

ORIGINAL

Decision No. 50652

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of THE ARCATA AND MAD RIVER)
 RAILROAD COMPANY, THE ATCHISON, TOPEKA)
 AND SANTA FE RAILWAY COMPANY, CALIFORNIA)
 WESTERN RAILROAD, NORTHWESTERN PACIFIC)
 RAILROAD COMPANY, PACIFIC ELECTRIC RAILWAY) Application No. 35591
 COMPANY, PETALUMA AND SANTA ROSA RAILROAD)
 COMPANY, and SOUTHERN PACIFIC COMPANY for)
 authority to establish certain rates pur-)
 suant to Section 460 of the California)
 Public Utilities Code.)

Appearances

Charles Burkett, Jr., and Frederick G. Pfommer
 for applicants.

F. W. Turcotte, for Carmichael Traffic Corpor-
 ation and for 47 retail lumber dealers in southern
 California; A. Larson and Selwyn J. Sharp, for
 California Redwood Association; Robert D. Boynton
 and Opal A. Lewis, for Truck Owners Association of
 California; A. T. Nelson for California Western
 Railroad; Sherman A. Bishop for Union Lumber
 Company; B. R. Garcia, in propria persona; and
R. J. Bitch, for Pacific Lumber Company,
 interested parties.

O P I N I O N

In this proceeding applicants seek authority to assess
 lesser charges for longer distances than for shorter distances
 over the same route in connection with the transportation of
 lumber and forest products from specified points in Sonoma,
 Mendocino and Humboldt counties to destinations in Long Beach on

the line of The Atchison, Topeka and Santa Fe Railway Company (referred to hereinafter as the Santa Fe) and to destinations in Northridge, La Metro and Raymer, between Chatsworth and Burbank, on the line of the Southern Pacific Company. The authority is sought under Section 460 of the Public Utilities Code (a) in order to enable applicants to meet the competition of a reduced rate for the transportation of lumber and forest products from the same points to destinations in Long Beach on the line of the Southern Pacific Company, and (b) in the case of transportation to Northridge, La Metro and Raymer to maintain the same rate to those points as the rates which apply to Tarzana, Encino and Van Nuys, adjacent points on the Southern Pacific Company.¹

Public hearing of the application was held before Examiner C. S. Abernathy at San Francisco on August 25, 1954.

¹ Section 460 of the Public Utilities Code prohibits the charging or receiving by a common carrier "any greater compensation in the aggregate for the transportation of a like kind of property for a shorter than for a longer distance over the same line or route in the same direction within this State, the shorter being included within the longer distance" unless the lesser charge is authorized by the Commission. Similar provisions are contained in Section 21 of Article XII of the State Constitution.

The rates involved herein are as follows:

Table 1
Rates per 1,000 Board Feet for Transportation of
Lumber and Forest Products (a) (b)
Carload Minimum, 20,000 Board Feet

<u>From</u>	<u>To</u>	
	<u>Long Beach</u>	<u>Northridge, La Metro, Raymer</u>
Points in Rate Groups 6, 7 and 8(c)	\$ 13.07	\$ 13.89
Caspar	17.74	18.58
Mendocino	18.03	18.85
Juan Creek	18.40	19.23
Rockport	19.16	19.97

(a) The rates, and the rules and regulations applicable thereto, are more specifically set forth or referred to in Tariff No. 48-U, Cal. P.U.C. No. 189, of Pacific Southcoast Freight Bureau, J. P. Haynes, Agent.

(b) The rates shown are subject to the increases provided in X-175-B, Cal. P.U.C. No. 176, J. P. Haynes, Agent.

(c) Rate Groups:

<u>Group 6</u> - Sonoma	West Petaluma	
Willits	Cinnabar	
<u>Group 7</u> - Longvale		
<u>Group 8</u> - Korbel	South Fork	South Bay
Summit	Scotia	Eureka
Irmulco	Carlotta	Arcata
Fort Bragg	Fortuna	Samoa
Fort Seward		

The extent that the rates result in lesser charges than those which concurrently apply to points of destination intermediate to Long Beach and to Northridge, La Metro and Raymer is indicated in the following tabulation:

Table 2
Charges per car - Lumber and Forest Products
Transported from Rate Groups 6, 7 and 8.

