

Decision No. _____

31468

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation
by the Commission on its own motion
into the rates, rules, regulations
and practices of carriers engaged in
the transportation of petroleum and
petroleum products within the State
of California.

Case No. 4079

Additional Appearances

Wallace L. Ware, for Tank Truck Operators Association.
Burton Mason, for Southern Pacific and affiliated companies.

BY THE COMMISSION:

THIRTEENTH SUPPLEMENTAL OPINION

By Decision No. 29267 of November 9, 1936, as amended, in the above entitled proceeding, the Commission established minimum rates for highway carriers, and reasonable and sufficient rates for common carriers by railroad, for the transportation of refined petroleum and petroleum products in tank cars or in tank truck equipment. Thereafter, the proceeding was reopened for the purpose for receiving evidence relative to a petition filed by Tank Truck Operators Association seeking a modification of the rates so established between points located wholly within any of the defined groups and between points located within any of said defined groups on the one hand and points located not more than 30 miles distant therefrom on the other hand. The matter was assigned to Commissioner Whitsell and evidence on his behalf was taken at a public hearing held before Examiner P. W. Davis at San Francisco.¹

¹

A concurrent hearing was held in Case No. 4250, Re Establishment of Minimum Rates on Petroleum and Petroleum Products by City Carriers. The evidence adduced will be considered also in the initial establishment of minimum rates for city carriers in that proceeding.

The rates contained in Decision No. 29267, supra, as amended, are set forth in mileage scale form. The truck scale provides rates of 4 cents² for the first 15 miles, 4½ cents for distances over 15 to and including 20 miles, 5 cents for distances over 20 to and including 25 miles and 5½ cents for distances over 25 to and including 30 miles. Points within the principal producing and refining areas are grouped into thirteen groups. Each group is assigned a mileage basing point and rates from and to all points within the groups are computed at the rates provided for the distance from or to their respective mileage basing points. For movements wholly within any one group a rate of 4 cents is applicable.³ The petition of Tank Truck Operators Association here involved seeks a revision of the foregoing basis by the establishment of an intra-group rate of 5 cents. It also seeks a reduction in the truck scale by the provision of a rate of 3 cents for the first fifteen miles, 3½ cents for the next five miles, 4 cents for the next five miles, and 5 cents over twenty-five miles, grading into the present mileage rate of 6 cents for distances of more than thirty miles.

In support of the petition a witness testifying in behalf of the Tank Truck Operators Association declared that a considerable volume of refined petroleum and petroleum products which had previously been transported by for-hire truck carriers was being transported by refinery owned or leased equipment; that there was a

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Rates are stated in cents per 100 pounds.

3

The rail scale starts at 6 cents for the first 5 miles and increases 1 cent for each additional 5 miles thereafter, the rate for distances of more than 25 to and including 30 miles being 11 cents. The intra-group rate for rail transportation is 4 cents also. Truck carriers are permitted to apply the rail rates for transportation between railhead points in the event such rates are lower than the truck rates otherwise applicable. Conversely, rail carriers may publish rates based on the truck scale when such rates are lower than the prescribed rail rates.

growing tendency on the part of oil refiners to engage even more extensively in proprietary operations, particularly in the Los Angeles area; that virtually all independent refiners were using plant facility trucks; and that for-hire truck carriers had received numerous representations from the various oil companies to the effect that more plant facility trucks would be pressed into service unless rates for short-haul transportation were reduced. The witness stated that although the present rates were not excessive from a for-hire cost standpoint they were higher than the costs experienced by the producers and refiners in performing the same transportation in their own equipment. He explained that proprietary owned trucks had access to the plant loading facilities 24 hours a day, whereas such loading facilities had not been made available to for-hire carriers for more than one-half of this period. He stated that proprietary operations thus produced equipment use factors as high as 20 hours a day while the maximum use factor which for-hire carriers could obtain was 12 hours.

The Association's witness claimed that while the proposed rates would not return the full cost of performing the service in a for-hire operation they would return at least the out-of-pocket cost and would contribute something towards fixed expenses and overhead. In support of this claim, he presented a study of the cost of performing short-haul transportation in six-wheel truck and trailer units of 20 tons capacity. He also developed in the study the estimated full cost for performing the same service in proprietary equipment. In the following table are shown the actual out-of-pocket costs, out-of-pocket costs plus fixed expenses, and full costs including overhead, developed by this witness for a for-hire operation, based on a use factor of 12 hours per day. In addition

the estimated full costs of a proprietary operation enjoying a use factor of 20 hours are set forth. For convenience in making comparisons, the present truck rates and the reduced rates here proposed are included in the table.

