

Decision No. 30213

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 common carriers as defined in the Public Utilities Act of the State of California, as amended, and all highway carriers as defined in Chapter 223, Statutes of 1935, as amended, for the transportation, for compensation or hire, of any and all commodities.

Case No. 4246

ORIGINAL

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 transportation, for compensation or hire, of any and all agricultural products.

Case No. 4293

BY THE COMMISSION:

SUPPLEMENTAL OPINION AND ORDER

At an adjourned hearing held in the above entitled proceedings in Los Angeles on May 3, 1940, before Examiner P. W. Davis, a proposal was made that the operation of the minimum rates, rules and regulations heretofore established and now in effect for the transportation of hay and related articles from all points in California into the Los Angeles-Eynes and San Diego territories be temporarily suspended for a period of not less than six months. This proposal was made in behalf of various individuals and organizations representing hay producers, hay dealers and highway carriers.

The conditions relied upon as demanding and justifying the sought suspensions are substantially the same as were shown in support of a request for a rate reduction, made at an adjourned hearing

held in Case No. 4293 in Los Angeles on September 19, 1939. The evidence introduced at that time was summarized in Decision No. 32418 of October 3, 1939, in which decision the rate reduction was found not to have been justified. However, the evidence introduced at the later hearing is somewhat more detailed and, at the expense of repetition, the facts and circumstances leading up to the instant request for suspension of the hay rates will again be set forth. These facts and circumstances, as they appear in the record, are as follows:

Prior to the establishment of minimum rates, the "going" rates for transportation of hay from the Imperial Valley into the Los Angeles-Hynes markets ranged generally between \$3.00 and \$3.50 per ton, although as much as \$4.00 per ton was charged during some periods. The average rate was from \$3.25 to \$3.35 per ton. The volume of the "going" rate depended mainly upon the availability of truck equipment. During the heavy shipping season there was often a scarcity of equipment and the carriers were able to obtain relatively high rates. During the balance of the year, on the other hand, there ordinarily was an overabundance of transportation facilities and, rather than allow their trucks to stand idle, the carriers were willing to haul hay for practically any rate the hay dealers were willing to pay.

The minimum rate established by the Commission for transportation of hay from the Imperial Valley into the Los Angeles-Hynes territory was \$3.70 per ton.¹ This rate became effective after the heavy shipping

¹ Minimum rates for transportation of hay from Coachella Valley, Salton Sea and Imperial Valley territories to Los Angeles-Hynes and San Diego territories first became effective September 18, 1937, (Decision No. 30025 in Case No. 4088, Part "R"). Rates from Lancaster and Bakersfield territories were added effective June 23, 1938, by Decision No. 30848 in Case No. 4293. The latter decision also provided a mileage scale for transportation of hay between other points in California. Amendments not here important were made by supplemental order. Thereafter, by Decision No. 32609 in Case No. 4246, the aforesaid rates were incorporated without material change into Highway Carriers' Tariff No. 2, (Appendix "D" to Decision No. 31606, as amended), which tariff also names rates for the transportation of general merchandise.

season had passed and at a time when there were many carriers in the field with idle pieces of equipment. Those carriers who were unable to obtain loads from the legitimate hay dealers or to find employment in other fields soon commenced the practice of purchasing hay in the Imperial Valley, carrying it into Hynes and there disposing of it directly to consumers. By this means, they were able to keep their trucks busy and, possibly, to make wages for themselves.

The purchase and sale of hay by truck operators was not new to the hay industry and was not conceived originally as a means of avoiding the established minimum rates. Itinerant merchants had operated for many years prior to the establishment of minimum rates for hay transportation,² but they did not handle sufficient tonnage to control the market. The sudden invasion into the buying and selling field by the many truckmen who previously had been operating as highway contract carriers, however, diverted so much business from its normal trade channels that prices charged by these operators fixed the maximum which the legitimate hay dealers were able to charge.

The loss of control over market prices by the legitimate hay dealers has had a demoralizing effect upon the entire hay industry, as well as upon the traffic of carriers who have continued to operate as contract carriers. Having inadequate resources to

2

In Decision No. 30025 of August 20, 1937, supra, the Commission said:

"The record indicates that at the present time over half of the above hay tonnage is moved by truck operators who buy at the ranch and resell at the market, or by dealers who operate their own equipment. The former take their transportation costs out of the difference between the purchase and resale price. Hence at the present time over 50 per cent of the movement is in private hands. The 'for hire' truck transportation of hay is provided entirely by the so-called 'Contract Carrier.' It does not appear that the franchised truck lines now participate in any of this movement. A study of 99 trucks engaged in the movement of hay indicates that only 46.5 per cent are operated by so-called 'Contract Carriers.' An additional 16.1 per cent were operated by contract haulers who at times bought and sold the hay, acting as dealers. The remaining trucks are operated by dealers or growers. Dealers with their own fleet of equipment avail themselves of the 'for hire' carriers' services during the peak summer months."

