

**ORIGINAL**Decision No. 39676

## BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the application	)	
of Pacific Freight Lines and	)	
Pacific Freight Lines Express for	)	
authority to cancel certain rates	)	Application No. 27844
on canned goods, dried fruit, wine,	)	
brandy, flaxseed and sugar applied	)	
between shipping points and/or	)	
destination points on "railroads."	)	

AppearancesWallace K. Downey, for applicants.O P I N I O N

Pacific Freight Lines and Pacific Freight Lines Express, common carriers engaged in the transportation of property by motor vehicle principally within southern California, seek authority to cancel certain rates alleged to be unreasonably low, noncompensatory, preferential and prejudicial.

The matter was submitted at a public hearing held before Examiner Bryant at Los Angeles on October 9, 1946, and is ready for decision.

The rates herein involved are applicable only to certain truckload shipments moving to the Los Angeles area as follows:

(1) canned goods, dried fruit, wine, and brandy from origins in the San Joaquin Valley, (2) flaxseed from origins in the Imperial Valley, and (3) sugar from Betteravia. The rates are restricted to movements

from and to railheads or established depots, and are lower than those maintained by applicants for shipments not originating at and destined to such locations.<sup>1</sup>

No one opposed the granting of this application, and no one participated in the proceeding other than the applicants. The Office of Price Administration did not intervene. Evidence in support of the application was introduced through the traffic manager of the two carriers.

The record shows that the rates now sought to be cancelled were predicated upon rates maintained by rail lines for transportation of the same commodities in the same carload quantities between the same points, and were designed to permit the applicant highway carriers to compete at equal rates with the rails for certain traffic moving between industries served by rail trackage.

Applicants declare that what they seek in this proceeding is the right to exercise their managerial discretion to correct errors in judgment which were made in publishing the rates in the first place. The witness testified that the sugar rates were filed about four years ago with the expectation that they would attract a substantial "back haul" of that commodity, but that virtually no tonnage developed. The rates on the other commodities were assertedly published hastily and more or less inadvertently when the carriers were making a general

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"Railhead" is defined in the tariff as "a point at which facilities are maintained for the loading of property into or upon, or the unloading of property from, rail cars or vessels. It also includes truck loading facilities of plants or industries located at such rail or vessel loading or unloading point." "Established depot" is defined as "a freight terminal owned or leased and maintained by a carrier for the receipt and delivery of shipments."

readjustment of rates some seven years ago. The witness stated that none of the rates in question had attracted any substantial quantity of desirable tonnage. He said that most of the traffic for which the rates were designed was given to highway contract carriers, and that applicants received only relatively few overflow shipments, usually those which were least attractive to other carriers.

Applicants are of the belief that the rates in question are unlawful in that they are unreasonably low, and in that they unduly prefer shippers located on rail spur and prejudice shippers not located on rail spur. The witness testified that the cost to the applicant carriers of performing the service would not be affected by the presence or absence of rail track facilities, that the service would be the same in either case, and that there was therefore no reason for a rate differential from a cost-of-service standpoint. He believed that his companies were not justified in maintaining lower rates for shippers having rail spurs than for other shippers similarly situated but not located on rail.

The witness testified also that many difficulties had been encountered in the practical application of the rates. He said that the carriers' agents at points of origin had trouble in determining whether shipments had originated at "railhead" within the meaning of the tariff, and had particular difficulty in ascertaining in advance of movement, for billing purposes, whether the consignees were located on rail. It was necessary that the delivering driver find out and report the presence or absence of rail facilities, after which it was frequently necessary to revise the billing to reflect the rate found to be applicable. Many times, the witness explained, a great deal of correspondence was required before the transportation charges on such shipments could be finally clarified and collected.

The record is convincing that the rates herein sought to be cancelled have moved relatively little traffic, have been difficult to apply, and have resulted in some discrimination among shippers and consignees. Other class and commodity rates named in the tariff, now applicable to similar shipments not moving between railheads, would become applicable to the railhead traffic herein involved if the sought cancellation were authorized. Presumably such rates would be equally reasonable, whether or not the points of origin and destination were served by rail tracks.

Upon careful consideration of the facts and circumstances of record in this proceeding, the Commission is of the opinion and finds as a fact that the proposed cancellation of specified tariff items as sought in this application is justified. The application will be granted.

O R D E R

This application having been duly heard and submitted, full consideration of the matters and things involved having been had, and the Commission now being fully advised,

IT IS HEREBY ORDERED that Pacific Freight Lines and Pacific Freight Lines Express, through their agent, E. J. McSweeney, be and they are hereby authorized to cancel, on statutory notice, Items Nos. 38-B, 725-C, 732-E, 765-A, 776-B and 805 of Local and Joint Freight Tariff No. 7, C.R.C. No. 2 (series of C. G. Anthony) of E. J. McSweeney, agent.

The effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 27<sup>th</sup> day of ~~November~~ December, 1946.

(RP)

Harold P. Huls  
Justus J. O'Connell  
John H. Russell  
A. B. Johnson  
 Commissioners