Cs.5105 - JD

ORIGINAL

Decision No. 42788

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation of certain "carloaders" operating on piers, docks, wharves, or within marine terminal areas in the State of California.	))))	Case No. 5105

Joseph J. Geary and John C. McHose, for respondents.
C. R. Nickerson, for San Francisco Bay Carloading Conference; E. F. Manning and Charles A. Bland, for Board of Harbor Commissioners, City of Long Beach; Kenneth L. Vore and W. G. O'Barr, for Los Angeles Chamber of Commerce; T. R. Stetson, for Pacific Coast Borax Co.; and James A. Keller, for various manufacturers and exporters of cement, interested parties.
J. Thomason Phelps, for Field Division, Public Utilities Commission of the State of California.

O P I N I O N

This proceeding is an investigation instituted on the Commission's own motion into the rates, charges, rules, regulations and practices of various persons, firms and corporations (hereinafter called respondents) engaged in the business of furnishing to the public, for compensation, services in connection with the loading and unloading of property into and out of railroad freight cars located upon piers, docks, wharves, or within marine terminal areas, in the State of California.

The purposes of the investigation are to determine

(1) whether respondents are "common carriers" engaged in "carloading" within the meaning of Section 2(1) of the Public Utilities Act;

(2) whether respondents are assessing and collecting the rates and charges, and are observing the rules and regulations, contained in tariffs filed with this Commission by said respondents or their duly authorized agents; and

(3) whether respondents should be ordered to cease and desist from assessing or collecting rates or charges, or from observing rules or regulations, different from those contained in tariffs filed with this Commission by said respondents or their duly authorized agents.

Hearings were held before Examiner Bradshaw at San Francisco and Los Angeles. Briefs have been filed on behalf of respondents and Pacific Coast Borax Co., an interested shipper.

Evidence was introduced to the effect that two of the respondents, viz: Pope & Talbot, Inc. and J. C. Strittmatter, doing business as Consolidated Steamship Companies, have discontinued all car loading and unloading operations within this State. It was stipulated that John E. Marshall, Inc., another respondent, is no longer engaged in the furnishing of services coming within the scope of this investigation. The Oceanic Steamship Company, Inc., also a respondent, did not appear at either of the hearings. No evidence was introduced concerning its operations. The terms "each respondent" or "respondents" will, therefore, unless otherwise indicated, hereinafter refer to the remainder of the persons, firms or corporations whose rates, charges, rules, regulations and practices are under review in this proceeding.

The factual situation essential to a determination of the questions presented for decision is set forth in a written stipulation entered into between counsel for the Commission's field division and respondents.

According to the stipulation, each respondent furnishes to the public, for compensation, services consisting, in whole or in part, of moving property (a) between railroad freight cars standing on piers, docks, or wharves, or within marine terminal

areas, in this State and places of rest on said trans-shipment facilities, or (b) directly between said railroad freight cars and vessels lying at the piers, docks or wharves. It is stated that all of the property moved by respondents is in transit either (a) between a point outside the territorial jurisdiction of the United States and a point within the territorial jurisdiction of the United States, or (b) from a point within a state or territory of the United States to a point in another state or territory of the United States, and therefore is in the course of interstate or foreign, rather than in intrastate, commerce.

The stipulation further sets forth that each respondent is a party to an agreement with other persons, firms or corporations engaged in furnishing the same types of service, a copy of which has been filed with the United States Maritime Commission pursuant to Section 15 of the Shipping Act, 1916 (46 U. S. Code, Sec. 814); that each respondent is a participant in tariffs, containing rates, rules and regulations covering the type or types of service described, which have been filed with the Maritime Commission and this Commission; that some of the rates, rules and regulations stated in the tariffs on file with the Maritime Commission are different from those contained in the tariffs on file with this Commission; and that in cases in which different rates, rules or regulations appear in the tariffs filed with the two commissions respondents assess and collect the rates, and observe the rules and regulations, set forth in the tariffs on file with the Maritime Commission. It is also asserted that respondents are not engaged in any preferential, discriminatory or prejudicial practice and do not assess or collect any preferential, discriminatory or prejudicial rate or charge.

