

Decision No. 34781

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 regu- )  
lations 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 trans- )  
portation for compensation or hire, )  
of any and all commodities.

Case No. 4246

ORIGINAL

BY THE COMMISSION:

Additional Appearance

John B. Lounibos, for Henry F. Siemson and Guy E. Jameson

SUPPLEMENTAL OPINION

Minimum rates, rules and regulations have been established in this proceeding (41 C.R.C. 671, as amended) for the transportation of property by common, radial highway common and highway contract carriers. Southern Pacific Company, a common carrier by railroad, seeks enlargement of zones heretofore prescribed to designate areas within which established minimum rates for pickup or delivery service apply, and Henry F. Siemson and Guy E. Jameson, highway common carriers, seek exemption from minimum rates established for transportation of grain, grain products and related articles.<sup>1</sup> Evidence relating to these matters was received at a public hearing had at San Francisco before Examiner Mulgrew. No one opposed the granting of the petitions.

<sup>1</sup>

The commodities involved in Siemson's and Jameson's petitions are listed in Items Nos. 652-B, 652 $\frac{1}{2}$ -A and 653 of Highway Carriers' Tariff No. 2 (Appendix "D" to Decision No. 31606 of December 27, 1938, as amended).

The pickup and delivery zones involved in Southern Pacific Company's petitions are those which have been proscribed for Benicia and Willows. These zones and the incorporated areas of the cities are coextensive. Petitioner proposes that the limits of the zones be extended to embrace designated territory contiguous to and within  $1\frac{1}{2}$  miles of said limits but in which the company does not now render pickup and delivery service. At Benicia the proposed extension is comprised of the United States arsenal and an addition to the arsenal known as the "Ordnance Storage Depot"; at Willows it is comprised of specific areas in which an airport and various industries, stores and residences are situated.

The first proposal, petitioner represents, is designed to accord the arsenal and its storage depot service similar to that now available within the city of Benicia at rates the same as those now maintained within that city. This, it is claimed, would suitably accommodate increased traffic resulting from development of the arsenal in furtherance of the national defense program. The second proposal, petitioner claims, embraces territory which has become a part of the community of Willows although it has not been annexed by that city. The full growth of the community, it is asserted, is reflected by the proposed zoning. Establishment of the recommended zoning arrangement, petitioner contends, would permit it to give like service at the same rates throughout the community. Differences between the proposed rates and the established minimum rates in the areas proposed to be added to the Benicia and Willows limits are relatively few in number and slight in volume.

It appears that transportation conditions surrounding shipments from and to points within the areas proposed to be added to the existing pickup and delivery zones are substantially similar to those surrounding like shipments from and to points now within said zones,

and that the sought rate equality is justified. The petitions will be granted. This action is in no way a determination of the nature and extent of whatever operating rights may be held by petitioner or other respondents. Operating rights are not in issue in this proceeding.

By Decision No. 34556 of September 2, 1941, in bounding the pickup and delivery zone for Vallejo, Mare Island Strait has been described as "Mare Island Street" through error. This error will be corrected.

Petitioners Siemsen and Jameson operate between Petaluma on the one hand and Fallon, Tomales and Valley Ford on the other hand. They serve, along their authorized routes, various dairy farms and poultry ranches which ordinarily secure feeds from Petaluma dealers. Approximately 80 per cent of the feed so purchased, petitioners claim, is sold on a delivered basis and is hauled by the dealers' trucks. Dealers enjoying most of this business are said to maintain delivered prices determined by adding designated transportation charges to the prices maintained at their Petaluma establishments. To the territory in question here the additional charges for any-quantity lots range generally from \$1 per ton for distances of 10 to 13 miles to \$2 per ton for distances of 28 to 30 miles.

Other dealers referred to by petitioners as "independents" sell feed only at their places of business in Petaluma. They are said frequently to offer feeds at lower prices than those quoted by their competitors. It is represented, however, that when the established minimum rates for transportation by for-hire carriers are added to these lower Petaluma prices the cost to the farmer or rancher exceeds the delivered prices of the dealers engaged in proprietary hauling operations. Petitioners assert that under such circumstances they are foreclosed from obtaining any appreciable amount of feed

traffic and urge that they be granted exemption from the prescribed minimum rates so that they may establish rates low enough to meet effectively the competition of proprietary haulers. It is claimed that in order to secure any consequential movement of feeds petitioners must establish subnormal any-quantity rates substantially lower than the prescribed minimum rates. The proposed rates and the established minimum rates are shown in the following tabulation:

| Distances<br>in Miles |                 | RATES IN CENTS PER 100 POUNDS      |                   |                          |        |        |        |    |
|-----------------------|-----------------|------------------------------------|-------------------|--------------------------|--------|--------|--------|----|
|                       |                 | Proposed<br>Rates, Any<br>Quantity | Established Rates |                          |        |        |        |    |
| Over                  | But Not<br>Over |                                    | Any<br>Quantity   | MINIMUM Weight in Pounds |        |        |        |    |
|                       |                 |                                    | 2,000             | 4,000                    | 10,000 | 20,000 | 30,000 |    |
| 10                    | 15              | 6½                                 | 23                | 18                       | 14     | 5½     | 4      | 3½ |
| 15                    | 20              | 7½                                 | 25                | 19                       | 15     | 6      | 4      | 3½ |
| 20                    | 25              | 10                                 | 25                | 21                       | 15     | 7      | 4½     | 4  |
| 25                    | 30              | 11½                                | 26                | 21                       | 16     | 7½     | 4½     | 4  |

Jameson testified that based on his past experience he believed the proposed rates would be compensatory. Otherwise no evidence was offered with respect to the expense of rendering the service involved.

The record shows that the transportation of feeds from Petaluma to the territory served by petitioners is largely in the hands of proprietary haulers; that petitioners have little, if any, opportunity to attract a greater share of this business to their lines under rates higher than those proposed; and that the proposed rates would produce charges reasonably related to and not lower than the amounts by which the feed dealers' delivered prices exceed their Petaluma prices. On the other hand, the mere showing that in the opinion of one of the petitioners the proposed rates would be compensatory, falls far short of being convincing that for shipments of less than 10,000 pounds they are not unreasonably low, particularly in the face of the sharp differences between the proposed rates and the minimum rates for such quantities. For shipments of greater weight the

minimum rates are in all cases less than and generally considerably less than the proposed rates.

Where, as here, authority is sought to maintain rates substantially less than those prescribed as minima for the purpose of meeting proprietary competition, those seeking such authority should clearly demonstrate not only that the proposed depressed rates are not lower than necessary to meet the resulting competition, but also that the sought rates are compensatory. Nothing in this record discloses the cost of performing the transportation involved. Under the circumstances it must be found that petitioners have failed to show that the proposed rates are reasonable and sufficient. The proposed deviations from the established minimum rates have not been justified. The petitions will therefore be denied.

. O R D E R

Based upon the evidence of record and upon the conclusions and findings set forth in the preceding opinion,

IT IS HEREBY ORDERED that Highway Carriers' Tariff No. 2 (Appendix "D" to Decision No. 31606, as amended, in the proceeding) be and it is hereby amended by substituting therein to become effective December 15, 1941, Fifth Revised Page 28 Cancels Fourth Revised Page 28 and Third Revised Page 31-A cancels Second Revised Page 31-A, which pages are attached hereto and by this reference made a part hereof.

IT IS HEREBY FURTHER ORDERED that the tariff publications to be made as a result of the amendment herein shall be made on or before December 15, 1941, on not less than three (3) days' notice to the Commission and to the public.

IT IS HEREBY FURTHER ORDERED that the petitions of Henry F. Siemsen and Guy E. Jameson be and they are and each of them is hereby denied.

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 ten (10) days from the date hereof.

Dated at San Francisco, California, this 25<sup>th</sup> day of November, 1941.

[Signature]  
By: Riley  
Justus P. Cauley  
Francis R. Havens  
[Signature]

