreign markets and that an increase in rates would place California at a sales disadvantage. Thus, he said, the widening of the differential in favor of Stockton by increasing rates would not attain the result desired by the Stockton interests, in that it would restrict the flow of traffic through the ports by reducing sales volume and causing diversion of the dried fruit production to hog feed and other similar uses.

C. S. Connolly, Western Traffic Manager of Carnation Company, also protested any rate increases. He insisted that the practice of grouping manufacturing points for the purpose of allowing them to compete on equal terms at the consuming markets was well established in rate making, but was entirely disregarded in the Stockton proposal. Carnation Company maintains a plant at Gustine for the production of canned milk. This plant competes at the large consuming markets with plants located at Galt, Oakdale, Patterson, Ripon, Gonzales and Salinas. The present common carrier rates are designed, according to witness Connolly, to give equal competitive opportunity to these several plants.¹⁰ He argued that the rate differential sought would not help Stockton in so far as canned milk consumed locally was concerned. He believed that relatively lower rates to San Francisco would be justified from a transportation cost standpoint, stating that the volume of canned milk tonnage moving to San Francisco exceeded that moving to Stockton by some 1000 per cent.

The rail carriers, too, resisted the attack upon the reasonableness of their rates. B. S. Sines, Assistant Engineer in the Bureau of Transportation Research, Southern Pacific Company, introduced a study designed to develop the cost of transporting canned goods and dried fruits between the points here involved. This study

¹⁰

He pointed out that the rail rates from Gustine and Galt to Fresno are equal, although the distances are 85 miles and 143 miles respectively.

is based primarily upon system averages of the Southern Pacific for the year 1936. Recognizing that a cost study based upon system averages alone would be subject to the objections mentioned by the United States Supreme Court in N.P. vs. Dept. of Public Works of Washington, 268 U.S. 38, and by this Commission in Decision No. 29267 of November 9, 1936, in Case No. 4079, witness Sines added certain refinements to make it more nearly conform with the particular traffic here involved. For example, he developed separate costs for shipments transported in box cars and in refrigerator cars, stating that canned goods moved in box cars but that refrigerator cars were used for transporting dried fruit, so that the fruit might be fumigated after loading. He claimed, moreover, that the traffic here involved may properly be considered "average" traffic and that as such system averages afforded a fair basis for measuring costs. Full costs developed by this study are:

	<u>Canned Goods</u>		<u>Dried Fruit</u>	
	<u>Average Wt. :</u>	<u>Minimum Wt.</u>	<u>Average Wt. :</u>	<u>Min. Wt.</u>
Terminal Cost	\$.0417	\$.0630	\$.0370	\$.0633
Line Expenses (100 Miles)	.0265	.0348	.0415	.0643
	<u>.0682</u>	<u>.0978</u>	<u>.0785</u>	<u>.1276</u>

M. G. Smith, Commerce Agent, Southern Pacific Company, claimed that the present general level of rail rates was proper under existing transportation conditions, and was necessary if the railroads were to enjoy a portion of this traffic. He agreed that certain of the railroad rates were inconsistent with the general level, but suggested that such inconsistencies be removed by reductions of specific rates, rather than by the proposed general increase. Geo. Hurst, Asst. General Freight Agent, A. T. & S.F. Ry. Co., concurred in this suggestion on behalf of his company.

Witness Smith recommended also that the Commission's order set forth packing requirements. He said that the present railroad packing specifications had been developed over a period of years and

were necessary to prevent an excess of damage claims. He advocated use of the Western Classification penalties in instances where shipments were not properly packed.

Minimum Rates, Rules and Regulations for Highway Carriers

In Decision No. 30370 of November 29, 1937, in Parts "U" and "V" of Case No. 4088 and Parts "F" and "G" of Case No. 4145, minimum rates were established for the transportation of property, including canned goods and dried fruits, in quantities of 20,000 pounds or less, by highway carriers and common carriers within northern California. The territory covered by that order included the territory here involved. First, second, third and fourth class rates were set forth, for weight minima of "any quantity," 2,000 pounds, 4,000 pounds, 10,000 pounds and 18,000 pounds. Canned goods and dried fruits were accorded a rating of 90 per cent of fourth class. The minimum rates so established on these commodities are in general somewhat lower than those produced by a projection of costs from the studies introduced in the present phases of these proceedings. However, they are not inconsistent with such studies when consideration is given to value and similar factors other than costs which influence ratings. The rates established in Decision No. 30370, supra, for weight minima of less than 20,000 pounds will not be disturbed by this decision.

