

Decision No. 30370

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 "G"

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 "F"

BY THE COMMISSION:

**ORIGINAL**

NINTH SUPPLEMENTAL ORDER

Further hearings in these proceedings were held in San Francisco on May 10 and 11, 1938, before Examiner E. S. Williams for the purpose of receiving evidence with respect to certain petitions for modification of the minimum rates, rules and regulations heretofore established or prescribed by Decision No. 30370, as amended.<sup>1</sup>

The following modifications were sought:

1. Extension of the Stockton pick-up and delivery zone to include certain industrial and commercial area outside the present defined limits.<sup>2</sup>

2. Exclusion from the application of the minimum rates, rules

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Evidence was also received at these hearings in connection with other phases of Cases Nos. 4088 and 4145. These other matters will be disposed of in separate decisions.

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The proposed pick-up and delivery zone is set forth in the order herein.

and regulations provided by said decision of shipments (a) between Sacramento and North Sacramento, (b) between said cities on the one hand and the plants of Lumbermen's Supply, Inc., Swanson & Son, Sacramento Wool Co., Sacramento Feed Co., and Essex Lumber Company (all adjacent to the cities of Sacramento or North Sacramento) on the other hand, and (c) between said cities and plants on the one hand and Sacramento Air Depot on the other hand.

3. Exclusion of fresh fish and shell fish from the application of said decision.

In support of the first proposal the Stockton Chamber of Commerce stated that the proposed extended area, although outside the corporate limits of the City of Stockton, is generally considered a part of the industrial and commercial zone of that city; that this area is customarily served by Stockton draymen and has long been accorded local drayage rates; that numerous industries and businesses are located in this area which are competitive with industries and businesses located within the present defined pick-up and delivery limits, and that the further growth and development of this area is in a large measure dependent upon the application of the Stockton rates.

The extent to which extensions of pick-up and delivery limits at one rate may be justified is a matter which must be considered in the light of the evidence as it relates to each particular case. Pick-up and delivery zones heretofore established in these proceedings generally embrace the city limits and frequently include industrial areas adjacent to such cities. The inclusion of territories outside of city limits has generally followed a showing that they had, from a transportation standpoint, long been considered as integral parts of such cities and that unless such arrangements were continued, competitive trade practices would be disrupted. While in

the instant case it appears that some of the territory sought to be included within the Stockton zone has not uniformly been accorded Stockton rates, all of the carriers expressing themselves on the subject have supported the proposal as necessary and proper and have signified their intention, if permitted to do so, of following the same zoning arrangement. The evidence submitted appears to justify the proposal and it will be adopted.

With respect to the second proposal, a witness representing the Sacramento Chamber of Commerce stated that shipments moving within the Sacramento district sought to be excluded from the minimum rates heretofore established in these proceedings have long been treated as local drayage and that shippers had become accustomed to shipping by local draymen between these points at local drayage rates.

The Commission has heretofore exempted from the application of minimum rate orders territories within which shipments are customarily handled in local drayage service and has considered such rates in separate investigations instituted for that purpose.<sup>3</sup> Under the circumstances, it appears that the transportation sought to be exempted is essentially that of a local drayage service, rates for such transportation should not be fixed until such time as local drayage rates within the Sacramento area can be considered. The proposal will be given effect.

In support of their request to exclude fresh fish and shell fish from the application of the minimum rates established in and by Decision No. 30370, Central California Wholesale Dealers Association

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Among such exemptions are (1) shipments having point of origin in Alameda, Albany, Berkeley, Emeryville, Oakland or Piedmont, point of destination in another of those cities; (2) shipments between San Francisco and South San Francisco; (3) shipments having point of origin in San Diego, Chula Vista, Coronado or National City and point of destination in another of those cities.

and Eureka Fishermen's Cooperative Association of Eureka asserted that unless the relief sought is granted they will be unable to market successfully fish caught in waters adjacent to Eureka and Fort Bragg in competition with fish caught in the Pacific Northwest and imported into California. It appears from the petition filed by the Central California Wholesale Dealers Association that the important fish landed at Eureka and Fort Bragg are salmon and halibut and that a yearly average of over three and one half million pounds of salmon and approximately one million pounds of halibut are landed at these two points. These fish are marketed within the state, principally at San Francisco, in competition with salmon and halibut caught in large quantities at points off the states of Oregon and Washington. The cost of capturing fish in waters off Eureka and Fort Bragg is said to exceed the cost experienced by fishermen in the Pacific Northwest, principally due to the necessity of traveling greater distances between Eureka and Fort Bragg on the one hand and the fishing grounds on the other hand than it is necessary to travel to and from the fishing grounds from ports in the Pacific Northwest, and also due to the shorter fishing season in California waters. The established minimum rates on fresh fish in quantities of less than 4000 pounds, from Eureka and Fort Bragg to San Francisco are respectively 117 and 75 cents per 100 pounds. According to the record the present rates from Oregon and Washington points to San Francisco for shipments of fresh fish in lots of 1000 to 4000 pounds is \$1.20 per 100 pounds. Prior to April 1, 1938, Railway Express Agency, Inc., maintained a rate of 60 cents per 100 pounds on fresh fish in lots of 1000 pounds or more from Eureka and Fort Bragg to San Francisco. The record indicates that due in part to the relatively low rates formerly enjoyed from Fort Bragg and Eureka, and to some extent to the superior quality of

