

Decision No. 31621

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

ORIGINAL

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

Additional Appearance

Charles Lederer, for Alturas-Fort Bidwell Stage Line and Surprise Valley Stage Line

BY THE COMMISSION:

SECOND SUPPLEMENTAL OPINION (Case No. 4088, Part "P" Case No. 4145, Part "C")

NINETEENTH SUPPLEMENTAL OPINION (Case No. 4088, Parts "U" and "V" Case No. 4145, Parts "F" and "G")

At an adjourned hearing held at San Francisco before Examiner E. S. Williams, evidence was received relative to petitions filed by interested parties seeking various modifications of the minimum rates, rules and regulations established by Decisions Nos. 30370 and 30738, as amended, in the above entitled proceedings, and seeking to have such suggested modifications carried forward in the

Decision No. 30370 was issued in Parts "U" and "V" of Case No. 4088 and Parts "F" and "G" of Case No. 4145, and established minimum rates for the transportation of general merchandise, in shipments weighing 20,000 pounds or less (and fixed the charge for 20,000 pounds as minimum for heavier shipments), (a) between points in the general territory lying north of Gaviota Pass and the Tehachapi Mountains, and (b) between certain defined territory in southern California on the one hand and points lying north thereof but south of the counties of Madera and Monterey on the other hand. Decision No. 30738 was issued in Part "P" of Case No. 4088 and Part "C" of Case No. 4145 and established minimum rates for the transportation of canned goods and dried fruit, in shipments weighing

(Continued)

Commission's decision in Case No. 4246, in re Rates of all Common and Highway Carriers. This opinion and order disposes of the petitions insofar as they involve modifications of outstanding orders. The propriety of carrying the modifications forward in Case No. 4246, supra, is considered in the opinion and order issued in that proceeding (Decision No. 31506 of December 27, 1938.)

Petition for Total Exemption of Unprocessed Dried Fruit

Dried fruit, moving from point of growth to packing sheds or processing facilities, is exempted from the application of the minimum rates established by Decisions Nos. 30370 and 30378, supra, as amended. Dried Fruit Association of California sought the total exemption of all unmanufactured and unprocessed dried fruit.²

In support of this request it was stated that several movements of dried fruit in its original condition frequently take place prior to the processing operation. These movements may be from point of growth to a receiving shed, warehouse, railroad depot, packing or processing facility; between receiving sheds, warehouses or railroad depots; from a receiving shed, warehouse or railroad depot to a packing or processing facility; or from one to

1 (Concluded)

20,000 pounds or more, between points in the San Joaquin Valley on the one hand and Stockton, Sacramento, San Jose, Santa Clara and San Francisco Bay points on the other hand.

2

"Unprocessed" dried fruit was distinguished from "processed" dried fruit as follows: Unprocessed dried fruit is the so-called natural conditioned fruit as from the grower and not prepared for human consumption but which may be stemmed or unstemmed, graded or ungraded. Processed dried fruit is the dried fruit which has been prepared for human consumption and which may be packed or unpacked. The processing operations necessary to prepare dried fruit for human consumption differ with the kind of fruit. Seedless raisins are run through equipment which thoroughly washes and removes all foreign matter such as sand, dust, rocks, nails, etc., and the small stems which are attached to each berry which is known as cap stemming. Seeded raisins are dried, cap stemmed and the seeds removed. Cut fruits, viz.: Apricots, Peaches and Pears are sulphurized and washed to remove impurities. Apples are washed and resulphured. Prunes are washed and cooked in hot water or steam for a short period of time.

another packing or processing facility. It was asserted that all of these movements are competitive to some extent in that packers obtaining their unprocessed dried fruit at points other than point of growth compete with packers obtaining their unprocessed dried fruit directly from point of growth and that, likewise, growers selling their unprocessed dried fruit from a warehouse or a point other than point of growth compete with growers selling directly from point of growth. It was contended that under these circumstances the present basis of exemption results in discrimination.

