

Decision No. 32593

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Establishment of)
maximum and minimum, or maximum or)
minimum rates, rules and regulations of)
all common carriers, as defined in the)
Public Utilities Act of the State of)
California, as amended, and all highway)
carriers, as defined in Statutes 1935,)
Chapter 223, as amended, for the trans-)
portation, for compensation or hire, of)
any and all agricultural products.)

ORIGINAL

Case No. 4293

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 access-)
orial services incident to such trans-)
portation.)

Case No. 4088
Part "G"

In the Matter of the Investigation and)
Establishment of rates, charges, classi-)
fications, rules, regulations, contracts,)
and practices or any thereof, of Common)
Carriers of livestock.)

Case No. 4123

In the Matter of the Suspension by the)
Commission on its own motion of the can-)
cellation of rates on feeder cattle from)
Kalina and Stronghold, California, to)
Montezuma, Willota, Woodland, Sacramento,)
Marysville, Chico and Oroville and return)
to Kalina and Stronghold.)

Case No. 3962

In the Matter of the Investigation by)
the Commission on its own motion into)
the rates on feeder livestock between)
points in California.)

Case No. 3941

In the Matter of the Application of the)
Atchison, Topeka & Santa Fe Railway,)
Los Angeles & Salt Lake Railroad Company,)
Northwestern Pacific Railroad Company,)
Pacific Electric Railway, San Diego &)
Arizona Eastern Railway Company, South-)
ern Pacific Company (Pacific Lines), and)
the Western Pacific Railroad Company)
for an increase in rates on carload ship-)
ments of livestock.)

Application No. 19636

BY THE COMMISSION:

ORDER DENYING PETITIONS FOR REOPENING, RECONSIDERATION OR REHEARING
AND
SUPPLEMENTAL OPINION AND ORDER

By Decision No. 31924 of April 11, 1939, as amended, in the above entitled proceedings, minimum rates of statewide application were established for the transportation of livestock by highway carriers and maximum rates were established for like transportation by rail carriers. The following petitions, seeking reopening, reconsideration or rehearing of certain matters involved in that decision, as amended, have since been filed.

Petition for Reconsideration of Subsequent Haul Rule

Following the issuance of Decision No. 31924, supra, a petition was filed by certain interested shippers seeking modification thereof by the elimination of the so-called "subsequent haul" rule, which provided, in substance, that the rates prescribed as maximum for rail movements of feeder livestock would apply only when the livestock received a subsequent rail haul within a period of one year. Following a public hearing on this petition, it was found that the rule should be retained. (Decision No. 32427 of October 10, 1939.) California Cattlemen's Association and California Wool Growers Association seek reconsideration of the latter decision. They allege that proper consideration was not given to the fact that a similar rule had been found unreasonable by the Interstate Commerce Commission in Matador Land & Cattle Co. Ltd. vs. A.T. & S.F. Ry. et al, 231 I.C.C. 566; that the Commission erred in concluding that elimination of the subsequent haul rule would require a compensating increase in the rate level and additional restrictions against the use of feeder rates to marketing points; and that the Commission erred in concluding that there are no definitely distinguishable characteristics between fat and feeder livestock.

The Matador decision was issued by the Interstate Commerce Commission without prejudice to any different conclusions that might be reached in the reopened proceedings in Docket 17000, Part 9, with respect to the subsequent haul rule. In any event, that decision is not binding upon this Commission and it should be understood that the rule was adopted for intrastate shipments, irrespective of any action which the Interstate Commerce Commission may, or may not take in adopting a similar rule for interstate shipments. The assailed conclusions that elimination of the rule would require a compensating increase in the rate level and that the differences between fat and feeder stock are not definitely distinguishable, appear fully in accord with and supported by the evidence. This petition will be denied.

Rail Petition Seeking Substitution of Single Line Scale for Fat and Feeders

Immediately prior to the further hearing relative to the question of eliminating the subsequent haul rule, the rail lines filed a petition seeking the substitution of a single scale of rates for the dual scale prescribed for fat and feeder livestock, respectively. The proposal in this petition appears to be identical with that advocated by the rails in the original hearings, which proposal was found not justified in Decision No. 31924, supra. No good cause appears for deviating from the original findings in this matter and this petition, also, will be denied.