Truckload rates will be based principally upon the costs developed by witness Chesnut, modified by eliminating the 40,000- pound weight bracket.¹¹ The accuracy of such costs was not seriously

11

The difference in cost per 100 pounds of transporting canned goods and dried fruit in 30,000-pound and 40,000-pound shipments for 50 miles, is only .14 cents and for 200 miles only .75 cents, according to witness Chesnut. The establishment of separate scales for each of such weight brackets appears to be an unnecessary refinement.

challenged. Moreover, it was generally conceded that, as testified by witnesses Thompson and Diviny, labor and commodity costs have increased considerably since the completion of Chesnut's study. It is a safe conclusion, therefore, that rates based on Chesnut's costs will be no higher at least than necessary for a compensatory operation.

In a good many instances truck rates based on Chesnut's costs will exceed the carload rail rates, particularly when both origin and destination points are served by spur track. Highway carriers may not be denied the right to meet competitive rail rates, even though to do so may require them to transport at rates which are not¹² compensatory. An alternative rule will be provided, therefore, permitting highway carriers to assess rail rates when both point of origin and point of destination are served by rail track facilities and when such rail rates produce lower charges than the minimum rates otherwise applicable. A further provision will be made whereby rail rates may be used in combination with highway carrier or drayage rates, in order to equalize through charges on shipments originating at and/or destined to off-rail points.

Loading and unloading rules will be provided which will permit the carriers' drivers to perform or assist in the performance of these services. However, hourly charges will be established to apply in instances where help in addition to the driver is employed or when carriers' equipment is subjected to unusual delays at loading or unloading points. These charges represent the reasonable minimum cost to the carriers of providing the extra help and of being deprived of the use of their equipment for the period of the delays.

¹²

Section 10 of the Highway Carriers' Act provides in part:
" * * * In event the commission establishes minimum rates for transportation services by highway carriers, such rates shall not exceed the current rates of common carriers or highway common carriers as those terms are defined in the Public Utilities Act, for the transportation of the same kind of property between the same points. * * "

In instances where, under the alternative application rule, carload rail rates are applied by highway carriers in lieu of the minimum rates otherwise applicable, and such rail rates do not include loading or unloading, the cost to highway carriers of performing loading and unloading service is not determinative of the volume of the charge which should be provided therefor. It is usually necessary for the shipper to bring the shipment to a convenient point from which the truck carrier may load, and in doing so he often incurs as great an expense as though he had loaded it into a rail car. On the other hand, if the carrier does more than to perform a simple loading operation, and itself brings the shipment to a convenient loading point, the shipper incurs no expense, but rather, saves the cost of loading a rail car. An extra charge will be provided for other than so-called "tailgate loading" or "tailgate unloading", representing this saving or value of the service, thus equalizing to some extent the competitive opportunity of the two types of carriers, and at the same time giving due recognition to the cost of performing the extra services. Similar rules have been established in several minimum rate orders heretofore issued.

No packing requirements will be set forth, no evidence concerning the type of packing necessary to protect truck shipments having been presented and no feasible plan of rating shipments not properly packed having been suggested. It is recognized that the packing of canned goods and dried fruit in substantial containers does much towards eliminating loss and damage. It is not doubted that the packing requirements enforced by the rails are the result of many years claim experience and for the most part are reasonable and necessary for rail shipments. It may be that such requirements would be desirable for truck shipments. On the other hand, the differences in rail and truck transportation are such that the rail

packing requirements may not always be appropriate for highway carriers. It is believed that the determination of packing requirements is a matter which may properly be left until the basic transportation rates have been stabilized. The rails maintained their present packing requirements through the period of unregulated truck competition and should be able to continue them under regulation without their being incorporated in minimum rate orders.

Carload Rail Rates

In considering evidence concerning the reasonableness of the present carload rail rates for the transportation of canned goods and dried fruits it should be kept in mind that these are commodities upon the sale and disposition of which the agricultural prosperity of the San Joaquin Valley largely depends. As such they are entitled to be accorded as low rates as are compatible with the maintenance of adequate transportation service.