<u>To</u>	<u>Rate</u>	<u>Charges</u>
Long Beach	\$ 13.07(a)	\$ 261.40
Glendora	13.89(a)	277.80
Claremont	14.70(a)	294.00
San Bernardino	15.53(a)	310.60
Bakersfield)	.53(b)	265.00)
Earlimart)		318.00)(c)
- - - - -		
Northridge, La Metro, Raymer	13.89(a)	277.80
Saugus	14.69(a)	293.80
Earlimart	.53(b)	265.00)
		318.00)(c)

(a) Per 1,000 board feet, carload minimum 20,000 board feet

(b) Per 100 pounds, carload minimum 50,000 pounds

(c) Charge for 20,000 board feet, based upon a weight of 3,000 pounds per 1,000 board feet

The record shows that the rates in issue herein are now in effect, that they have been maintained in applicants' tariff for several years, and that they were established without long and short haul authority in the following circumstances:

Rates to Long Beach

In 1945 the Santa Fe extended its line into the City of Long Beach. At the time it issued instructions to its tariff publishing agent to establish nonintermediate rates to and from points on its line in Long Beach the same as those applicable to and from points on its line in the Los Angeles Harbor area. In compliance with these instructions the tariff agent undertook to publish such rates and to obtain appropriate long and short haul authority where necessary. However, due to an inadvertence he did not obtain the authority with respect to the rates involved herein, although he published them as if it had been obtained. The error was discovered only recently.

Rates to Northridge, La Metro and Raymer

The coast line of the Southern Pacific Company between Los Angeles and San Francisco diverges over two parallel routes between Burbank and Chatsworth. Northridge, La Metro and Raymer are located on the route to the north and Tarzana, Encino and Van Nuys are located on the route to the south. In 1936 the company was authorized to establish, and did publish, lower rates and charges from northern California points of origin to Chatsworth, Tarzana, Encino and Van Nuys than it maintained at intermediate points. In 1940 in a subsequent amendment of its tariff the company reduced the then applicable rates to Northridge, La Metro and Raymer

and established them on the same basis as those to Tarzana, Encino and Van Nuys. The rate adjustments were deemed to be appropriate because of similarity of conditions on the north and south routes. Erroneously, however, the reduced rates were established nonintermediate in application without obtaining authority to deviate from the long and short haul provisions of the Public Utilities Code and the Constitution. ✓

According to a representative of the Santa Fe who submitted evidence with respect to the rates to Long Beach, his company now finds itself in the position that unless the sought authority is granted, it must either increase its rates and charges to Long Beach above those applicable to intermediate points or it must make substantial reductions in its rates to the intermediate points. He said that adoption of the first alternative would not permit his company to compete with those carriers who are authorized to maintain the lower rates. On the other hand, adoption of the second alternative would result in a material loss in revenues to the Santa Fe. ✓

Regarding the rates to Northridge, La Metro and Raymer, a witness for the Southern Pacific Company referred to the similarity of conditions which prompted it originally to make the rates the same as those applicable to Tarzana, Encino and Van Nuys. He asserted in effect that the similarity of conditions continues to prevail and justifies the granting of the sought authority.

Particularly with respect to the rates to Long Beach the granting of the application was opposed by a representative of 47 retail lumber dealers in the area generally south from Fresno to Los Angeles. The position of the representative of these concerns was that with the establishment of the lower rate to Long Beach

without Commission authorization that rate became the lawful rate to intermediate points; that granting of the authority which applicants seek would have the effect of increasing the lawful rates to the intermediate points; that such increases would be unlawful unless shown to be justified in accordance with Section 454 of the Public Utilities Code; and that an application to effect increases in the rates as indicated was not before the Commission. Upon these grounds the representative moved for dismissal of the application.

This motion is denied. Applicants were and are obliged by the provisions of Section 494 of the Public Utilities Code to observe their tariff rates unless and until they are found by the Commission to be unreasonable, excessive or discriminatory in proceedings involving such determinations. The rates to the intermediate points are being challenged by the lumber dealers in several complaint proceedings on file with the Commission.² Meanwhile, applicants' tariffs afford the only basis on which they may properly predicate their charges.