The question of jurisdiction over the rates charged for car loading and unloading services, as well as rules and regulations applicable thereto, was considered by this Commission in re Investigation of American Hawaiian S.S. Co., et al, 38 C.R.C. 499, decided in 1933. It was held that certain persons, firms and corporations, including some of the respondents in this proceeding, being engaged in car loading and unloading for the public for compensation, were performing common carrier and/or public utility wharfinger and/or public utility services within the meaning of Sections 2(1), 2(z) and 2(dd) of the Public Utilities Act. In doing so, the Commission recognized that car loading and unloading is an intermediate but integral part of through transportation. It pointed out, however, that the common carrier services by rail and ship were under regulation and if the intermediate service of car loading and unloading continues to be unregulated the purpose of regulatory laws to safeguard the public from rebates, discrimination and other bad practices may be nullified. The then respondents were directed to file with this Commission tariffs setting forth their rates, rules and regulations covering their services of car loading and unloading and any accessorial services incidental thereto.

Respondents in the instant proceeding contend that this Commission is without jurisdiction to issue orders requiring them to cease and desist from collecting the rates and observing the rules and regulations set forth in the tariffs filed with the Maritime Commission. They assert that Section 15 of the Shipping Act requires that agreements of carloaders fixing or regulating rates be filed with that commission and makes it unlawful to carry out any such agreement without its approval. It is urged that by the enactment of such provisions the federal government has now

occupied the field of rate regulation with respect to car loading and unloading operations and that it can no longer be regulated by the State of California.

Copies of respondents' agreements on file with the Maritime Commission are appended to and form a part of the written stipulation, already referred to. There are two such agreements, viz: Agreement No. 7576 entered into by members of the Master Contracting Stevedores Association of Southern California and Agreement No. 7544 entered into by members of the San Francisco Bay Carloading Conference. The two documents are identical in nature and contain similar provisions. In describing these agreements the provisions of Agreement No. 7544 will, therefore, be referred to as typical.

The preamble recites that the parties have entered into the agreement in consideration of the benefits, advantages and privileges to be severally and collectively derived therefrom. The matters agreed upon are as follows:

> A conference shall be formed to be known as the San Francisco Bay Carloading Conference.
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> The objects and purposes of the Conference shall be to promote fair and honorable business practices among the members in order (1) to avoid any uncertainty concerning prevailing rates and (2) to bring about uniformity of treatment to carriers and the shipping public using the members' services.
>
> The Conference shall establish, maintain, publish and file tariffs containing just and reasonable rates, charges, classifications, rules, regulations and practices, said tariffs and supplements thereto and changes therein to be filed with the Maritime Commission in accordance with the Shipping Act and the Maritime Commission's rules and regulations.
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> The parties shall assess and collect rates and charges in accordance with the tariffs filed with the Maritime Commission and will not deviate from the tariff provisions or refund or remit, in whole or in part, charges collected pursuant to the tariffs.

The Conference will maintain a tariff publishing bureau.

The administration and functions of the Conference shall be controlled by a board consisting of a representative appointed by each member.

Regular and special meetings shall be held. The ordinary affairs of the Conference between meetings shall be conducted by a secretary.

A majority of the membership will constitute a quorum at any meeting. The action of a two-thirds majority of the quorum present shall be binding on all members, except that no changes in rates or rules affecting rates shall be made unless agreed to ~~but~~ at least 75 per cent of the members expressed orally at a meeting or in a written communication addressed to the Conference.

An office shall be maintained by the Conference in charge of a secretary. It shall collect and compile data concerning the necessity for tariff rate changes, issue dockets for meetings, keep minutes of Conference meetings and forward copies of the minutes to the Maritime Commission.

The expenses incurred in maintaining the Conference's office and tariff bureau will be allocated among the members.

Other persons, firms or corporations engaged in car loading and unloading in the San Francisco Bay area may become a party to the agreement by consent of the majority of the Conference members upon written acceptance of, and agreeing to abide by, the terms and conditions of the agreement and tariffs issued by the Conference. Notices of applications for membership and copies of acceptances thereof are to be furnished to the Maritime Commission. The admission of an applicant shall not be denied without just and reasonable cause.

Any member may withdraw from the Conference upon 90 days' written notice to the Conference's secretary and mailing a copy thereof to the Maritime Commission.

An executed original counterpart of the agreement and of any tariff which may have been prepared on behalf of the Conference members shall be filed with the Maritime Commission. No such tariff will become effective or any action taken under the agreement by the parties prior to the approval of the agreement by the Maritime Commission in conformity with the Shipping Act.