The Sines' rail cost study hereinbefore referred to would, if accepted in its entirety, be convincing that the present rates not only return the direct cost of transportation but also contribute a proportionate share of the fixed charges. The Stockton interests contended that Sines' study was somewhat vulnerable in that it was based upon system average figures. While we cannot accept, without some reservation, rail costs which are basically predicated on system averages covering as they do a wide territory with varying transportation conditions, we must here give some weight to the Sines' study as numerous adjustments were made in such system averages in an attempt to make them conform with actual operating conditions in the particular transportation here involved. Moreover, it was shown that in many respects this might well be termed "average" traffic, in that operating conditions are not unusually severe, a large volume of tonnage is available and the commodities are of such density and are ordinarily so packed as to permit efficient operation. Even if it were conceded that actual

transportation costs in the San Joaquin Valley exceed system average figures developed by witness Sines, there is room for a considerable upward adjustment of such cost figures before the present rate level would be approached.¹³

The weight which may be accorded the several rate comparisons of record is limited by the fact that in most instances the interstate rates with which comparisons were made were prescribed as maximum reasonable rates. As such they cannot be used as a measure of minimum reasonableness. Moreover, such interstate rates were prescribed for application throughout extensive territories in which varying transportation conditions are encountered, whereas a heavy volume of canned goods and dried fruit traffic is concentrated in the territory here involved. The Stockton interests placed great reliance on the fact that in Re Canned Goods in California, supra, a rate of 10 cents, including an absorption of 40 cents per ton unloading, was found to be unreasonably low by this Commission as well as by the Interstate Commerce Commission for the transportation of canned goods from Sacramento to San Francisco, a distance of 93 miles. However, in that proceeding rail carriers were permitted to continue in effect the prior rate of 12 cents, including a similar absorption, which is therefore presumably not below a minimum reasonable level. The truck cost for a haul of the same distance, as developed by witness Chesnut, is 11.5 cents and by witness Thompson is 12.1 cents, hence

13

Exhibit PC-57 shows that present rail rates on canned goods, for example, are more than 200 per cent of Sines' adjusted system average costs in many instances. The following are representative points:

TO:	San Francisco	Full Costs Developed by Sines	
FROM:		for Canned Goods	Rail Rate
Lemoore		.1098	.22
Fresno		.0952	.15
Tulare		.1072	.20
Bakersfield		.1236	.26

this case cannot be considered as conclusive that the reasonable minimum level for rail rates is above truck costs, even for relatively short distances.

The class rates now in effect between San Joaquin Valley points on the one hand and Stockton and San Francisco on the other hand were established by the Commission in 1912, in the so-called San Joaquin Valley Rate Case 1 C.R.C. 95, and have been in effect continuously since that time (subject to the war-time general increases and reductions). As shown by witness McCarthy the rails in establishing the present commodity rates have observed substantially the same percentage relationship between rates to Stockton and San Francisco as the Commission prescribed class rates reflect.

FINDINGS

Upon consideration of all the facts of record the Commission finds:

1. That the rates, rules and regulations provided in Appendix "A" of the order herein are just, reasonable and non-discriminatory minimum rates, rules and regulations for transportation by radial highway common carriers and highway contract carriers of shipments for which rates are provided in said Appendix "A".

2. That reasonable and sufficient rates, rules and regulations for transportation by common carriers (other than for carload transportation by railroad) of shipments for which rates are provided in said Appendix "A", are no lower than the rates, rules and regulations therein provided as minimum for radial highway common and highway contract carriers.

O R D E R

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 provided in Appendix "A" attached hereto and hereby made a part hereof, be and they are hereby established and approved, effective forty (40) days from the effective date of this order, as the just, reasonable and nondiscriminatory 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 (Chapter 223, Statutes of 1935, as amended), for transportation of shipments as provided 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 and directed to establish on or before forty (40) days from the effective date of this order, on not less than ten (10) days' notice to the Commission and to the public, for transportation (other than carload transportation by railroad) of shipments for which rates are provided in said Appendix "A", rates, rules and regulations no lower in volume or effect than those provided in said Appendix "A" as minimum for radial highway common carriers and highway contract carriers.

IT IS HEREBY FURTHER ORDERED that all carriers respondent to these proceedings be and they are hereby ordered to cease and desist on or before forty (40) 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 established and prescribed herein.