finance the purchase of even a single load of hay, the itinerant merchants usually pay the producer by check, hoping to cover the check with the proceeds from the sale at destination. The success of this type of operation depends, of course, upon the ability of the carrier to effect a prompt sale of his load. Often a purchaser cannot immediately be found, however, and loads are sacrificed at the Hynes market, for example, for as little as \$2.00 or \$2.50 per ton above the price paid in the Imperial Valley. Dairymen, who constitute the largest group of purchasers, have been quick to recognize the possibility of buying hay at a lower cost from itinerant merchants and have taken full advantage of the situation. Thus, the sale price of hay in the Los Angeles-Hynes market has been depressed far below a normal level. Returns to producers, too, have necessarily been lessened, and the traffic moving by contract carriers has diminished almost to the vanishing point.

All witnesses agreed that the established minimum rates were reasonable in and of themselves and were justified by the cost of performing the service. They expressed the opinion, however, that the smaller operators who have only one or two pieces of equipment and who have low overhead costs could afford to haul at lower rates.

Petitioners asked that, in the event the Commission concluded that the rates in question could not properly be suspended, the rate from Imperial Valley into the Los Angeles-Hynes area be reduced to \$3.00 per ton; that related rates be established from the other major producing territories; and that restrictive rules covering accessorial services be eliminated. They stated that this basis would probably aid the hay dealers substantially, but claimed that the minimum rates have a tendency to become going rates, whereas, if complete suspension were granted, the carriers might sometimes be able to obtain higher rates voluntarily.

Petitioners do not expect that suspension of the minimum rates would entirely solve their problems. They believe, however, that if the legitimate hay dealers were permitted to bargain with the carriers without restraint, they would be able to obtain rates low enough to enable them to compete with the itinerant truck merchants and thus to regain control in the market. This accomplished, they are hopeful of being able to increase the purchase and sale price differential to such an extent that they will again be able to pay a reasonable and compensatory rate for the transportation. They think that some results could be shown with a suspension of six months, although most of the witnesses expressed the opinion that a suspension for one year would be preferable.

The Commission is sympathetic with the plight in which the hay industry finds itself as a result of the activities of itinerant merchants. It recognizes, moreover, that the beneficial results which it had been hoped would be brought about by regulation of itinerant merchants cannot materialize under existing legislation. In attempting to cure by indirect means the evils inherent in this type of operation, however, care must be taken that another serious condition is not brought about. It appears to us inevitable that a suspension of the operation of the minimum rates would produce a situation just as undesirable and just as detrimental to the hay industry, the carriers and the public as that with which we are here confronted.

Transportation charges are one of the major elements of the cost of doing business by hay dealers. Any rate advantage would manifestly place the dealer enjoying it in an extremely favorable position from a competitive standpoint. It follows, and the witnesses agreed, that considerable benefit accrues to the hay industry in having a stable and known basis of transportation rates so that each dealer will know the minimum rate which his competitors are paying. Suspension

of the minimum rates would undoubtedly embroil the hay industry in a competitive situation comparable to that existing prior to regulation, under which no shipper could be sure that his competitors were not obtaining the benefit of lower rates.

In view of the excess number of carriers vying for this traffic, moreover, suspension of the minimum rates and the consequent return to the "law of the jungle" would certainly result in depressing highway carrier rates far below the level necessary to enable such carriers and their patrons to meet the competition of the itinerant merchants, and below the level which would enable reliable operators with safe equipment to realize even their actual out-of-pocket costs. Clearly, this situation would be contrary to the interests of hay producers, hay dealers, hay haulers and the traveling public alike.

In essential aspects, the problem here appears to be little different from that presented in adjusting rates to place for-hire carriers on a competitive footing with proprietary operators. In many instances the Commission has found it necessary to reduce minimum rates below a fully-compensatory level in order to prevent a diversion of traffic from for-hire to proprietary carriage. The operations of itinerant truck merchants, while not strictly classified as proprietary, nevertheless offer a similar competitive threat. For this reason, a reduction in the established minimum rates to the level necessary to enable for-hire carriers to compete with itinerant truck merchants in the transportation of hay within the territory here involved is clearly warranted.

According to the record, a rate of \$3.00 per ton from Imperial Valley into the Los Angeles-Eynoc area, and related rates between the principal producing and consuming markets, will enable hay dealers to compete effectively with itinerant merchants, and, in so doing, to maintain the services of highway contract carriers. Reductions in the established minimum rates to that basis will be made by the order herein.