Section 15 of the Shipping Act (46 U.S. Code, Sec. 814), upon which respondents rely, provides that every common carrier by water or "other person" subject to the Act shall file with the Maritime Commission every agreement to which it may be a party fixing or regulating transportation rates or fares; giving or receiving special rates, accommodations, or other special privileges or advantages; controlling, regulating, preventing, or destroying competition; pooling or apportioning earnings, losses, or traffic; or, among certain other things, in any manner providing for an exclusive, preferential, or cooperative working arrangement. The Commission is authorized to disapprove, cancel, or modify any such agreement that it finds (1) to be unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors; or (2) to operate to the detriment of the commerce of the United States; or (3) to be in violation of the Act. In the event that such a finding is not made, the Commission is required to approve all such agreements filed with it. Every agreement, or modification or cancellation thereof, which is lawful under this section, is exempted from the provisions of the anti-trust laws. Whoever violates any provision of this section is liable to a penalty of $1,000 for each day the violation continues.

In considering the import of this section from the standpoint of the extent to which, if at all, it can be deemed to embrace the field of rate regulation, an examination of the provisions of other sections of the Shipping Act is necessary.

Section 1 (Ibid., Sec. 801) defines carriers and other businesses which are subject to the provisions of the Act. Common carriers by water in foreign commerce are defined as common carriers,

except ferry boats running on regular routes, engaged in the transportation of passengers and property between the United States or its districts, territories or possessions and a foreign country. It is specifically provided that a cargo boat, commonly known as an ocean tramp, shall not be deemed a common carrier by water in foreign commerce within the meaning of the Act. Common carriers by water in interstate commerce embrace common carriers engaged in the transportation of passengers or property on the high seas or the Great Lakes on regular routes from port to port between one state, territory, district or possession of the United States and any other state, territory, district or possession of the United States, or places in the same territory, district or possession. A "common carrier by water", as defined in the Act, means a common carrier by water in foreign commerce or a common carrier in interstate commerce on the high seas or the Great Lakes on regular routes from port to port. As used in the Act, an "other person subject to this Act" means any person not included in the term "common carrier by water" carrying on the business of forwarding or furnishing wharfage, dock, warehouse or other terminal facilities in connection with a common carrier by water. The term "person" includes corporations, partnerships and associations. The Maritime Commission has held that those engaged in car loading and unloading which are not common carriers by water are "other persons" subject to the Shipping Act. (Status of Carloaders and Unloaders, 2 U.S.M.C. 761)

Section 14 (Ibid., Sec 812) provides that no common carrier by water shall, among other things, pay or allow or agree to pay or allow a deferred rebate to any shipper; or make any unfair or unjustly discriminatory contract with any shipper based

on the volume of freight offered, or unfairly treat or unjustly discriminate against any shipper in the matter of cargo space accommodations, or other facilities, or in the adjustment or settlement of claims.

Section 17 (Ibid., Sec. 816) provides that no common carrier by water in foreign commerce shall demand, charge or collect any rate, fare or charge which is (1) unjustly discriminatory between shippers or ports, or (2) unjustly prejudicial to exporters of the United States as compared with their foreign competitors. The Commission is authorized to alter any such rate, fare or charge to the extent necessary to correct such unjust discrimination or prejudice and direct the carrier to discontinue demanding, charging, or collecting any such unjustly discriminatory or prejudicial rate, fare or charge. Every such carrier and every "other person" subject to the Act is required to establish, observe and enforce just and reasonable regulations and practices relating to or connected with the receiving, handling, storing or delivering of property. Whenever any such regulation or practice is found to be unjust or unreasonable, the Commission may prescribe and enforce a just and reasonable regulation or practice.

Section 18 (Ibid., Sec. 817) provides that common carriers by water in interstate commerce shall establish, observe and enforce just and reasonable rates, fares, charges, classifications and tariffs, as well as just and reasonable practices, relating to or connected with the receipt, handling, transportation, storage or delivery of property. Every such carrier is required to file with the Maritime Commission and keep open to public inspection its maximum rates, fares and charges for or in connection with transportation between points on its own route and, if a through route

has been established, the maximum rates, fares and charges for or in connection with transportation between points on its own route and points on the route of any other carrier by water. No such carrier may demand, charge or collect a greater compensation than the rates so filed, except with the approval of the Commission. Upon finding that rates are unjust or unreasonable, the Commission may prescribe and enforce just and reasonable rates, fares or charges, or just and reasonable classifications, tariffs, regulations or practices.