IT IS HEREBY FURTHER ORDERED that this order supersede prior orders entered in these or other proceedings, to the extent that it provides different rates for the same transportation.

IT IS HEREBY FURTHER ORDERED that every radial highway common carrier and highway contract carrier shall issue to the shipper, for each shipment received for transportation, a freight bill in substantially the form set forth in Appendix "B" hercof, but may include in said freight bill, in addition to the provisions appearing in said form, such other reasonable and lawful provisions as may be deemed proper, and shall retain and preserve for reference, subject to the inspection of the Commission, a copy of said freight bill for a period of not less than three (3) years from the date of its issuance.

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 or minimum or maximum and 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.

This order shall become effective twenty-five (25) days from the date hereof.

Dated at San Francisco, California, this 28th day of March, 1938.

William H. Hall
Leon S. Quinn
Frank W. Allen
Raymond L. Kelley
COMMISSIONERS.

APPENDIX "A"

NAMING MINIMUM RATES FOR RADIAL HIGHWAY
COMMON CARRIERS AND HIGHWAY CONTRACT CARRIERS

FOR THE TRANSPORTATION OF
CANNED GOODS AND DRIED FRUITS

AS DESCRIBED HEREIN

BETWEEN

POINTS IN THE SAN JOAQUIN VALLEY

ON THE ONE HAND

AND

STOCKTON, SACRAMENTO, SAN JOSE, SANTA CLARA AND

SAN FRANCISCO BAY POINTS (AS DESCRIBED HEREIN)

ON THE OTHER HAND

ITEM NO. 5 - EXPLANATION OF TECHNICAL TERMS

1. POINT OF ORIGIN means the precise location at which property is physically delivered into the custody of the carrier for transportation.

2. POINT OF DESTINATION means the precise location at which property is physically delivered into the custody of the consignee.

3. SHIPMENT means a quantity of freight received from one shipper on one shipping order or one bill of lading at one point of origin at one time for one consignee at one destination. (See Item No. 65 for exception).

4. ESTABLISHED DEPOT means a freight terminal owned or leased and maintained by the carrier for the receipt and delivery of shipments.

5. RAILHEAD means a point at which property is usually and ordinarily loaded into or unloaded from rail cars. It includes all points served by railroad spur track, as well as all truck loading facility points immediately adjacent thereto and under the ownership or control of the plant or industry maintaining and using the spur track.

6. COMMON CARRIER RATE means any intrastate rate or rates of any common carrier or common carriers as defined in the Public Utilities Act, lawfully in effect at time of shipment, together with the minimum weights, rules and regulations which govern such rate or rates.

7. RATE includes minimum weight, rules, regulations and classification governing.

8. SAME TRANSPORTATION means transportation of the same kind and quantity of property from the same point of origin to the same point of destination, and subject to the same limitations, conditions and privileges, although not necessarily in an identical type of equipment.

9. CARRIER'S EQUIPMENT means any motor truck or other self-propelled highway vehicle, trailer, semi-trailer, or any combination of such highway vehicles operated by the carrier.

10. TAILGATE LOADING means loading of the shipment into carrier's equipment from a point not more than 25 feet distant from said equipment.

11. TAILGATE UNLOADING means unloading of the shipment from carrier's equipment and placing it at a point not more than 25 feet distant from said equipment.

12. TEAM TRACK means a track available to the public at large for the loading or unloading of rail cars.

ITEM NO. 10 - APPLICATION OF RATES - CARRIERS'

Rates provided in this Appendix are just, reasonable and non-discriminatory minimum rates, established pursuant to the Highway Carriers' Act (Chapter 223, Statutes of 1935, as amended) and apply for transportation by radial highway common carriers and highway contract carriers, as defined in said Act.

ITEM NO. 15 - APPLICATION OF RATES - TERRITORIAL

Rates in this Appendix apply from or to San Francisco, South San Francisco, Oakland, Alameda, Berkeley, Emeryville, Albany, El Cerrito, Piedmont, Richmond, San Leandro, Sunnyvale, Mountain View, Santa Clara, San Jose, Stockton and Sacramento and points between on the one hand, and points within the San Joaquin Valley, including Lodi and Oakdale on the other hand.