Petition to add Arbitrary to Alternative Scale for Joint Line Hauls

Under Decision No. 31924, supra, rail carriers were authorized to increase rates then in effect to the level of an "alternative" scale which was lower in many instances than the prescribed maximum scale. Provision was made that 6½ cents per 100 pounds could be added to the prescribed maximum rates for joint line rail hauls involving

certain specified carriers.¹ No authority was given, however, to add a like amount to rates under the alternative scale. The rail lines, by appropriate petition, now seek the latter authority. In support of this petition, it is alleged that the reasons found to justify the addition of 6½ cents per 100 pounds to the maximum scale justify a like addition to the alternative scale. Interested shippers have informed the Commission that they have no objection to the proposed modification.

It appears from the allegations of the petition that this is not a matter in which a further public hearing is necessary and that the modification sought should be made.

Corrected Title Page

Although the effective date of the rates established by Decision No. 31924, as amended, was extended until November 7, 1939, by appropriate orders, the title page of Highway Carriers' Tariff No. 3, in which those rates were set forth, was not changed accordingly. A corrected title page is adopted herein.

Therefore, good cause appearing,

IT IS HEREBY ORDERED that the petition filed by California Cattlemen's Association and California Wool Growers Association, seeking reconsideration of Decision No. 32427 in the above entitled proceedings, be and it is hereby denied.

¹ The justification for the 6½ cents rate arbitrary was explained in Decision No. 31924 as follows:

"There are a number of railroads in California which are not required by the Interstate Commerce Commission to maintain the 17000 scale because of their relatively short mileage, light traffic density or poor financial conditions. The establishment of the 17000 scale of rates as maxima for local movements over these lines should be similarly excluded here. In several proceedings involving intrastate rates*** this Commission adopted an arbitrary of 6½ cents per 100 pounds to be added to rates prescribed***for joint hauls involving movements over certain short line railroads. Such an arbitrary will be adopted here in prescribing through rates for transportation involving joint hauls between the major railroads and one or more of the (short line) railroads named in footnote 34."

IT IS HEREBY FURTHER ORDERED that the petition filed by The Atchison, Topeka & Santa Fe Railway Company, Southern Pacific Company, Northwestern Pacific Railroad Company, Pacific Electric Railway Company and San Diego & Arizona Eastern Railway Company, seeking reopening and rehearing of the above entitled proceedings and reconsideration of Decision No. 31924, as amended, be and it is hereby denied.

IT IS HEREBY FURTHER ORDERED that Appendix "D" of Decision No. 31924, dated April 11, 1939, as amended in the above entitled proceedings, be and it is hereby further amended by substituting for Item No. 40 of said appendix the following amended item:

"ITEM NO. 40-A - ARBITRARIES FOR JOINT LINE HAULS

For joint line hauls involving one or more of the carriers named in Item No. 20, Note 1, as amended, there will be added to the rates provided in Item No. 100 or Item No. 110, $6\frac{1}{2}$ cents per 100 pounds."

IT IS HEREBY FURTHER ORDERED that Decision No. 31924 of April 11, 1939, as amended in the above entitled proceeding, be and it is hereby further amended by adding to Highway Carriers' Tariff No. 3 (Appendix "C" to said Decision No. 31924) the revised page attached hereto and by this reference made a part hereof, which page is numbered as follows:

Original Title Page (Corrected)

IT IS HEREBY FURTHER ORDERED that in all other respects said Decision No. 31924, as amended, shall remain in full force and effect.

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

Dated at Los Angeles, California, this 28th day of November, 1939.

[Signature]
[Signature]
[Signature]
Justin J. Carrigan
Commissioners.

Original Title Page (Corrected)

HIGHWAY CARRIERS' TARIFF

NO. 3

Naming

MINIMUM RATES, RULES AND REGULATIONS

For the

TRANSPORTATION OF LIVESTOCK OVER THE
PUBLIC HIGHWAYS WITHIN THE
STATE OF CALIFORNIA

By

RADIAL HIGHWAY COMMON CARRIERS

And

HIGHWAY CONTRACT CARRIERS

The original tariff contains rates, rules and regulations as established in Decision No. 31924, in Case No. 4293. Changes contained in subsequent orders will be made by reissuing the pages on which the changes occur or by issuing supplements showing the corrected items.

Correction No. 1

EFFECTIVE NOVEMBER 7, 1939

Issued by the
RAILROAD COMMISSION OF THE STATE OF CALIFORNIA
State Building, Civic Center,
San Francisco, California.