Commissioners

| Item No.                      | SECTION NO.1-RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)   |
|-------------------------------|---|
| 260-1-C<br>Cancels<br>260-1-B | <p style="text-align: center;">PICKUP AND DELIVERY ZONES</p> <p>Except as otherwise provided, pickup and delivery zones include both sides of streets, boulevards, roads, avenues or highways named. See Item No. 100 series for application of mileages to pickup and delivery zones in these and other incorporated cities or unincorporated communities.</p> <p>Rates in this tariff from or to incorporated cities or unincorporated communities for which pickup and delivery zones are described herein shall apply from or to all points located within such described zones.</p> <p>◆ BENICIA: (Mileage Basing Point, Benicia.) All of the City of Benicia, also the United States Arsenal and the Ordnance Storage Depot adjacent to that city.</p> <p>CAPITOLA: (Mileage Basing Point, Capitola.) The territory bounded as follows:</p> <p>Beginning at the intersection of the shore line of Monterey Bay and the prolongation of 41st Avenue thence northerly along said prolongation and 41st Avenue to Lower Soquel Road, westerly along Lower Soquel Road but not including points situated on that road to Rodeo Creek, northerly along Rodeo Creek to State Highway 1, easterly along State Highway 1 but not including points situated on that highway to Rodeo Gulch Road, southerly and easterly along Rodeo Gulch Road but not including points situated on that road to 41st Avenue, northerly along 41st Avenue but not including points situated on that avenue to State Highway 1, easterly along State Highway 1 but not including points situated on that highway to Robertson Street, southerly along Robertson Street but not including points situated on that street to Porter Street, southerly along an imaginary line projected from that intersection to Soquel Creek, northeasterly along Soquel Creek and an imaginary line projected to the intersection of Main and Walnut Streets, northeasterly along Walnut Street but not including points situated on that street to State Highway 1, easterly along State Highway 1 but not including points situated on that highway to Park Avenue, southerly along Park Avenue to the point on that avenue opposite the intersection of the Southern Pacific Company's tracks and Parker Creek, easterly along an imaginary line projected from the said point on Park Avenue to the said intersection, southerly along Parker Creek to the shore line of Monterey Bay, and westerly along said shore line to point of beginning.</p> <p>COYOTE: (Mileage Basing Point, Coyote.) Within a radius of one mile of the Southern Pacific Company's depot; also beyond one mile from that depot southerly along Highway U. S. 101 for a distance of six-tenths of a mile.</p> <p>GILROY: (Mileage Basing Point, Gilroy.) All of the City of Gilroy, also from the intersection of the northern city limits and Highway U.S. 101 (Monterey Street) northerly along said highway for a distance of three-tenths of a mile, from the intersection of the eastern city limits and State Highway 152 (Old Gilroy Road) easterly along said highway for a distance of one mile, and from the intersection of the southern city limits and Highway U. S. 101 (Monterey Street) southerly along said highway for a distance of three-tenths of a mile.</p> |

**COLDTREE:** (Mileage Basing Point, Coldtree.) Within a radius of one mile of the Southern Pacific Company's depot; also beyond one mile from that depot along State Highway 1 to and including Camp San Luis Obispo.

**HANFORD:** (Mileage Basing Point, Hanford.) All of the City of Hanford, also from the intersection of the western city limits and State Highway 198 (Lacey Boulevard) westerly along said highway for a distance of one-half mile, that territory east of the eastern city limits bounded on the north by State Highway 198 (Seventh Street) on the east by the Peoples Ditch Company Canal and on the south by the Southern Pacific Company right-of-way and from the intersection of State Highway 198 easterly for a distance of one and two-tenths miles.

**HOLLISTER:** (Mileage Basing Point, Hollister.) All of the City of Hollister, also from the intersection of the western city limits and San Juan Road (Fourth Street) westerly along said road for a distance of one mile, from the intersection of the southeastern city limits and Prospect Avenue southeasterly along said avenue for a distance of one-half mile from the intersection of the eastern city limits and South Street easterly along said street for a distance of one-half mile, and that territory bounded as follows:

Beginning at the intersection of Pacheco Pass Road (San Benito Street) and the northern city limits, westerly along the city limits to Southern Pacific Company right-of-way, northwesterly along said right-of-way to the prolongation of Maple Avenue, easterly along said prolongation to Pacheco Pass Road, northerly along said road for a distance of one and one-half miles and return via said road to the prolongation of Maple Avenue, easterly along said prolongation and Maple Avenue to Chappell Street, southerly along Chappell Street to Santa Ana Road, westerly along Santa Ana Road to the city limits, westerly along the city limits to point of beginning.

(Continued)

Increase ♦ )  
Reduction ♠ ) Decision No. 34781

EFFECTIVE DECEMBER 15, 1941

Issued by The Railroad Commission of the State of California,  
San Francisco, California.  
Correction No. 228