ITEM NO. 20 - APPLICATION OF RATES - COMMODITIES

Rates in this Appendix apply for the transportation of the following articles and commodities:

(a) Canned Goods, Pickles, Preserves, viz.:

Beans-and-Pork	Jam
Breads	Jelly
Brine	Juice, clam
Broths	Juice (not syrup), fruit,
Butter, fruit	unfermented
Butter, peanut (Peanut Paste)	Juice, tomato
Buttermilk (not Casein)	Juice, vegetable
Catsup	Macaroni (prepared, with or
Chili, ground	without cheese, meat or
Chowders	vegetable ingredients)
Cocoanut, not desiccated	Meats, cooked, cured or pre-
Corn	served, with or without
Dressing, salad	cereal or vegetable in-
Fish, cooked, pickled or pre-	redients
served, with or without fruit	Milk (condensed or evapor-
or vegetable ingredients	ated), liquid
Fish Roe, cooked, pickled or	Milk (not malted), dry or
preserved	powdered
Fruit (not fresh), crushed	Mince Meat
Fruit (not dried, evaporated	Molasses or Syrup (except
or fresh), in liquid other	Coloring, flavoring, fruit,
than alcoholic liquor	malt or medicated)
Hominy	Mustard, prepared
	Oil, olive or salad
	Olives

ITEM NO. 20 - APPLICATION OF RATES - COMMODITIES (Continued)

(a) Canned Goods, Pickles, Preserves, viz.: (Concluded)

Paste, tomato	Sandwich Spread
Pectin, fruit or vegetable	Sauces, Condiments or Relishes, prepared
Pickles (Cauliflower, Cucumber, Dill Weed, Kraut, Mangoes, Onions and Tomato)	Sausage
Pie Preparations (fruit in syrup or in paste form compounded with flour or sugar and flavored)	Soups
Pimentos (Canned Peppers)	Spaghetti (prepared), with or without cheese, meat or vegetable ingredients
Puddings	Syrups
Pulp, fruit or vegetable	Vegetables (not dehydrated, dried, evaporated nor fresh), including Pickled Vegetables
Puree, tomato	Vermicelli (prepared), with or without cheese, meat or vegetable ingredients
Ravioli (prepared), with or without cheese, meat or vegetable ingredients	Vinegar
Rice-and-Milk, cooked	Welsh Rarebit

(b) Dried Fruits, including raisins, prunes (dried) and figs (dried)

ITEM NO. 25 - MINIMUM WEIGHT

Rates provided in this Appendix are for shipments weighing 20,000 pounds or more, or when charges are based on a minimum weight of 20,000 pounds or greater. For rates on lesser weight minima see Decision No. 30370 of November 29, 1937, or as may be amended, in Case No. 4088, Parts "U" and "V" and Case No. 4145, Parts "F" and "G".

ITEM NO. 30 - SHIPMENTS TO BE RATED SEPARATELY

Each shipment shall be rated separately. Shipments shall not be consolidated or combined. (See Item No. 65 for exception).

ITEM NO. 35 - GROSS WEIGHT

Charges shall be assessed on the gross weight of the shipment. No allowance shall be made for the weight of containers.

ITEM NO. 40 - RATES BASED ON VARYING MINIMUM WEIGHTS

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

ITEM NO. 45 - COMPUTATION OF DISTANCES

Distances shall be computed in accordance with Decision No. 30000, dated August 9, 1937, or as may be amended, in Case No. 4088, Part "N". (See Note 1 and Note 2.)

NOTE 1.- Distances from or to points located within any incorporated city shall be computed from or to the point designated within the incorporated city limits by a triangle and circle, as shown on the map appended to Decision No. 30000.

NOTE 2.- All decimals shall be retained until the final result and then be disposed of as follows:

Decimals of less than .5 of one mile drop
Decimals of .5 of one mile or more increase to the next
mile

ITEM NO. 50 - LOADING, UNLOADING AND DEMURPAGE

Rates in Item No. 35 include service of driver only for loading into and unloading from the carrier's equipment, subject to Note 1. (See Item No. 55 for charges for additional help.)

NOTE 1.- When time consumed in loading or unloading carrier's equipment exceeds 20 minutes per ton (based on the weight on which transportation charges are computed) a charge of \$2.00 per hour for the additional time consumed shall be assessed.