Section 19 (Ibid., Sec. 818) declares that, whenever a common carrier by water in interstate commerce reduces its rates from and to competitive points below a fair and remunerative basis with the intent of driving out or otherwise injuring a competitive carrier by water, it shall not increase such rates unless, after hearing, the Maritime Commission finds that the proposed increase rests upon changed conditions other than the elimination of such competition.

Sections 18 and 19 have been repealed insofar as they are inconsistent with the provisions of Part III of the Interstate Commerce Act, subsequently enacted. (Sec. 320, Interstate Commerce Act; 49 U.S. Code, Sec. 920)

It will be observed that the Shipping Act contains a number of provisions dealing with the regulation of rates and charges of carriers by water, but that the only provisions which relate to so-called "other persons". are (1) that they shall establish, observe and enforce, and the Maritime Commission may prescribe, just and reasonable regulations and practices; (2) that, subject to a penalty for failure to do so, agreements between them fixing and regulating rates or pertaining to the other matters,

already referred to, must be filed with the Commission; and (3) that when such agreements have been approved they are exempt from the provisions of the anti-trust laws. In California vs. United States, (1944) 320 U.S. 577, the United States Supreme Court stated (page 584) that no rate-making power such as the Commission has been given over water carriers is conferred over other persons subject to the Shipping Act. The entry of an order under Section 17, prescribing a just and reasonable practice, was characterized as not an exercise of "conventional rate-making".

According to Section 15, the only instances in which the Maritime Commission can disapprove, cancel or modify agreements are upon findings of unjust discrimination, or a detrimental effect upon the commerce of the United States or a violation of the Shipping Act. It is to be noted, also, that even within these limitations the Shipping Act does not confer upon the Maritime Commission jurisdiction respecting rate or other agreements of car loaders and unloaders, insofar as they cover rates and charges to be applied on shipments moving to or from the ports by cargo vessels, commonly known as ocean tramps, because such vessels are not common carriers by water, as defined in the Act. Nor does such limited jurisdiction attach to rates or charges on traffic moving in connection with vessels operated by or under charter to an industry or steamship operator not falling within the definition "common carrier by water".

The Shipping Act is silent with respect to the regulation of rates and charges of so-called "other persons" upon a number of important matters usually included in statutes conferring regulatory powers over public utilities. The Act does not require that tariffs of rates and charges, or rules and regulations affecting such rates or charges, be filed with the Maritime Commission. There is no

requirement that tariff rates or charges be observed without deviation. The Act does not condemn as unlawful the exaction by "other persons" of unjust or unreasonable or unjustly discriminatory or unduly prejudicial or preferential rates and charges. The making of rebates is not prohibited. No authority is conferred upon the Maritime Commission to suspend the application of proposed changes in rates or charges pending investigation as to their reasonableness or as to whether unjust discrimination or prejudice may result therefrom. The Act does not confer any power upon the Maritime Commission to prescribe just and reasonable rates and charges for the future or to award reparation in cases where unreasonable rates have been exacted. Neither does the Act provide for the filing of complaints by shippers and other interested parties assailing the reasonableness or discriminatory nature of the rates charged by "other persons".

The agreements entered into by respondents, it will be observed, do not deal with specific rates or the rate level to be established or maintained. Nothing appears in these documents upon this subject other than that the initial tariffs and any supplements thereto and changes therein established pursuant to the agreements shall be filed with the Maritime Commission in accordance with the Shipping Act and the Commission's rules and regulations. The agreements do not preclude respondents from effecting rate changes at will upon conforming to the rules provided for therein, which in the case of the San Francisco Bay respondents is that 75 per cent of the Conference members concur in such action. Nor are respondents prevented by any provision of the Shipping Act or their agreements from filing tariffs adopting the rates authorized by this Commission, instead of those now filed with the Maritime Commission.

