

Decision No. 31332

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.

ORIGINAL

Case No. 4088
Part "L"

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 "A"

For a list of appearances in these proceedings see Decisions Nos. 29915, 30010, 30025, 30370, 30404, 30410, 30738, 30746, 30788, 30961 and 31309.

BY THE COMMISSION:

SECOND SUPPLEMENTAL OPINION AND ORDER

By petitions in the above entitled proceedings, the Lumber Haulers Association of Southern California and the Truck Owners Association of California seek modification of Decision No. 30404, as amended, dated December 13, 1937, in Cases Nos. 4088, Part "L" and 4145, Part "A". Public hearings were had before Examiner Bryant¹ at Los Angeles and San Francisco.

The petition of Lumber Haulers Association² is concerned primarily with conditions in southern California. It proposes that minimum rates be stated in dollars and cents per thousand board-feet

¹ During these hearings evidence was also taken in Case No. 4246 in re Establishment * * of rates * * for the transportation for compensation or hire of any and all commodities. An Examiners' Proposed Report has been issued in that proceeding, but the matters involved, with certain exceptions, have not yet been disposed of by the Commission. For this reason no supplemental order will issue in Case No. 4246 at this time.

² The petitioning associations are herein referred to as the Lumber Haulers Association and the Truck Owners Association, respectively.

rather than in cents per 100 pounds as now provided; that rates from Long Beach, San Pedro, Terminal Island and Wilmington be made uniform, predicated upon the mileage from a base point in Wilmington; that additional charges be established for transportation of certain classes of lumber, for split pick-up, for hand loading or unloading, and for deliveries to construction job sites; and that a rule be adopted permitting the inclusion of interstate freight in mixed shipments with intrastate freight. The petition of Truck Owners Association proposes revision of rules governing loading, unloading and demurrage, and the addition of a rule permitting split delivery at additional charges.

The proposal toward which most of the evidence was directed was that of Lumber Haulers Association that rates be stated on a board-foot basis. Nine truck operators engaged in the transportation of lumber in southern California, one lumber broker, five southern California retail lumber dealers, and the traffic manager of the Furniture Manufacturers Association of Los Angeles. all testified in support of this proposal. The testimony of each of these witnesses was similar and, taken collectively, was to the following effect: All lumber (with negligible exceptions) is bought and sold in terms of board-foot measure;³ because of variations in weight per board-foot it is difficult to translate rates from the weight basis to the board-foot basis in advance of movement, and for this reason buyers and sellers are unable to determine precisely what delivered prices (in terms of board-foot) will or should be; the absence of board-foot rates has already

³ The board-foot is basically a piece of lumber measuring 1 inch by 12 inches by 12 inches, or its cubic equivalent, but the measure is somewhat theoretical in that surfacing or finishing, which reduces the real volume of the piece, does not affect the "board-foot" measurement.

caused some diversion of traffic from for-hire to proprietary vehicles, and unless such rates are provided, additional tonnage will be lost; lumber dealers using for-hire carriers are in active competition with dealers owning and operating their own vehicles; the payment of scale fees, and the delay to vehicle and driver caused by the necessity of weighing, constitute an unnecessary expense to the truck operators; prior to the effectiveness of Decision No. 30404, supra, trucking rates within southern California were on the board-foot basis and this basis is still applied on all interstate truck traffic; and, finally, both carriers and shippers wish to see the board-foot rates restored.

A witness for the Lumber Haulers Association introduced a proposed mileage scale of rates, based upon minima of 5,000 and 12,000 board-feet, developed by converting the point-to-point rates charged by the association members prior to Decision No. 30404, supra (which are substantially the present interstate rates) into distance or mileage rates. Several other carrier witnesses testified that in their opinion, based upon past experience, these rates would be compensatory; and several shippers stated that the suggested rates would meet their requirements.

All testimony in support of board-foot rates was introduced by witnesses interested only in the southern California movement, and all, or substantially all, of the shipments referred to by them had origin in the Long Beach-Los Angeles Harbor area. Neither the Lumber Haulers Association nor any of its witnesses undertook to represent conditions as they may exist elsewhere.