In further support of this request it was contended that unprocessed dried fruit is essentially a product of agriculture, the rates on which products are now the subject of a separate investigation by the Commission in Case No. 4293, in re Establishment *** of rates *** for the transportation for compensation or hire of any and all agricultural products.

The evidence indicates that there is a distinct difference between processed and unprocessed dried fruit, both as to the nature of the commodity and as to types of movements. It shows, moreover, that the exemption from the application of the established minimum rates of dried fruit from point of growth, while at the same time making those rates applicable to movements from warehouses and other points of origin, at times disadvantages packers or growers who buy and sell dried fruit at other than the point of growth. Unprocessed dried fruit will be exempted entirely from the application of the minimum rates established by the orders in question, pending a determination of proper rates therefor in Case No. 4293, supra.

Petition of Leland H. Doss and Gordon L. Doss for exemption from the minimum rates, rules and regulations established by Decision No. 30370, supra.

Leland H. Doss, doing business as Surprise Valley Stage Line, a common carrier engaged in the transportation of passengers and freight by motor vehicle between Alturas and Cedarville, Lake City and Fort Bidwell, and Gordon L. Doss, doing business as Cedarville-Eagleville Stage Line, a highway common carrier engaged in transporting freight between Cedarville and Eagleville, requested that their operations be exempted from the application of Decision No. 30370, supra. Petitioners asserted that their routes traverse a rural district, that no other common carriers operate over such routes and that no for-hire carriers holding permits from this Commission compete for the traffic which they handle. They contended that the maintenance of rates lower than those established by the decisions mentioned is necessary if they are to retain and attract business in competition with shipper-owned vehicles.

Petitioners testified that practically all shippers in the territory served are ranch owners and have their own trucks or have other vehicles with which they can transport their own freight. Leland H. Doss stated that since the establishment of rates by Decision No. 30370, supra, he had lost an appreciable portion of his freight business and had been threatened with a further substantial diversion to shipper-owned vehicles of the business now being handled. Gordon L. Doss stated that virtually all of his freight business had been lost and that this business is now being handled by shippers in their own vehicles. Both of these witnesses asserted that numerous shippers had assured them that upon the reinstatement of the rates previously charged, or rates somewhat in excess of those rates but lower than the established minimum rates, they would use petitioners' services.

No one opposed the granting of these petitions.

While it has not been shown that the established minimum rates exceed the full cost of performing the service here involved, it has been shown that the continued charging of such rates by petitioners would divert a large part of the traffic to shipper-owned trucks and would not leave sufficient traffic to justify the maintenance of service by them in the future. Petitioners' operations are not competitive with other carriers. The petitions will be granted.

Petition for Modification of Rates Provided
by Decision No. 30370, supra, for Dock-
to-Dock Transportation by Vessel

Hobbs-Wall & Company, a coastwise common carrier by vessel, sought modification of Decision No. 30370, supra, (1) to permit common carriers by vessel to publish and maintain rates for the transportation of property in coastwise dock-to-dock service between San Francisco and Crescent City lower than those provided for pick-up and delivery service between the same points by land carriers by amounts not to exceed those by which their rates in effect on November 29, 1937, were less than the pick-up and delivery rates of land common carriers between these ports, and (2) by exempting from the application of said decision rates carrying minimum weight of less than 20,000 pounds, maintained by common carriers by vessel for coastwise dock-to-dock service between San Francisco and Crescent City, where the minimum weight to which the rates are subject are also the minimum weights to which the carload ratings provided in the Western Classification or Exception Sheet for the same commodities are subject.

3

Decision No. 30370, supra, as amended, permitted common carriers by vessel to establish, for the transportation of property in coastwise dock-to-dock service, rates lower than the depot-to-depot rates provided for land carriers by amounts not to exceed those by which their rates previously in effect were less than the corresponding rates of common carriers by railroad for depot-to-depot transportation between the same ports. The decision also exempted coastwise vessel carrier rates carrying minimum weights of 20,000 pounds or more but did not exempt coastwise vessel rates carrying lesser minimum weights. (It did exempt rates carrying minimum weights of less than 20,000 pounds, maintained by vessel carriers operating on the inland waters, in instances where the minimum weights to which the rates are subject are also the minimum weights to which the carload ratings provided in the Western Classification or Exception Sheet are subject).