Costs and Rates are in Cents per 100 Pounds	4 Miles	12 Miles	30 Miles
Out-of-pocket Costs	.0122	.0226	.0365
" " " " plus fixed expenses	.0174	.0298	.0464
Full Costs, including Overhead	.0201	.0344	.0536
Present Truck Rates	.0400	.0400	.0550
Proposed Truck Rates	.0300	.0300	.0500
Full Costs, including Overhead, experienced in plant facility operations	.0178	.0313	.0492

Although the petition of the Tank Truck Operators Association proposed the establishment of a 3 cent rate for transportation within any of the defined groups, its witness expressed the opinion that the Los Angeles group was unduly extensive and that the establishment of the 3 cent rate throughout that entire group was unnecessary. He advocated the division of the Los Angeles group into two zones, the establishment of the 3 cent rate for movements between points within the inner zone and the use of the regular mileage basis for other movements.

No one specifically opposed the granting of the application. However, counsel for Southern Pacific Company developed on cross examination of the Association's witness that the established truck rates were consistent with operating costs in 1935 (the year in which cost studies preliminary to their establishment were made) and that such costs had increased approximately 30 per cent since that time. He developed further that although the reduced rates sought were admittedly lower than necessary to produce full costs no compensating increases in other parts of the scale were contemplated.

plated. This counsel also requested that in the event reduced rates for truck transportation be authorized, the rail carriers be permitted to meet such reduced rates.

The record is convincing that the proposed rates are necessary to prevent further diversion of this traffic to proprietary operations and to regain to for-hire carriers a portion of the traffic already lost. The cost study introduced by the Association's witness indicates that the rates here proposed are, with minor exceptions, in excess of the estimated full cost of proprietary operation; that they will return something more than the out-of-pocket costs experienced in for-hire transportation; and that, moreover, they will in many instances contribute substantially to fixed charges and overhead expenses. In this connection it may be pointed out that the cost study indicates that on hauls of 15 miles or less the proposed rates will more than return the estimated full costs of performing the transportation operations. The reduced rates sought will be granted.

In view of the fact that the four-cent intra-zone rate applicable for movements in the Los Angeles group has been assailed only in so far as it concerns movements within a limited portion of the group, the reduction in the intra-zone rate will be made applicable only to that portion of Group 6 within which the 3-cent rate was sought.

As hereinbefore pointed out, rail carriers have been authorized by prior orders in this proceeding to publish rates based on the truck scale when such rates were lower than the prescribed rail rates, hence no further order is required to enable the rail lines to take advantage of the reductions herein made.

By a prior supplemental order in this proceeding (Decision No. 30085 of August 28, 1937) the Commission established

interim minimum rates for the transportation of fuel oil by highway carriers. As these fuel oil rates will be cancelled and superseded by an order of this date in Case No. 4249, they will be here specifically eliminated from said Decision No. 30085 for the sake of clarity.

O R D E R

A further public hearing having been held in the above entitled proceeding, and based upon the evidence received at the hearing and upon the conclusions and findings contained in the preceding opinion,

IT IS HEREBY ORDERED that Decision No. 30085 of August 28, 1937, as amended, in Cases Nos. 4079 and 4191, be and it is hereby further amended as follows:

(A) Substitute the following paragraph for paragraph (c)2 of Rule No. 60 to Appendix "A-1" of said Decision No. 30085:

"2. Between points situated in the same group the minimum rate shall be 3 cents per 100 pounds. (See Exception)

EXCEPTION: Between points situated within Group 6 the minimum rate shall be 3 cents per 100 pounds except that between points situated within the City of Los Angeles northerly of the following line, on the one hand, and points situated within the City of Los Angeles lying southerly of said line and all other points in Group 6 on the other hand, the minimum rate shall be that provided for the distance from point of origin to point of destination, or 4 cents per 100 pounds, whichever is the lower.

Beginning at the intersection of Sunset Boulevard and U. S. Highway No. 101-A; thence north-easterly along Sunset Boulevard to Fairfax Avenue; northerly along Fairfax Avenue to Hollywood Boulevard; easterly along Hollywood Boulevard to Sierra Bonita Avenue; northerly along Sierra Bonita Avenue to Franklin Avenue; easterly along Franklin Avenue to Vermont Avenue; southerly along Vermont Avenue to Hollywood Boulevard; southeasterly along Hollywood Boulevard and Sunset Boulevard to Lilac Terrace; easterly along Lilac Terrace to Bernard Street; easterly along Bernard Street to North Broadway; northerly and easterly along North Broadway to Mission Road; northeasterly along Mission Road to Huntington Drive; northeasterly along Huntington Drive to its intersection with the Los Angeles-Alhambra corporate boundary. "

- (B) Substitute the following rates for the rates set forth in Item No. 2 of Appendix "A-1" of said Decision No. 30085 for distances up to and including 30 miles:

<u>Miles</u>	<u>Rates in cents per 100 pounds</u>
Not over 5	3
Over 5 but not over 10	3
" 10 " " " 15	3
" 15 " " " 20	3½
" 20 " " " 25	4
" 25 " " " 30	5

- (C) Cancel Item No. 3 from Appendix "A-1" of said Decision No. 30085.

In all other respects said Decision No. 30085, as amended, shall remain in full force and effect.

This order shall become effective December 7, 1938.

Dated at San Francisco, California, this 10th day of November, 1938.

Rafaela L. L. L.
Leon L. L.
Steven L. L.
Ray & Riley

Commissioners.