the California fish when received at the markets, wholesalers had paid a somewhat higher price to California fishermen than that paid to Pacific Northwest fishermen. Petitioners state that the minimum rates established in and by Decision No. 50370 have had the effect of equalizing the freight rates on fresh fish from Eureka to San Francisco with those from the Pacific Northwest to San Francisco. As a result, petitioners claim that California wholesalers can no longer pay differentially higher prices to Eureka and Fort Bragg fishermen and that the local fishing industry will thus be greatly curtailed.

While none of the carriers offered any objection to a reduction in the established minimum rates Railway Express Agency, Inc., did object to continued exemptions and exclusions of commodities from outstanding minimum rate orders, claiming that such exemptions had the effect of depriving that carrier of the revenues which should accrue under a stabilized rate structure.

The evidence is persuasive that the interests represented by petitioners are entitled to some relief from the outstanding minimum rate order. The showing being almost entirely predicated upon competitive conditions existing between Eureka and Fort Bragg fishermen on the one hand and Pacific Northwest fishermen on the other hand however, falls far short of justifying the exclusion of fresh fish and shell fish on a statewide basis. No evidence was offered from which the Commission might determine the circumstances and conditions surrounding the marketing of fresh fish and shell fish caught in California waters off points other than Eureka and Fort Bragg. It has not been shown that the former rate of 60 cents per 100 pounds from Eureka and Fort Bragg to San Francisco is necessary to successfully market fish caught at the former points in competition with

fish caught in the waters off the Pacific Northwest and moving into San Francisco under a rate twice the volume of the former rate from Eureka and Fort Bragg. Nor does the record indicate the cost of landing Eureka and Fort Bragg fish at San Francisco as compared with the cost of landing Pacific Northwest fish at San Francisco. Hence, there is no evidence of record from which the Commission might determine the volume of the rate the Fort Bragg and Eureka fish traffic could stand in competition with the Pacific Northwest traffic. In denying the relief sought by petitioners, therefore, it should not be concluded that a lower rate might not be reasonably justified upon a proper showing.

Upon consideration of all of the facts of record and good cause appearing,

IT IS HEREBY ORDERED that Section 1 of Appendix "A" to Decision No. 30370, dated November 29, 1937, as amended, in the above entitled proceedings, be and it is hereby further amended as follows:

1. Add to Rule 20 the following sub-paragraphs:

"(v) Shipments (1) between Sacramento and North Sacramento, (2) between said cities and the plants of the Lumbermen's Supply, Inc., Swanson & Son, Sacramento Wool Company, Sacramento Feed Company and Essex Lumber Company; and (3) between said cities and plants on the one hand and the Sacramento Air Depot on the other hand."

2. Change sub-paragraph (x) of Rule 45 to read as follows:

"(x) City limits; also areas outside of Stockton City limits as follows: (1) Directly east on Calaveras Ave. from north-east corner of Oak Park to intersection with West Lane; south on West Lane to County Road; east on County Road to Sanguinetti Lane; south on Sanguinetti Lane to Waterloo Road; northeast on Waterloo Road to Washington Street; south on Washington Street to Golden Gate Ave.; south on Epstein Ave. to Linden Road; east on Linden Road to David Ave.; south on David Ave. to Southern Pacific RR. tracks (Oakdale Branch); south from Southern Pacific RR. tracks on Monterey St. to Copperopolis Road; thence west on Copperopolis Road to city limits; (2) south from City limits on McKinley Avenue to a point 600 ft. south of Ivy Avenue; (3) west from City limits on Moss Ave. to French Camp Turnpike; thence north on French Camp Turnpike to Garwood Ferry Road; thence west on Garwood Ferry Road to San Joaquin River; thence north-

westerly along east bank of San Joaquin River to City  
Limits."

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 twenty-five (25) days from the effective date of this order, on not less than two (2) 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. 30370 as modified by prior orders and by this order.

IT IS HEREBY FURTHER ORDERED that all common carriers as defined in the Public Utilities Act and 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 twenty-five (25) 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 Appendix "A" of Decision No. 30370, as amended, by this and prior orders in the above entitled proceedings.

In all other respects said Decision No. 30370, as amended, shall remain in full force and effect.

The effective date of this order shall be the date hereof.  
Los Angeles

Dated at ~~San Francisco~~ California, this 6<sup>th</sup> day of

June, 1938.

Malcolm Maclean  
Leon A. Whittell  
Francis A. Bellini  
David W. Waterhouse  
Paul J. Riley  
COMMISSIONERS