

Decision No. 30748.

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 accessorial services incident to such transportation.

Case No. 4088  
Part "Y"

In the Matter of the Investigation and Establishment of rates, charges, classifications, rules, regulations, contracts and practices, or any thereof, of Common Carriers of property.

Case No. 4145  
Part "K"

R.E. Wedekind, for Southern Pacific Company, San Diego and Arizona Eastern Railroad, Pacific Motor Transport Company and Pacific Motor Trucking Company.

H.W. Dill, for Truck and Warehouse Association of San Diego and Imperial Counties.

E. Bissinger, for Pacific Electric Railway Company.

C.P. Munson, for Warehouse Association.

W.K. Downey, for Pacific Freight Lines, Keystone Express System and Certificated Highway Carriers, Inc.

E.J. Bischoff, for Southern California Freight Lines, Southern California Freight Forwarders and Certificated Highway Carriers, Inc.

Ed Stern for Railway Express Agency, Inc.

G.E. Duffy, G.T. Hurst and Berne Levy for The Atchison, Topeka and Santa Fe Railway Company and Santa Fe Transportation Company.

E.C. Renwick and W.E. Love, for Union Pacific Railroad Company.

J.J. Deuel, for California Farm Bureau Federation.

E.P. Brashear, for Los Angeles Chamber of Commerce

R.S. Sawyer and R.E. Crandall, for Associated Jobbers' and Manufacturers' Association.

ORIGINAL

B.F. Bolling, for Pioneer Flintco Company and Los Angeles Traffic Managers' Conference.

T.F. McHugh, for Crane and Company.

J.L. Dartt, for California Portland Cement Company.

Stewart Russell, for Motor Truck Association of Southern California.

E.A. Maher and J.M. Hunton, for Automotive Council of Orange County.

J.D. Rearden and W.C. Paul, for the Union Oil Company of California.

BY THE COMMISSION:

### O P I N I O N

The phases of the above entitled proceedings with which we are here dealing have to do with the transportation of property between points in the territory bounded generally by San Fernando and Burbank on the north, San Diego and San Ysidro on the south, the Pacific Ocean on the west and Redlands, Yucaipa, Hemet Valley and Escondido on the east. This territory is generally referred to, and throughout this opinion will be designated as Part "M" territory.

By previous orders in these proceedings, just, reasonable and non-discriminatory minimum rates for radial highway common and highway contract carriers and reasonable and sufficient rates for common carriers have been established for the transportation of property, with certain exceptions, in lots of 15,000 pounds or less, in pick-up and delivery service. (1)

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The orders referred to are contained in Decisions Nos. 29420, 29592, 29662, 29725, 29991 and 30210; the exempted commodities are:

- (1) Automobiles.
- (2) Fruit, fresh; vegetables, fresh or green.
- (3) Milk, cream, buttermilk, cottage cheese, pot cheese, or un-flavored ice-cream mix when transported in milk shipping cans, in bottles in cases or crates, or in bulk in tanks.
- (4) Motion picture films and motion picture accessories.
- (5) Oil, Water or Gas Well Outfits and Supplies as described in Item No. 10 of Appendix "A" of Decision No. 29313 of November 30, 1936, or tank steel as described in Decision No. 29560 of February 19, 1937, in Cases Nos. 4088 "C", 4106 and 4107, where lower charges for the same transportation of the same shipment are provided in said decisions.

The orders establishing these rates provide that when the service performed includes either pick-up or delivery but not both, an allowance of 5 cents may be made. No rates have been established to cover transportation when neither of these services is performed.

By petition filed February 21, 1938, Certificated Highway Carriers, Inc., a non-profit corporation whose membership consists of highway common carriers, alleges that the rates maintained

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1 (concluded)