In support of the petition it was asserted that the inferiority of service by vessel as compared to that offered by land common carriers required the maintenance of a differential basis of rates by vessel carriers and that the differentials proposed were based on a careful study of the amount of the differential required to place petitioner on a proper competitive basis. It was further asserted that the proposed total exemption of "carload" rates of coastwise vessel carriers would be consistent with the exemption of "carload" rates of rail carriers and of inland vessel carriers.

No one opposed either of these proposals.

Upon the effective date of the revised basis of land carrier rates provided by Decision No. 31606, supra, in Case No. 4246, the differential basis established for coastwise vessel carriers by Decision No. 30370, supra, will be withdrawn and the justification and need for the authority here sought will no longer exist. However, authority to establish the differential basis sought will be granted for the intervening period.

Petition of Automotive Purchasing Co., Inc., for relief from the minimum rates, rules and regulations established by Decision No. 30370, supra.

Automotive Purchasing Co., Inc., requested that its freight forwarder operations be exempted from the application of Decision No. 30370, supra,⁴ and that it be permitted to maintain charges for such

⁴ Petitioner's principal business consists of purchasing automotive parts and supplies in San Francisco and Oakland as agent for jobbers, other supply houses, garages and service stations, throughout northern California. As an adjunct to this business it performs service as a freight forwarder between certain points and as a highway common carrier between others. The freight forwarding operations here sought to be exempted include the picking up of automotive parts and supplies from wholesalers, warehouses and other sources of supply in San Francisco and Oakland, the carrying of the property to petitioner's terminal in San Francisco, or the receipt of these commodities at its San Francisco terminal, and the forwarding of such property to destination (either in individual or consolidated lots) via common carriers (including the highway common carrier service it renders between certain points) or via the United States Parcel Post.

services on substantially the same basis as that which was in
effect prior to the issuance of that order.

In justification of the proposed exemption, it was stated that petitioner's freight forwarding operations are confined to the transportation of small shipments of automotive parts and supplies, that the transportation characteristics surrounding the movement of these shipments are unique, applicable only to the automotive parts industry, and are so distinctive as to warrant separate consideration by the Commission. It was claimed, also, that the rates prescribed by Decision No. 30370 are excessive for this service and if maintained, will cause it to lose practically all of its business through the diversion thereof to the United States Parcel

5

The charges petitioner proposes to maintain for freight forwarding service in the future are those now on file with the Commission in Freight Forwarder Tariff No. 1, C.R.C. No. 2, and Local Freight Tariff No. 2, C.R.C. No. 3. These charges differ both as to form and volume depending upon whether the line-haul transportation is between points between which petitioner operates only as a freight forwarder or whether it is between points between which petitioner also operates a highway common carrier service. Freight Forwarder Tariff No. 1 names rates for a combined purchasing and freight forwarding service, ranging from 12 to 30 cents per order (or pick-up), the exact charge being determined in accordance with a scale of monthly guaranteed charges and with the method of ordering, i.e., whether the order is received by telephone, teletype or by mail. Under the tariff there must be added to these charges the charges assessed by the carrier transporting the individual or consolidated shipment from petitioner's San Francisco terminal to destination.

Local Freight Tariff No. 2 names charges for a combined purchasing and freight forwarding service, ranging from a charge of \$300.00 for a maximum of 3,333 orders (9 cents per order) with a charge of 14 cents for each order over this maximum where consignee guaranteed a monthly payment of \$300.00, to a charge of \$5.00 for a maximum of 20 orders (25 cents per order), with a charge of 30 cents for each order over this maximum where consignee guaranteed a monthly payment of \$5.00, or a charge of 30 cents per order where no guaranteed monthly payment is made. To these charges must be added the charges applicable under the same tariff for the movement of the individual or consolidated shipment from petitioner's San Francisco terminal to destination.