| Item No.                      | SECTION NO. 1-RULES AND REGULATIONS OF GENERAL APPLICATION(Continued)  |
|-------------------------------|--|
| 260-7-C<br>Cancels<br>260-7-B | <p style="text-align: center;">PICKUP AND DELIVERY ZONES (Concluded)</p> <p><b>TURLOCK:</b> (Mileage Basing Point, Turlock.) All of the City of Turlock, also the territory bounded as follows:<br/>Beginning at the intersection of the northern city limits and North Broadway, thence northwesterly along North Broadway to old Highway U.S. 99 at Almond Avenue, northwesterly along old Highway U. S. 99 to new Highway U.S. 99, southeasterly along new Highway U.S. 99 to Almond Avenue, easterly along Almond Avenue to Geer Avenue, northerly along Geer Avenue to Wayside Drive, easterly along Wayside Drive to Pioneer Avenue, southerly along Pioneer Avenue to its intersection with the northern city limits.<br/>Beginning at the intersection of the southeastern city limits and South Center Street, thence southeasterly along South Center Street to old Highway U.S. 99, northerly along old Highway U.S. 99 to its intersection with the city limits at D Street.</p> <p><b>UKIAH:</b> (Mileage Basing Point, Ukiah.) All of the City of Ukiah, also the territory bounded as follows:<br/>Beginning at the intersection of the northern city limits and Highway U.S. 101, northerly along Highway U.S. 101 to Brush Street, easterly along Brush Street to Orr Street, southerly along Orr Street to the northern city limits.<br/>Beginning at the intersection of the southern city limits and Northwestern Pacific Railroad Company right of way, southerly along said right of way to Talmadge Road, westerly along Talmadge Road to Highway U.S. 101, northerly along Highway U.S. 101 to southern city limits.</p> <p><b>* VALLEJO:</b> (Mileage Basing Point, Vallejo.) All of the City of Vallejo and Mare Island Navy Yard, also the territory bounded as follows:<br/>Beginning at the intersection of the northern city limits and Mare Island Strait, thence northwesterly along the shore line of said strait to Sears Point Road, northeasterly along Sears Point Road and State Highway No. 29 to County Road 594, southwesterly along County Road 594 to Sacramento Street, southerly along Sacramento Street to Missouri Street, easterly along Missouri Street to Sonoma Street, southerly along Sonoma Street to Mississippi Street, easterly along Mississippi Street to County Road 598, northerly along County Road 598 to County Road 85 and southerly along County Road 85 to its intersection with the northern city limits.<br/>Beginning at the intersection of the northern city limits and Valle Vista Avenue northeasterly along Valle Vista Avenue to Mountain View Avenue, southerly along Mountain View Avenue to Greenfield Road, northeasterly along Greenfield Road and County Road 638 to Highway U.S. 40, from that intersection along an imaginary line for one mile due east thereof thence due south to Benicia Road, southeasterly along Benicia Road to County Road 267, southwestly along County Road 267 to Lewis Avenue, northwesterly along Lewis Avenue to Home Acres Avenue, northeasterly along Home Acres Avenue to Reis Avenue, northwesterly along Reis Avenue to Highway U.S. 40, southerly along Highway U.S. 40 to CWA Road, and northwesterly along CWA Road to the southern city limits.</p> |

WATSONVILLE: (Mileage Basing Point, Watsonville.) All of the City of Watsonville, also from the intersection of the easterly city limits and East Lake Avenue northerly along East Lake Avenue to Holohan Road, from the intersection of the southeastern city limits and Bridge Street, northeasterly, easterly and northwesterly along Bridge Street, Riverside Road and Lakeview Road for a distance of one mile, from the intersection of Beach Road and the southwestern city limits westerly and northwesterly along Beach Road and La Porte Road for a distance of one and four-tenths miles, and all territory within 1,000 feet of the city limits from the intersection of the city limits and Beach Road northwesterly to the northwestern boundary of the city.

◆◆ WILLOWS: (Mileage Basing Point, Willows.) All of the City of Willows, also the territory bounded as follows:

Beginning at the intersection of the northern city limits and Butte Street, thence northerly along Butte Street for a distance of 2,000 feet, thence due east along an imaginary line to Yolo Street at a point 3,750 feet from the intersection of that street and the northern city limits, thence southerly along Yolo Street to its intersection with the northern city limits.

Beginning at the intersection of the southwestern city limits and Canton Street, thence due south along an imaginary line for 2,200 feet, thence due west along an imaginary line to Tehama Street (U.S. Highway 99-W), thence northerly along Tehama Street to Elm Street, thence westerly along Elm Street to the eastern boundary of the Willows Airport, thence southerly, westerly, northerly and easterly along the boundaries of the airport to the point of intersection with the county road, thence northerly along said county road to Wood Street, thence easterly along Wood Street to its intersection with the northwestern city limits.

\* Change )  
◆ Increase ) Decision No. 34781  
● Reduction )

EFFECTIVE DECEMBER 15, 1941

Issued by The Railroad Commission of the State of California,  
San Francisco, California.

Correction No. 229