In examining the statutory provisions upon which respondents rely, it seems appropriate to give some consideration to the regulatory system governing rates of car loaders and unloaders which would result in the event that their contentions are correct. The formation of an agreement between operators is purely voluntary or optional. The Maritime Commission cannot compel all or any of the operators to enter into an agreement, nor does the failure to join in an agreement subject an operator to regulation by that federal agency. The rates of car loaders and unloaders in such instances are amenable to State regulation. Thus, by merely electing to become a party to a Section 15 agreement or to withdraw from the Conference the jurisdiction over the car loader or unloader would be automatically transferred from one forum to another. Such steps could be repeated from time to time, depending upon the operator's choice as to the jurisdiction under which he may desire to be regulated. Conceivably, changes in conditions might dictate the desirability from an operator's viewpoint of a shift from one jurisdiction to another. In this connection, any of the respondents are at liberty to withdraw as a party to their agreement on 90 days' notice. No further action is necessary. Compare 33 Op. Atty. Gen'l. 143. Similarly, an operator may become a party to an agreement with the consent of a majority of the members of a conference, which consent may not be withheld without just or reasonable cause. It seems obvious that under such conditions rate regulation would be without any stability and wholly ineffective.

A number of decisions are cited by respondents to demonstrate that car loading and unloading services, being integral parts of interstate or foreign commerce, are subject to federal

regulation. The question presented for determination in this proceeding, however, does not depend upon the power of Congress under the commerce clause, but whether by enacting Section 15 of the Shipping Act it exercised that power with respect to the regulation of respondents' rates and charges. It is well settled that, until Congress acts to occupy the field of regulation to the exclusion of the states, the states may exercise all the powers of government over parties situated in and carrying on their businesses exclusively within state boundaries, even though in so doing they may operate upon interstate or foreign commerce. (Munn vs. Illinois, 94 U.S. 113, 135) On the other hand, Congress may, if it chooses, take unto itself all regulatory authority over interstate and foreign commerce. (New York Central R. Co. vs. New York & P. Co., 271 U.S. 124) It is also an established principle that Congress may circumscribe its regulation and occupy a limited field; that it is to be assumed that the police power of the states was not to be superseded by a federal act unless that was the clear and manifest purpose of Congress; and that the intent to supersede the exercise by the State of its police power as to matters not covered by the federal legislation is not to be implied unless the latter fairly interpreted is in actual conflict with the state law. (Napier vs. Atlantic Coast Line R. Co., 272 U.S. 605, 611; Allen-Bradley Local vs. Wisconsin Employment Board, 315 U.S. 740, 749; Townsend vs. Yeomans, 301 U.S. 441, 454; Kelly vs. Washington, 302 U.S. 1, 10)

A careful scrutiny of the provisions of the Shipping Act, including Section 15 thereof, does not indicate that rate regulation of car loading and unloading operations has been conferred upon the Maritime Commission. The subject has been covered with respect

to certain carriers by water, but has not been touched upon so far as "other persons" subject to the Act are concerned. Nothing appears in the Act to indicate that the states are deprived of the power to regulate the rates of those who choose to enter into agreements as distinguished from those who do not choose to do so. We are unable to conceive that Congress intended to provide for the regulation of rates of car loaders and unloaders by indirection under the guise of approving agreements entered into by some or all of the operators, especially when by so doing some of the incongruous situations to which we have referred might result.

In our opinion, the sole purpose of Section 15 of the Shipping Act is to provide a means whereby, when carriers or "other persons", or both, undertake by concerted action to agree among themselves upon the matters referred to in the section, their agreements can be approved if they meet certain specified requirements and thereby become immune from the operation of the anti-trust laws. Similar statutory provisions with respect to agreements of other transportation agencies are not uncommon. Compare Sec. 412, 413 and 414, Civil Aeronautics Act (49 U.S. Code, Sec 492, 493 and 494); Sec. 5a, Interstate Commerce Act (Ibid., Sec. 5b). It could hardly be urged that such legislative enactments provide for the direct regulation of rates, for the reason that the statutes of which they are a part also deal with the subject in a comprehensive manner. It does not appear that any different interpretation can fairly be placed upon Section 15, because the Shipping Act also includes specific provisions concerning the regulation of rates. We, therefore, construe the provisions of Section 15 as not conferring upon the Maritime Commission any authority to approve, disapprove or prescribe rates. In other

words, the Commission's action thereunder, as we view it, is restricted to the approval or disapproval of the agreements themselves, rather than the action taken by respondents pursuant to their provisions.

