

Decision No. 3273A

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation
by the Commission upon its own motion
into the rates, rules, regulations,
charges, allowances, contracts, prac-
tices and operations of all common
carriers as defined in the Public
Utilities Act of the State of
California, as amended, and highway
carriers as defined in Chapter 223,
Statutes of 1935 of the State of
California, as amended, relating to
the pickup and delivery of property
incident to line haul transportation.)

ORIGINAL

Case No. 4403

CRAEMER, Commissioner:

Additional Appearances

- Burgin, C. O., (by J. C. Sommers) for Port of Stockton.
- Kendall, Jackson W., for California Van & Storage Association and Bekins Van Lines.
- Patton, A.E., for Richfield Oil Company.
- Reed, N. W., for The Atchison, Topeka and Santa Fe Railway Company.
- Sommers, J. C., for Stockton Chamber of Commerce.
- Steele, F. W., for Western Pacific Railroad Company, Tidewater Southern and Sacramento Northern Railway Company.

OPINION

This proceeding is an investigation by the Commission upon its own motion into the rates, rules, regulations, charges, allowances, contracts, practices and operations of common carriers and highway contract carriers, relating to the transportation of property to or from their terminals, stations or depots incident to line-haul movements. It was instituted upon representations of various interested parties that certain carriers were attempting to attract traffic by making excessive and discriminatory payments for the performance of pickup and delivery services and that this practice was causing an unnatural routing of freight.

Preliminary public hearings herein were held in San

Francisco and Los Angeles, following which an interim order (Decision No. 32377 of September 26, 1939) was issued directing all respondent carriers to file with the Commission, for its confidential information, copies of all contracts and sub-contracts covering the performance of pickup and delivery services; and to cancel all contracts made with draymen acting as shippers or shippers' agents and providing for payments in excess of the regular tariff allowances made to shippers generally. Thereafter further public hearings were held in San Francisco and Los Angeles and the matter is now ready for disposition.

A member of the Commission's staff who had been assigned to conduct an investigation into pickup and delivery practices testified that line-haul carriers were found to be paying widely varying amounts to local draymen, particularly to those affiliated with public warehouses, for the performance of what appeared to be similar services, and were able, thereby, to obtain the traffic which those draymen controlled. He testified, further, that in the absence of cost data the rates of compensation paid could not be condemned as being in excess of the cost of performing the service, but that he was convinced that cost was only an incidental factor in determining the volume of the payments. This witness asserted, moreover, that his investigation had disclosed that common carriers in the Los Angeles metropolitan district had executed contracts directly with public warehousemen for the purpose of influencing the routing of freight controlled by those warehousemen. As a consequence, he said, those warehousemen were receiving greater amounts for bringing freight to the carriers' depots than were provided in the carriers' tariffs to be paid shippers generally.

In addition, a senior engineer of the Commission's staff presented studies of the cost of performing pickup and delivery

service in connection with the shipments originating in public warehouses in four representative cities. The results of these studies are shown in the following table:

<u>City</u>	<u>Weighted Average Cost (In Cents Per 100 Pounds)</u>
San Francisco	9.85
Los Angeles	6.26
Oakland	7.14
Sacramento	8.85

A representative of the Southern Pacific Company who had been in charge of the making of pickup and delivery contracts for a number of years stated that his company employed a so-called "primary" contractor in San Francisco for the performance of ordinary pickup and delivery services; and that subcontracts were negotiated between this primary contractor and other draymen for the picking up of freight on which these draymen controlled the routing. He expressed the opinion that from an economy standpoint it would be to the advantage of his company to employ a single contractor in each city but stated that under existing competitive conditions it was often necessary to grant subcontracts in order to retain or obtain traffic. Similar testimony was given by the general manager of Merchants Express Corporation and by a witness for Intercity Transport Lines and Pioneer Express Company.

Representatives of various public warehousemen and their drayage affiliates testified, on the other hand, that although the payments being received under their contracts with line-haul carriers varied widely, the variations were justified by differences in transportation conditions. They denied that any of the contract payments were unreasonable or excessive.

The views as to what action should be taken under the existing circumstances were widely divergent. Proposals were made that the interim order be made final without change; that it be made final with the modification that the contracts filed pursuant thereto be

opened to public inspection; that a maximum level for contract drayage payments be prescribed; that a maximum level be prescribed for sub-contracts or secondary contracts but not for contracts covering general pickup and delivery service; and that a minimum level for drayage payments be prescribed. The consensus appeared to be, however, that the interim order should be made final in its present form.

The record indicates strongly that excessive payments are being made for the performance of pickup and delivery services, and that the principal purpose of such excessive payments is to influence the routing of freight. Manifestly, this practice tends to increase the operating expenses of the line-haul carriers without giving any compensating benefit; hence it is neither in the interest of the carriers nor of the public that it be continued. Under the City Carriers' and Highway Carriers' Acts, the Commission has ample jurisdiction to fix maximum rates to be charged by draymen for the performance of pickup and delivery service incident to line-haul movements. The record indicates, however, that the prescription of maximum rates at this time would have a tendency, at least, to raise certain contract drayage payments to an unwarranted extent. While the prescription of maximum rates may ultimately become necessary, it is possible that the practice of making excessive payments can be stemmed by continuing in effect the provisions of the interim order relative to the filing of contracts with the Commission and by making those contracts which call for unusually high payments the subject of individual investigations. Under these circumstances, it appears that for the present the interim order should be continued in effect without change and that the reasonableness of payments which appear to be excessive should be made the subject of individual investigations as they come to the Commission's attention.

I recommend the following form of order:

O R D E R

Public hearings having been held in the above entitled proceeding and based on the evidence received at the hearings and upon the conclusions and findings contained in the preceding opinion,

IT IS HEREBY ORDERED that Decision No. 32377 of September 26, 1939, (Second Interim Opinion and Order) in the above entitled proceeding, be and it is hereby continued in full force and effect.

IT IS HEREBY FURTHER ORDERED that the Commission shall have and it does hereby retain jurisdiction of this proceeding for the purpose of altering or amending the rules and regulations hereby or hereinbefore established or prescribed and for the purpose of issuing such other order or orders as may from time to time appear proper in the light of other or further evidence received herein.

This order shall become effective twenty (20) days after the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 16th day of
January, 1940.

Ray & Bailey
Frank Miller
Barbara
Justice J. Casner
Commissioners