ITEM NO. 55 - ACCESSORIAL CHARGES

An additional charge of \$1.00 per man hour shall be made for stacking, sorting, helpers for loading or unloading, or any other accessorial service for which a charge is not otherwise provided.

ITEM NO. 60 - COLLECT ON DELIVERY SHIPMENTS

(a) In the handling of C.O.D. shipments carrier shall, immediately upon collection of any and all moneys, and in no event later than ten (10) days after delivery to the consignee, unless consignor, in writing, instructs otherwise, remit to consignor all moneys collected by it on such shipment.

(b) The charges for collecting and remitting the amount of C.O.D. bills collected on C.O.D. shipments shall be as follows:

When the amount collected is				:Charge : : for : :Collect- :ing and : : Remit- : : ting : :will be :		When the amount collected is				:Charge : : for : :Collect- :ing and : : Remit- : : ting : :will be :	
Not over \$2.50				: \$0.18		Over \$180.00 not over \$200.00				: \$0.89	
Over \$2.50	not over	\$5.00	:	.20	:	200.00	"	"	250.00	:	1.00
"	5.00	"	"	10.00	:	.23	"	"	300.00	:	1.15
"	10.00	"	"	20.00	:	.30	"	"	350.00	:	1.30
"	20.00	"	"	25.00	:	.32	"	"	400.00	:	1.45
"	25.00	"	"	40.00	:	.37	"	"	450.00	:	1.60
"	40.00	"	"	50.00	:	.40	"	"	500.00	:	1.75
"	50.00	"	"	60.00	:	.50	"	"	550.00	:	1.90
"	60.00	"	"	80.00	:	.52	"	"	600.00	:	2.05
"	80.00	"	"	100.00	:	.54	"	"	650.00	:	2.20
"	100.00	"	"	102.50	:	.68	"	"	700.00	:	2.35
"	102.50	"	"	105.00	:	.70	"	"	750.00	:	2.50
"	105.00	"	"	110.00	:	.73	"	"	800.00	:	2.65
"	110.00	"	"	120.00	:	.75	"	"	850.00	:	2.80
"	120.00	"	"	140.00	:	.77	"	"	900.00	:	2.95
"	140.00	"	"	150.00	:	.80	"	"	950.00	:	3.10
"	150.00	"	"	160.00	:	.85	"	"	1,000.00	:	3.25
"	160.00	"	"	180.00	:	.87	"	"	1,000.00 at rate of	:	
					:				\$3.25 per \$1,000.00	:	
					:					:	

ITEM NO. 65 - SPLIT DELIVERY

A shipment may consist of several component parts delivered to (a) one consignee at more than one point of destination, or (b) more than one consignee at one or more points of destination, subject to the following conditions:

(1) The composite shipment shall be shipped by one consignor at one time from one point of origin.

(2) Charges shall be paid by the shipper.

(3) The composite shipment shall weigh (or transportation charges shall be computed on) not less than 10,000 pounds.

(4) The charge for the composite shipment shall be the charge applicable for transportation of a single shipment of the same kind and quantity of property for the distance from point of origin to last point of destination, using the shortest constructive highway route via the several points of destination, plus the additional charges provided in paragraph (5). If all component parts are delivered to points taking the same rates within the corporate limits of a single incorporated city, the charges provided in paragraph (5) shall be in addition to the rate applicable to points within such city.

(5) An additional charge of 1 cent per 100 pounds, minimum 25 cents per delivery, shall be assessed.

(6) At time of tender of shipment carrier shall issue a single bill of lading or shipping document for the composite shipment, and be furnished with manifest or written delivery instructions showing the name of each consignee, the point of destination, and the kind and quantity of property in each component part.

ITEM NO. 70 - ALTERNATIVE APPLICATION OF COMMON CARRIER RATES

When the transportation is between railheads, rates in this Appendix shall alternate with rates of common carriers by railroad for the same transportation between the same railheads. (See Note)

Rates in this Appendix shall also alternate with the lowest common carrier rate for the same transportation.

NOTE: Highway carriers maintaining established depots may apply for transportation between such depots, the rail carload rates applying between rail team tracks in the same cities or towns.