It is clear from the record in this matter that the circumstances underlying the rates in issue warrant, with certain exceptions, the granting of the authority sought. In appropriate proceedings heretofore the Commission has approved like rates to destinations in Long Beach on the line of the Southern Pacific Company. The rates so approved have been published and are being maintained. Having been authorized for application to destinations on the line of the Southern Pacific Company, extension of the rates to apply also to Long Beach destinations on the line of the Santa Fe appears justified. With reference to applicants' proposals relating to the rates to Northridge, La Metro and Raymer, the evidence shows

² Cases Nos. 5523, 5536, 5552, 5558 and 5572.

that applicants seek to maintain rate equality with other destinations similarly situated. Long and short haul authority having been granted with respect to the rates to other destinations, similar authority should be extended to the rates to Northridge, La Metro and Raymer.

To the extent that the rate adjustments which applicants seek have for their basis rates which have been heretofore authorized by the Commission, the application will be granted except with respect to joint rates maintained with Willig Freight Lines. This carrier was not a party to this proceeding and it is not evident that Willig Freight Lines concurs in the adjustments sought. The application will be denied in this respect. — —

O R D E R

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

IT IS HEREBY ORDERED that:

1. Applicants be and they hereby are authorized to establish and publish nonintermediate rates in dollars and cents per 1,000 board feet for the transportation of forest products, as described in Appendix "A" attached hereto, in carload quantities of 20,000 feet, board measure, or more, from the points of origin to the points of destination listed in Appendix "B" attached hereto (Appendices "A" and "B" by these references being made a part hereof), said rates as to destinations in Long Beach on the line of The Atchison, Topeka and Santa Fe Railway Company and as to destinations in Northridge, La Metro and Raymer on the line of the Southern Pacific Company to be the same in volume as those (including applicable increases) maintained at present by applicants and published in Pacific Southcoast Freight Bureau Tariff No. 48-U, Cal. P.U.C. No. 189, of J. P. Haynes, Agent, for like transportation from the same points of origin to destinations in Long Beach and to destinations in Tarzana, Encino and Van Nuys on the line of the Southern Pacific Company, respectively.

2. Except as provided in paragraph (1) the application be and it hereby is denied.
3. The motion which was made for dismissal of the application in this proceeding be and it hereby is denied.

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

Dated at San Francisco, California, this 19th
day of OCTOBER, 1954.

Edward Mitchell
President
Justin J. Calver
Samuel Potter
Gene Roggins
Ray L. L. L. L.
Commissioners

APPENDIX "A" TO DECISION NO 50682

"Forest Products" Described:

Forest Products of Alder, Almon, Apitong, Birch, Cedar, Cottonwood, Cypress, Duali, Fir, Gum, Hemlock, Juniper, Larch, Maple, Pine, Poplar, Red Lauan, Redwood, Spruce, Tamarack, Tanguile, White Lauan or Yew, whether or not creosoted or otherwise treated with chemical preservatives, viz.:

Lath (see Note 2),

Lumber, viz.:

The products of saw and planing mill plants, not further advanced in manufacture than by sawing, resawing and bypassing lengthwise through a standard planing machine, crosscut to length and ends matched.

Pickets, sawn or split (see Note 4),

Shakes, sawn or split (see Note 1),

Shingles (see Note 3),

Stakes, sawn or split,

Ties

Note 1. - 3,000 shakes will be considered the equivalent of 1,000 board feet lumber.

Note 2. - 5,000 pieces of lath ($1\frac{1}{2}$ inches by 4 feet) will be considered the equivalent of 1,000 board feet of lumber.

Note 3. - 50 bundles (200 shingles per bundle) of shingles will be considered the equivalent of 1,000 board feet measure.

Note 4. - Split posts 4 inches by 5 inches by 7 feet will be considered the equivalent of 10 board feet per piece and Split Posts 3 inches by 4 inches by $6\frac{1}{2}$ feet will be considered the equivalent of $6\frac{1}{2}$ board feet per piece.

(End of Appendix "A")

APPENDIX "B" TO DECISION NO. 50682

Points of Origin

On the line of the Northwestern Pacific Railroad Company

Samoa	Carlotta
Arcata	Scotia
Eureka	Sonoma
South Bay	Willits

and points intermediate between the aforesaid points.

On the line of The Arcata and Mad River Railroad Company

Korbel

On the line of the California Western Railroad

Fort Bragg
Summitt
Irmulco

and points intermediate between the aforesaid points.

On the line of the Petaluma and Santa Rosa Railroad Company

West Petaluma
Cinnabar

Points of Destination

On the line of The Atchison, Topoka and Santa Fé Railway Company

Long Beach

On the line of the Southern Pacific Company

Northridge
La Metro
Raymor

(End of Appendix "B")