Post, thereby depriving petitioner, as well as the common carriers now performing the line-haul transportation, of the revenue now being received from this traffic.

It was asserted that the bulk of petitioner's business is picked up in an area in San Francisco immediately adjacent to petitioner's terminal and generally consists of small lots of automotive parts and supplies usually weighing less than 100 pounds,⁶ and that by reason of the large volume of business picked up in a limited area and the specialized nature of petitioner's operations, the service involved could be performed at a cost materially less than the rates heretofore established by the Commission for transportation of these commodities by carriers generally. A study of the cost of purchasing and picking up automotive parts and supplies in San Francisco and Oakland (Exhibit No. F-1)⁷ was presented in support of this claim. An exhibit (No. F-3) was also presented showing a comparison of petitioner's costs for a combined service of purchasing, picking up, consolidating, forwarding and line-haul transportation, between the principal points it serves with the charges resulting under the rates established by the Commission for pick-up and delivery transportation between the

⁶ The testimony showed that the average weight of individual pick-up is 26 pounds and that 49 per cent or more of such pick-ups weigh less than 10 pounds.

⁷ This study was based on costs experienced by petitioner in connection with its purchasing and freight forwarding operations. They were arrived at by use of actual cost per mile of truck operations in pick-up service for the period July 1, 1937, to June 30, 1938, and in all other particulars on the records of petitioner for the period January 1 to June 30, 1938, general overhead costs being allocated as between the services here involved and other services performed by petitioner, on a percentage basis predicated on gross revenue for the period involved. The study showed that the cost for picking up, consolidating and forwarding services amounted to 7.331 cents for pick-up, and that the cost for purchasing service amounted to 4.5596 cents per order (or pick-up) or a total charge for the combined purchasing and freight forwarding services of 11.8906 cents.

same points, and with those resulting under the rates here proposed. On shipments of less than 40 pounds the charges by Parcel Post were said to be lower than the minimum rates established by Decision No. 30370, supra, and the opinion was expressed that the loss to that form of transport of at least 20 per cent of the shipments of this size would result unless the relief prayed for was granted. Petitioner's witness admitted that no study had been made to determine the reasonableness of the particular rates sought to be maintained, but asserted that these rates had proven compensatory in the past and should continue to be so in the future.

Several witnesses representing automotive parts jobbers using petitioner's purchasing and freight forwarding services testified that petitioner's services were generally employed in connection with small items consisting usually of motor parts and averaging from 5 to 15 pounds, and that the consolidated shipments rarely exceed 300 pounds. They stated that these items were ordinarily of small value and could not stand high rates and that if the charges established by Decision No. 30370 were maintained, the distributors would ship practically all of these items by the United States Parcel Post.

8

The costs shown by this exhibit were arrived at by adding to the charges applicable on the shipments forwarded from petitioner's San Francisco terminal to the destinations shown at the pick-up and delivery rates established by the Commission for such service, the aggregate cost of purchasing and freight forwarder service as developed in Exhibit No. F-1 for the one or more lots in the forwarded shipment. The proposed charges were computed in like manner, except that charges for purchasing and freight forwarding service were at an average rate of 15 cents in lieu of the charges actually resulting under the varying schedules proposed. The exhibit indicates that petitioner's costs for the combined through transportation (including purchasing) exceed the established minimum rates where no consolidation is performed or where but two pick-ups are included in the forwarded shipment but that in other instances petitioner's costs are generally less than those resulting under the established rates where the individual pick-ups included in the forwarded shipment are 40 pounds and less.

Certain common carriers by rail and by vessel pointed out that should petitioner be granted permission to maintain a single schedule of rates for a combined service of purchasing and freight forwarding as proposed it would be impossible for competing carriers not rendering a purchasing service to determine the exact measure of the competition they would have to meet in order to participate in the transportation of the commodities involved.