A witness for the Western Pine Association, representing more than a hundred lumber producers in ten western states, as well as witnesses for the National Wooden Box Association, the Red River

Lumber Company and the Woland Lumber Company, strongly objected to the establishment of lumber rates on a board-foot basis. The principal reasons offered for this objection were that under board-foot rates the carriers would necessarily make the same charge for transportation of a given measurement of light lumber as for the same measurement of heavy lumber; that this practice would remove the incentive to dry lumber properly thus nullifying heavy investments in drying facilities; that it is impossible for carriers to determine accurately the board-foot measurement of a lot of lumber, and that if the carrier must rely upon the shipper's measurements, dishonest practices may result, thus penalizing the honest shipper. None of these witnesses was primarily concerned with the movement of lumber locally within southern California by motor trucks, but each feared that competitive necessities would cause the rail carriers to duplicate truck rate scales, and that the board-foot basis, if once established, would not only spread over the entire state but would ultimately find its way into the interstate rail rate structure as well.

Counsel for Southern Pacific Company participated in the cross-examination of witnesses, but announced that on the question of board-foot rates, his company was neutral, neither favoring nor opposing the proposal. The Truck Owners Association opposed the prescription of board-foot rates in northern California, but took the position that if such rates were necessary or desirable in the southern part of the state, it had no objection to their application there.

This record leaves little doubt that southern California lumber shippers and their contract truck operators prefer the board-foot basis and wish to have it restored. On the other hand it shows definitely that the measurement basis is not desired in northern California by either shippers or carriers. While it does not follow

necessarily that the establishment of board-foot rates for truck transportation in southern California would necessitate the adoption of a similar basis in other parts of the state or for transportation by other types of carriers, it seems apparent that the prescription of measurement rates in the southern part of the state, while weight rates continue to apply in the balance of the state, would result in a rate structure which would be complicated and difficult of application. Entirely apart from the objections to a dual basis, however, the board-foot method of stating rates is itself subject to certain inherent infirmities which make its application improper from a transportation standpoint, and which in our opinion preclude its adoption for minimum rate purposes. Among these infirmities are the facts that board-foot rates do not reflect shipping weights and consequently do not adjust themselves to transportation costs; and that as a practical matter the carriers are not in a position to determine board-foot measurements but must accept without verification the figures furnished to them by the shippers.

The difficulties encountered by shippers under a cents per 100 pounds basis in computing delivered prices and of competing with shippers performing the transportation in their own trucks do not appear to be as serious as represented. While there undoubtedly are some variations in weight as between kinds and qualities of lumber, it is not to be expected that weight variations will be great as between two identical quantities of a given kind and quality. Those engaged in the lumber business should be in a position to gauge the average weight of the several classes of lumber with reasonable accuracy and to convert the cents per 100 pounds rates into a measurement basis. In this connection, it may be pointed out that shippers engaged in proprietary operations have no means of determining precisely either

the cents per 100 pounds cost or the board-foot cost of performing each individual haul. Consequently, they are in a less advantageous position than are shippers utilizing for-hire carriers under a cents per 100 pounds basis, insofar as ascertaining the exact delivered cost is concerned.

In view of the conclusions reached with respect to the measurement basis, it is unnecessary to discuss the rate scales suggested by the Lumber Haulers Association, but it may be well to point out that the evidence adduced, although it indicates a limited desire for board-foot rates, does not suggest that the weight rates now in effect are, in and of themselves, either unreasonably high or unduly low.

Comparatively little evidence was directed to the several other modifications proposed by the two associations, and they may be discussed and disposed of rather briefly.