ITEM NO. 75 - ALTERNATIVE APPLICATION OF COMBINATIONS WITH CARLOAD RAIL RATES

Rates in this Appendix may be used in combination with the lowest carload rail rates for the same transportation as follows:

1. When Point of Origin is located beyond the railhead, add to the rail rate used the rate provided in this Appendix for the distance from Point of Origin to the rail team track from which such rail rate applies. (See Notes 1 and 2)

2. When Point of Destination is located beyond the railhead, add to the rail rate used the rate provided in this Appendix for the distance from the rail team track to which such rail rate applies to Point of Destination. (See Notes 1 and 2)

3. Where both Point of Origin and Point of Destination are located beyond the railhead, add to the rail rate used the rate provided in this Appendix for the distance from Point of Origin to the rail team track from which such rail rate applies, plus the rate provided in this Appendix for the distance from the rail team track to which such rail rate applies to Point of Destination. (See Notes 1 and 2)

NOTE 1.-If the route from Point of Origin to the rail team track or from the rail team track to Point of Destination is within the corporate limits of a single incorporated city, the distance to or from such team track will be considered as not to exceed 5 miles.

NOTE 2.-When rates have been established for transportation by Carriers (as defined in the City Carriers' Act, Chapter 312, Statutes of 1935, as amended) from Point of Origin to the rail team track, or from the rail team track to Point of Destination, such rates may be added in lieu of the rates provided in this Appendix, if they produce lower charges.

ITEM NO. 80 - ACCESSORIAL SERVICES NOT INCLUDED IN RAIL RATES

In the event under the provisions of Items Nos. 70 and 75, a rail rate is used in constructing a rate for highway transportation, and such rate does not include accessorial services performed by the highway carrier, the following charges for such accessorial services shall be added:

- (1) For tailgate loading or tailgate unloading - no additional charge.
 - (2) For loading or unloading other than tailgate loading or tailgate unloading - 2 cents per 100 pounds.
 - (3) For C.O.D. service - Basis provided in Item No. 60.
 - (4) Split delivery - Charge shown in Item No. 65.
 - (5) For other accessorial services - an additional charge of \$1.00 per man per hour shall be assessed.
-

ITEM NO. 25 - RATES (in cents per 100 pounds)

Rates in this Item apply for transportation of the commodities described in Item No. 20, in quantities of 20,000 pounds or more, or when charges are assessed on a minimum weight of 20,000 pounds.

MILES		MINIMUM WEIGHTS	
Over	But not Over	20,000 Pounds	30,000 Pounds
0	5	4 $\frac{1}{2}$	4
5	10	5	4 $\frac{1}{2}$
10	15	5 $\frac{1}{2}$	5
15	20	6	5 $\frac{1}{2}$
20	25	6 $\frac{1}{2}$	6
25	30	7	6 $\frac{1}{2}$
30	35	7 $\frac{1}{2}$	7
35	40	7 $\frac{1}{2}$	7
40	45	8	7 $\frac{1}{2}$
45	50	8 $\frac{1}{2}$	8
50	60	9	8 $\frac{1}{2}$
60	70	10	9
70	80	12	10
80	90	13	11
90	100	14	12
100	110	15	13
110	120	16	14
120	130	17	14 $\frac{1}{2}$
130	140	18	15
140	150	19	16
150	160	20	17
160	170	21	18
170	180	23	19
180	190	24	20
190	200	25	21
200	220	27	23
220	240	30	25
240	260	32	27
260	280	34	29
280	300	37	31
300	325	39	33
325	350	41	34
350	375	44	36

APPENDIX "3"

SHIPPING ORDER AND FREIGHT BILL

Name of Carrier _____
(Name of Carrier must be same as shown on Permit)

Bill No. _____
Permit No. _____

City _____ Date _____, 193_____

Shipper _____ Consignee _____

Street Address _____ Street Address _____

City _____ City _____

Packages	Kind	Description of Commodities	Weight	Rate	Charges

Shipper _____

By _____
(Show name in full)

Received by Carrier in good condition except as noted:

By Driver (Show name in full)

Received by Consignee in good condition except as noted:

By _____
(Show name in full)

C.O.D. _____

C.O.D. Fee _____

*ADVANCES

*Other Charges _____

Prepaid

Total to collect

*Show each charge separately and what it represents.

*** If other unit of charges, show per hour, box, crate, bundle, bag, head, etc.