The record indicates that by consolidating small shipments and tendering them to common carriers as a single shipment, petitioner is able, in some instances, to obtain a rate which, when added to its pick-up cost, produces a lower aggregate charge than is provided in Decision No. 30370, supra, for the through transportation of each shipment individually. This is true particularly where the individual shipments would be subject to the established minimum charge. However, petitioner is not merely seeking exemption in such instances. It is seeking complete exemption with authority to substitute a basis of rates which is set forth in a form entirely different from that in which the established minimum rates are stated. To the extent the basis proposed by petitioner results in higher charges than would accrue under Decision No. 30370, supra, exemption therefrom is not necessary. The instances in which it will produce lower charges should be called specifically to the Commission's attention and the showing and justification confined to that transportation.

On the existing record the most that can be said is that the Decision No. 30370 rates produce higher charges in some instances, and lower in others, than the cost to petitioner of picking up the shipments, consolidating them and shipping them beyond via common carriers, and that, also, the rate structure proposed by petitioner is higher in some instances, and lower in others, than that provided as minimum in Decision No. 30370, supra. It cannot be said that the instances in which the costs are less than the established minimum rates

coincide with the instances in which the proposed basis is lower than the established minimum basis or that the rates sought to be charged in lieu of the established minimum rates are properly related to the cost of performing the service.

The minimum rates heretofore established were prescribed following extensive hearings and were based upon the evidence introduced at such hearings. No justification appears in this record for a modification of such rates. Nor has it been shown that the exemption of applicant's freight forwarder operations from the rates heretofore established is justified. The petition will be denied.

Upon consideration of all the facts of record, the Commission is of the opinion and finds that the changes and modifications sought are justified only to the extent shown in the order herein and that all other proposals have not been justified on this record.

O R D E R

An adjourned public hearing having been held in the above entitled proceedings, and based upon the evidence received at the hearing and upon the conclusions and findings set forth in the preceding opinion,

IT IS HEREBY ORDERED that Decision No. 30370, dated November 29, 1937, as amended, in Case No. 4088, Parts "U" and "V", and Case No. 4145, Parts "F" and "G", be and it is hereby further amended to permit Hobbs-Wall & Company to publish, for the transportation of property in dock-to-dock service between San Francisco and Crescent City, rates lower than provided in Appendix "A" of said decision, by amounts not to exceed those by which rates for this service in effect on November 29, 1937, were less than the corresponding rates of common carriers by land for pick-up and delivery transportation between the same ports.

IT IS HEREBY FURTHER ORDERED that Section 1 of Appendix "A"

to said Decision No. 30370, as amended, be and it is hereby further amended as follows:

1. Change sub-paragraph (w) of Rule No. 20 to read as follows:

"(w) Fruit, dried, unmanufactured and unprocessed (Applies only as to dried fruit in its natural state and which has not been cleaned, washed, stemmed, fumigated or otherwise prepared or partially prepared for human consumption.)"

2. Add to sub-paragraph (o) of Rule No. 20, the following:

"Shipments transported by Leland E. Doss, doing business as Surprise Valley Stage Line; and by Gordon L. Doss, doing business as Cedarville-Eagleville Stage Line."

3. Add the following sub-paragraph to Rule No. 20:

"(bb) Carload rates of common carriers by vessel between San Francisco and Crescent City. (For the purpose of this paragraph, carload rates of common carriers by vessel shall be understood to be rates subject to a minimum weight of 20,000 pounds or more, or subject to a lesser minimum weight if such lesser minimum weight is also the minimum weight on the same commodity in the Current Classification or Current Exception Sheet.)"

IT IS HEREBY FURTHER ORDERED that the note in Item No. 20, Appendix "A" of Decision No. 30738, dated March 20, 1938, as amended, in Case No. 4088, Part "P" and Case No. 4145, Part "C", be and it is hereby amended to read as follows:

"NOTE.- Rates in this appendix do not apply for the transportation of Fruit, dried, unmanufactured and unprocessed. (Applies only as to dried fruit in its natural state and which has not been cleaned, washed, stemmed, fumigated or otherwise prepared or partially prepared for human consumption.)"

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

In all other respects said Decision No. 30370, as amended, and Decision No. 30738, as amended, shall remain in full force