In support of the proposal of Lumber Haulers Association that rates from Long Beach, San Pedro, Terminal Island and Wilmington be made uniform, predicated upon the mileage from a base point in Wilmington, witnesses testified that a large portion of the lumber movement in southern California originates at Long Beach and Los Angeles Harbors,⁴ and pointed out that under the present order (Decision No. 30404, supra) rates may vary materially according to the location of the origin dock or yard in the harbor area. The witnesses stated that all points in the harbor district have been treated in the past as a unit, with all docks and yards being accorded identical rates, and that transportation conditions are such as to justify similar treatment for the future. They said that disturbance of the previous grouping by the present order has resulted in confusion, dissatisfaction and discrimination. No objection was offered to the suggested modification

⁴ San Pedro and Wilmington are included within the city limits of Los Angeles. Terminal Island is partly within Los Angeles and partly within the city limits of Long Beach.

and the proposal is consistent with action taken by the Commission recently in connection with general commodities. (Decision No. 31309 of September 26, 1958, in these proceedings.) The modification will be adopted.

In support of its proposals that additional charges be provided for transportation of certain classes of lumber, and for split pick-up, for hand loading or unloading, and for deliveries to construction job sites, the Lumber Haulers Association alleged that additional cost is involved in each of these operations. No evidence was offered other than statements of carrier witnesses to the same effect; no cost studies were introduced. It is almost self-evident that the operations referred to may involve extra expense to the carriers, but in the absence of cost information the Commission may not be expected to establish the suggested charges as minimum. For reasons and upon bases discussed hereinafter, additional charges for split pick-up service will be prescribed; however, the extra costs involved in the other operations are presumably subject to wide fluctuations according to the conditions surrounding each shipment. In view of the inadequacy of the present record and the fact that the rates and charges established by the Commission are minimum in character, it is believed that for the time being appropriate additional charges may best be determined by the carrier and shipper involved, according to the circumstances.

The proposal that provision be made for mixed shipments of intrastate and interstate lumber appears to be consistent with the fact that the intrastate or interstate character of the tonnage has little influence on the cost of performing the service. No objection to the modification was offered. A rule authorizing the rating of intrastate tonnage according to the unit rate which would be applicable to the combined intrastate and interstate tonnage received as one shipment will be provided.

The only evidence offered either for or against the several proposals of Truck Owners Association was the statement by one witness

that members of the association believed the proposals to be necessary and desirable and that the suggested charges for "preparing loads" approximate actual costs in the San Francisco Bay area, and the introduction by the same witness of an exhibit purporting to show the necessity of split delivery service, based upon the experience of three typical operators engaged in the transportation of lumber by motor truck. With the exception of the split delivery proposal, none of the modifications suggested by the Truck Owners Association may be adopted on this record.

In view of the need disclosed by the record for both split pick-up and split delivery service, appropriate provisions will be adopted. In the interest of uniformity and simplicity the rules will be made similar to those recently prescribed by the Commission in other proceedings. As to the charges themselves, the Lumber Haulers Association suggested an extra charge of \$3.00 for shipments involving more than one pick-up, and the Truck Owners Association suggested split delivery charges of \$2.00 for two deliveries, \$3.00 for three deliveries, and 25 cents for each additional delivery. Neither of these bases was supported by a cost study or other tangible evidence upon which to judge its reasonableness. In the absence of more definite information an additional charge of 85 cents for each pick-up or delivery more than one will be prescribed at this time, this being the basis heretofore adopted for general commodities in connection with the establishment of class rates covering the greater part of the state. (Decision No. 30370 of November 29, 1937, in Case No. 4088, Parts "U" and "V", and Case No. 4145, Parts "F" and "G".) It should be understood that this action is without prejudice to whatever conclusion may subsequently be reached in Case No. 4246, supra.

Upon consideration of all of the facts of record, the Commission finds that Appendix "A" of Decision No. 30404, supra, as

amended, should be further amended, as shown in Appendix "A-1" of the order herein and that in all other respects the petitions here involved should be denied.

Q R D E R

Further 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. 30404 of December 13, 1937, as amended, in Case No. 4088, Part "L", and Case No. 4145, Part "A", be and it is hereby further amended as provided in Appendix "A-1" attached hereto and hereby made a part hereof, such amendments to become effective twenty (20) days from the effective date of this order.