Accordingly, it is our conclusion that the federal government has not legislated upon or occupied the field of rate regulation of car loading and unloading operations and that the subject may be exercised by the State of California. We further conclude that, in view of Section 84 of the Public Utilities Act, respondents' rates and charges, including their rules and regulations relating thereto, are subject to the jurisdiction of this Commission.

In passing upon the legal question raised by respondents, we have not overlooked the contentions advanced by Pacific Coast Borax Co. in its brief and by representatives of other interested parties at the hearings. The views expressed were that they would prefer the Maritime Commission to be vested with authority over respondents' rates or that they believed it should have jurisdiction thereover. Such matters, however, are beyond the scope of this proceeding.

An objection was made to the inclusion in the written stipulation of facts of a statement that respondents are not engaged in any preferential, discriminatory or prejudicial practice and do not assess or collect any preferential, discriminatory or prejudicial rate or charge. It was contended that the propriety of rates, charges and practices is not here at issue. Our conclusions herein should not be understood as an adjudication of, or expression of opinion with respect to, the reasonableness or discriminatory or prejudicial nature of any of respondents' rates, charges or practices.

Upon the facts of record, we find that respondents are "common carriers" engaged in "car loading" within the meaning of Section 2(1) of the Public Utilities Act.

We further find that respondents other than those whose names appear in the following paragraph have been charging and collecting, and charge and collect, different rates and charges, and have been observing, and observe, different rules and regulations, than the rates, charges, rules and regulations specified in their tariffs filed with this Commission and in effect at the time, in violation of Section 17(a) of the Public Utilities Act. An order will be entered directing said respondents to cease and desist from such violations.

Inasmuch as it appears that respondents Pope & Talbot, Inc., J. C. Strittmatter (doing business as Consolidated Steamship Companies) and John E. Marshall, Inc. have discontinued car loading and unloading operations, and the record does not disclose any evidence concerning the operations of The Oceanic Steamship Company, Inc., no order will be entered with respect to said respondents.

O R D E R

Public hearings having been had in the above-entitled proceeding, evidence having been received and duly considered, the Commission now being fully advised and basing its order upon the findings and conclusions set forth in the foregoing opinion,

IT IS ORDERED that respondents Associated-Banning Company, Crescent Wharf and Warehouse Company, Ltd., Long Beach Terminals Company, Marine Terminals Corporation (of Los Angeles), Matson Terminals, Inc., Metropolitan Stevedore Company, Outer Harbor Dock

& Wharf Co., Seaboard Stevedoring Corporation, Arrow Stevedore Co., M. S. Garrigues and W. A. Bear (doing business as Bear & Garrigues), Burton, Partland & Co., California Stevedore and Ballast Company, C. A. Cassella, G. Cassella and E. Cresta (doing business as Distributors' Whse. Co.), Henry Gerland (doing business as General Stevedore & Ballast Company), Paul Hartman Company, Inc., Haslett Warehouse Company, Jones Stevedoring Company, G. W. Konig and James C. Konig (doing business as G. W. Konig & Son), A. W. MacNichol and Johanna MacNichol (doing business as MacNichol & Company), G. Marcantelli (doing business as G. Marcantelli Company), Marine Terminals Corporation, Ocean Terminals, Pacific-Oriental Terminal Company, Chas. DeB. Haseltine (doing business as Pacific Stevedoring & Ballasting Co.), The San Francisco Stevedoring Co., Schirmer Stevedoring Co., Ltd., and Wm. G. Fahy and Wm. G. Fahy, Jr. (doing business as Western Terminal Company), and each of them, be and they are hereby directed and required to cease and desist from charging, demanding, collecting or receiving, directly or indirectly, or by any subterfuge or device, a greater or less or different compensation, or observing different rules and regulations, for the rendition of car loading or unloading services, or for any service incidental thereto, than the rates, charges, rules and regulations applicable to such services as specified in their tariffs filed with this Commission and in effect at the time.

The Secretary is directed to cause a certified copy of this decision to be personally served upon each of the respondents named in the preceding paragraph of this order and to be served, either personally or by registered mail, upon all other respondents.

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The effective date of this order shall be forty (40) days after the date of such service.

Dated at San Francisco, California, this 7th day of February, 1950.

R. E. Mitchell

Justus F. Craemer

Ira H. Rowell

Harold P. Huls

Kenneth Potter

COMMISSIONERS