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According to the record, a rate of \$3.00 per ton from Imperial Valley into the Los Angeles-Hynes area, and related rates between the other principal producing and consuming markets, will enable hay dealers to compete effectively with itinerant merchants, and, in so doing, to utilize the services of highway contract carriers. Reductions in the established minimum rates to that basis will be made by the order herein.

Also, the added charge provided for stopping in transit to display loads will be eliminated, since no equivalent charge is made by itinerant merchants.

O R D E R

An adjourned hearing having been held in the above entitled proceedings, and based upon the evidence there received and upon the conclusions and findings contained in the foregoing opinion,

IT IS HEREBY ORDERED that Highway Carriers' Tariff No. 2, (Appendix "D" of Decision No. 31606, as amended), be and it is hereby amended by substituting therein Second Revised Page 51-I (Cancels First Revised Page 51-I) which page is attached hereto and by this reference made a part hereof.

IT IS HEREBY FURTHER ORDERED that in all other respects said Decision No. 31606, as amended, shall remain in full force and effect.

This order shall become effective on the date hereof.

Dated at San Francisco, California, this 11th day of June, 1940.

Paul Riley
James D. ...
Ray ...
W. H. ...
Justin F. ...
Commissioners.

Item No.	SECTION NO. 3		COMMODITY RATES (Continued) In Cents per 100 Pounds															
<p>HAY AND RELATED ARTICLES, viz.:</p> <p>Fodder, bean, cane, corn or pea, Hay, Leaves, cactus, dried, Straw,</p> <p>See Item No. 271 series for description of territories.</p>																		
<p style="text-align: center;">TO</p> <p style="text-align: center;">Los Angeles-Hynes Territory San Diego Territory</p>																		
<p style="text-align: center;">FROM</p>																		
<p style="text-align: center;">RATES (See Note 1)</p>																		
<p style="text-align: center;">↓ Minimum Weight 20,000 Pounds</p>																		
658-A Cancels 658	Bakersfield Territory	(1)41	(1)14	—	—													
	Coachella Valley Territory	39	12	47	15													
	Imperial Valley Territory	47	15	41	13													
	Lancaster Territory	(1)34	(1)10	—	—													
	Salton Sea Territory	43	14	47	15													
<p>(1) Rates apply only for transportation of Hay.</p>																		
<p>NOTE 1.—(a) Rates include services of driver and one helper to perform loading, unloading or other accessorial services.</p> <p>↓(b) * * *</p> <p>(c) Rates are not subject to the provisions of Items Nos. 110, 150, 160, 170, 220 or 230 series.</p> <p>(d) When baled hay or any other commodity described in this item is picked up from several points in a single field, the point of origin of the composite shipment shall be deemed to be the point of pickup most distant from point of destination. An additional charge of 1½ cents per 100 pounds shall be assessed for picking up and loading baled hay from scattered points in the field.</p> <p>↓(e) * * *</p>																		
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 20%;">COMMODITY</th> <th style="width: 20%;">FROM</th> <th style="width: 20%;">TO</th> <th style="width: 40%;">RATE</th> </tr> </thead> <tbody> <tr> <td data-bbox="155 1999 297 2195" rowspan="4"> 659 4-2-40 Ice Minimum Weight 30,000 pounds. </td> <td data-bbox="297 1999 628 2064">Porterville</td> <td data-bbox="628 1999 910 2064" rowspan="4" style="text-align: center;">Delano</td> <td data-bbox="910 1999 1525 2064" style="text-align: center;">4½</td> </tr> <tr> <td data-bbox="297 2064 628 2117">Tulare</td> <td data-bbox="910 2064 1525 2117" style="text-align: center;">4½</td> </tr> <tr> <td data-bbox="297 2117 628 2169">Visalia</td> <td data-bbox="910 2117 1525 2169" style="text-align: center;">5</td> </tr> <tr> <td data-bbox="297 2169 628 2195">Exeter</td> <td data-bbox="910 2169 1525 2195" style="text-align: center;">5½</td> </tr> </tbody> </table>					COMMODITY	FROM	TO	RATE	659 4-2-40 Ice Minimum Weight 30,000 pounds.	Porterville	Delano	4½	Tulare	4½	Visalia	5	Exeter	5½
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<p>↓Reduction, Decision No. * * * Eliminated</p>																		
<p>EFFECTIVE June 11, 1940</p>																		
<p style="text-align: center;">Issued by The Railroad Commission of the State of California, San Francisco, California.</p> <p>Correction No. 120.</p>																		