IT IS HEREBY FURTHER ORDERED that all highway common carriers, as defined in the Public Utilities Act, maintaining lower rates, rules and regulations be and they are hereby ordered and directed to establish, to become effective twenty (20) days from the effective date of this order, on not less than five (5) days' notice to the Commission and to the public, rates, rules and regulations no lower in volume or effect than those provided in Appendix "A" of Decision No. 30404, as amended by prior orders and by this order, for the transportation of the commodities and within the territories for which rates are provided in said Appendix "A", as amended.

IT IS HEREBY FURTHER ORDERED that all radial highway common carriers and highway contract carriers, as defined in the Highway Carriers' Act, and all highway common carriers, as defined in the Public Utilities Act, be and they are hereby ordered to cease and desist twenty (20) 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 provided in said Appendix "A", as amended by prior orders and by this order.

IT IS HEREBY FURTHER ORDERED that in all other respects the petitions referred to in the opinion which precedes this order be and they are and each of them is hereby denied.

In all other respects said Decision No. 30404, as amended, shall remain in full force and effect.

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

Dated at Los Angeles, California, this 3rd day of October, 1938.

Ray C. Bishop
Leon A. Bickel
James P. Newman
Ray C. Riley
COMMISSIONERS

APPENDIX A-1

Additions and Changes in Appendix "A"
to Decision No. 30304, as Amended

1. Add to Note 1 of Item No. 35 the following sub-paragraph:

"(d) Distances from or to points located within the Los Angeles Harbor Area as described in Item No. 57 shall be computed from or to the intersection of Anaheim Boulevard and Avalon Boulevard, Los Angeles."

2. Add the following item:

"Item No. 57 - Description of Los Angeles Harbor Area.

The Los Angeles Harbor Area includes all points within the following boundaries:

Beginning at the point where the Los Angeles County-Orange County boundary line intersects the shore-line of the Pacific Ocean; thence northeasterly along said boundary line to the point where the corporate boundary of the City of Long Beach diverges therefrom (Hathaway Avenue); thence northwesterly and following the corporate boundary of the City of Long Beach to the point where it meets 223rd Street at Caspian Avenue; thence westerly along 223rd Street to its intersection with the corporate boundary of the City of Los Angeles (Hesperian Avenue); thence northwesterly and following the corporate boundary of the City of Los Angeles to the intersection of Frampton Avenue and Lomita Boulevard; thence westerly along Lomita Boulevard to its intersection with the western corporate boundary of the City of Los Angeles; thence southerly along said corporate boundary to its intersection with the shore-line of the Pacific Ocean at Weymouth Avenue; thence easterly along the shore-line of the Pacific Ocean to point of beginning."

3. Add the following item:

"Item No. 59 - Mixed Quantities of Intrastate and Interstate Tonnage.

When a quantity of property of the kind described in Item No. 15, consisting of part intrastate and interstate tonnage, is 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, the intrastate portion may be charged for at the rate which would be applicable on such portion were the entire quantity intrastate in character. In no event shall the aggregate charge on the intrastate and interstate portions be less than the charge herein provided for an intrastate shipment of the same combined quantity.

4. Add the following item:

*Item No. 66 - Split Pick-Up.

A shipment may consist of several component parts, received during one day and transported under one shipping document from (a) one consignor at more than one point of origin, or (b) more than one consignor at one or more points of origin, subject to the following conditions:

(1) The composite shipment shall be consigned and delivered to one consignee at one point of destination;

(2) Charges shall be paid by the consignee;

(3) 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 the first point of origin to point of destination, using the shortest constructive highway route via the several points of origin, plus an additional charge of 85 cents for each pick-up more than one.

(4) At the time of or prior to the first pick-up, the carrier shall be furnished with manifest or written shipping instructions showing the name of each consignor, the point of origin, and the kind and quantity of property in each component part;

(5) No shipment shall be accorded both split pick-up and split delivery."

5. Add the following item:

*Item No. 68 - 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 point of origin;

(2) Charges shall be paid by the shipper;

(3) 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 an additional charge of 85 cents for each delivery more than one.

(4) 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;

(5) No shipment shall be accorded both split pick-up and split delivery."

(End of Appendix A-1)