- (6) Petroleum products (liquid, refined), including compounded oils having a petroleum base, as described in Supplement 17 to Western Classification No. 65 (Supplement No. 17 to C.R.C. No. 580 of M.A. Cummings, Agent), under the heading "Petroleum or Petroleum Products \* \* \*" (except petroleum crude oil, petroleum fuel oil and petroleum gas oil) when transported in tank cars, tank trucks, tank trailers or tank semi-trailers, or a combination of such highway vehicles.
- (7) Property transported by Western Parcel Service, Railway Express Agency, Inc., United Parcel Service, Inc., or Louis M. Goodman doing business as Goodman Delivery Service, and 20th Century Delivery Service.
- (8) Sand, rock, gravel, road building material, excavated material, building materials, asphaltic concrete, decomposed granite, and stabilizing materials, when transported by dump truck.
- (9) Shipments weighing more than 15,000 pounds, except that such shipments shall not be transported at a lesser total charge than the charge herein established for the same transportation of a shipment of the same commodity (or of the same commodities in the same proportions) weighing 15,000 pounds.
- (10) Livestock.
- (11) Used household goods and personal effects, second-hand furniture, musical instruments, radios, office and store fixtures and equipment.
- (12) Telephone directories.
- (13) Baggage
- (14) Grain, Grain Products and Feed, Animal or Poultry as described under those headings in the current classification; also crushed or ground clam, mussel or oyster shells.
- (15) Fertilizer.
- (16) Insecticides and fungicides, agricultural.
- (17) Hay and Straw.
- (18) Cotton, cotton seed, cotton meal and cotton cake.
- (19) Shipments weighing 300 pounds or less transported between the Cities of San Diego, Chula Vista, Coronado and National City, or any of them.
- (20) Nuts, edible; Beans, Peas and Lentils, dried.

by common carrier railroads for the transportation of property in station to station or terminal to terminal service (service where neither pick-up nor delivery is performed) within the Part <sup>III</sup> territory are unreasonably low and non-compensatory. It seeks an order prescribing just, reasonable and sufficient minimum rates for all forms of land transportation. Pursuant to this petition, the matter was set for public hearing, which was had at Los Angeles on March 16 and 29, 1938, before Examiner Howard G. Freas.

Petitioners introduced an exhibit (a) comparing the store-door to store-door rates heretofore established by the Commission with rates now maintained by the rail lines for station to station service, (b) showing the purported cost of performing pick-up and delivery service and (c) showing the amounts by which it is contended the cost of performing pick-up and delivery service exceeds the cost of transporting property delivered to and picked up at carriers' depots. This study shows wide disparities between store-door to store-door and terminal to terminal rates. It develops separately costs for picking up and delivering shipments of various sizes falling within the weight brackets employed in the decision in which the pick-up and delivery rates have been established. The average for all weights involved is said to be 9 cents per 100 pounds. From this, the witness concluded and recommended that an amount of not more than 10 cents per 100 pounds should be deducted from the store-door to store-door rates to create the depot to depot rates.

Witnesses for the Southern Pacific Company, San Diego and Arizona Eastern Railroad, Pacific Motor Transport Company, Pacific Motor Trucking Company, The Atchison, Topeka and Santa Fe Railway Company, Santa Fe Transportation Company and Pacific Electric Railway

Company, urge that the Commission prescribe rates for store-door to store-door service which would be all inclusive and permit an allowance of 5 cents per 100 pounds where either pick-up or delivery service is not performed, and 10 cents per 100 pounds where neither of these services is rendered. They point out that this has been done in the Commission's Decision No. 30370, involving the rates within Central and Northern California and between the territory here involved on the one hand, and points north thereof on the other. They object to an order necessitating the maintenance of two scales of rates and argue that depot-to-depot rates more than 10 cents per 100 pounds below the pick-up and delivery rates will inevitably break down the pick-up and delivery scale.

The Union Pacific Railroad Company did not concur in the position taken by the other carriers. It is not engaged in pick-up and delivery service in this state and apparently fears that under the proposed rates it might have difficulty attracting depot to depot traffic.

Counsel for the Los Angeles Chamber of Commerce emphasized the undisputed fact that pick-up and delivery costs vary according to the size of the shipment and indicated that the amount of the allowance should coincide with the cost of performing the service. He also emphasized the desirability of having rates for depot to depot service in this territory on a level no higher than the depot to depot rates concurrently applicable in Central and Northern California.

At the request of counsel for the Los Angeles Chamber of Commerce and the Associated Jobbers and Manufacturers Association, the initial hearing was adjourned to allow time for the preparation of evidence in opposition to petitioner's proposal. However, no one appeared for the Chamber at the adjourned hearing. A witness for the

Jobbers and Manufacturers Association introduced studies of rates between Los Angeles and certain selected points. He pointed out that excepting for general increases and reductions many of these rates have not been changed since they were prescribed or approved by this Commission in 1911 or shortly thereafter. The granting of petitioners' proposal, he argued, would increase rates on carload traffic rated higher than 4th class and subject to a minimum of 20,000 pounds or less and might stifle the movement of such traffic unless commodity rates were established simultaneously. Because of the volume and continuity of movement he thought rates between Los Angeles and the harbor should receive special consideration. He could not state what intrastate movement there was that might be affected but conceded that it was probably small. Witnesses for the Traffic Manager Conference of Los Angeles and the Furniture Manufacturers Association stated that until rates have been prescribed for station to station services throughout the remainder of the state they opposed any increase in the station to station rates in this territory. While one of these witnesses testified that some of the shippers he represented felt that the proposed allowance was too small, and the other that on shipments up to 500 pounds certain of the resulting increases would be too great, neither of them found any fault with the proposal to establish a single scale of pick-up and delivery rates with a fixed allowance where station to station service only is performed.

Counsel for Railway Express Agency, Inc. requested that as in Decision No. 29480, the order herein exempt shipments transported by his company weighing less than 100 pounds.

Pick-up and delivery service has been accorded by the majority of carriers in this state for a considerable period of time.

Shippers have become accustomed to it, and there can be little doubt that it fills a definite public need.

Rates for transportation in such service of the commodities and between the points here involved were established after extensive hearings and upon a very comprehensive record. For the purpose of this decision they must be assumed to be proper. This is likewise true of rates where only one terminal service is performed in which case a flat allowance of 5 cents per 100 pounds is made. The difference between the established rates and the existing station to station rates of the rail lines in many instances is out of proportion to the difference in the service. The perpetuation of such a dual and unrelated rate schedule will undoubtedly result in unwarranted changes in the flow of traffic and will inevitably defeat the established pick-up and delivery rates. On this record the station-to-station rates should be related to the established store-door to store-door rates.

The matter left for determination is what this relationship between the established store-door to store-door and proper terminal to terminal rates should be. It is true that the cost of picking up and delivering small shipments is greater per 100 pounds than that of picking up and delivering larger ones, and that if cost alone were considered the amount of the allowance would vary inversely with the size of the shipment. Theoretically this would necessitate a different allowance for each pound or fraction thereof. Such a rate structure is obviously impracticable and has not been suggested. Averages must of necessity be employed and the question to be determined is whether one average should be used on all the shipments here involved, or whether a refinement should be undertaken by establishing separate allowances for various weight brackets.

With few exceptions the uniform allowance of 5 cents for one terminal and 10 cents for two was voluntarily established by the carriers,

has been in effect for a long period of time, and is employed by this Commission elsewhere in this state (see Decision No. 30370 in Parts "U" and "V" of Case No. 4088 and "F" and "G" of Case No. 4145). Moreover, an allowance of 5 cents where only one terminal service is performed is now in effect in this territory. Under these conditions and on this record the station to station rates should be established at not more than 10 cents below the prescribed pick-up and delivery rates.

O R D E R

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

IT IS HEREBY ORDERED that Appendix "A" of Decision No. 29480 of January 25, 1937, as modified, in Part "M" of Case No. 4088 and Part "B" of Case No. 4145, be and it is hereby further modified effective April 25, 1938, by changing Rule No. 40, paragraph (b), to read as follows:

"(b) For transportation which includes pick-up at point of origin or delivery at point of destination, but not both, the rates shall be 5 cents per 100 pounds (or 5 cents per shipment when shipment weighs less than 100 pounds) less than those provided herein. For transportation which includes neither pick-up at point of origin nor delivery at point of destination, the rates shall be 10 cents per 100 pounds (or 10 cents per shipment when shipment weighs less than 100 pounds) less than those provided therein. In no case shall the net transportation rate be less than 6 cents per 100 pounds."

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 April 25, 1938, on not less than three (3) days' notice to the Commission and to the public, rates, rules and regulations no lower in volume or effect than those established in and by said Decision No. 29480, as modified by prior orders and by this order, and to cancel all rates inconsistent therewith.

IT IS HEREBY FURTHER ORDERED that in all other respects said Decision No. 29480 as modified shall remain in full force and effect.

The effective date of this order shall be fifteen (15) days from the date hereof.

Dated at San Francisco, California, this 4<sup>th</sup> day of

April, 1938.

Walter Moore  
John J. Whelan  
Francis J. Moran  
Walter J. Whelan  
Walter J. Whelan  
Commissioners.