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Decision No. 51965

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SOUTHERN PACIFIC COMPANY, NORTHWESTERN PACIFIC RAILROAD COMPANY, PACIFIC ELECTRIC RAILWAY COMPANY, PACIFIC MOTOR TRUCKING COMPANY, and PETALUMA AND SANTA ROSA RAILROAD COMPANY for authority to increase certain split pickup and delivery charges in Freight Tariff 1505-C, Cal. P.U.C. No.3898.	Application No. 36711

Charles W. Burkett, Jr., for applicants.
Arlo D. Poe, J. C. Kaspar, and R. D. Boynton, for California Trucking Associations, Inc., intervenor.
Jessie H. Steinhart, by Charles E. Hanger, for Industrial Shippers Association, protestant.
L. E. Osborne, for California Manufacturers Association; W. R. Donovan, for C & H Sugar Refining Corporation; Allen K. Penttila, for Sherwin-Williams Company; H. S. Scott, for Sterling Transit Company, Inc.; L. H. Wolters and E. R. Chapman, for Foremost Dairies, Inc.; interested parties.

O P I N I O N

Applicants, with the exception of Pacific Motor Trucking Company, are common carriers of freight by railroad. Pacific Motor Trucking Company, a wholly owned subsidiary of Southern Pacific Company, is a highway common carrier. Applicants, as a part of their services to the public, join in the operation of so-called "trailer on flatcar" service for the transportation of carload shipments of property between various points in the San Francisco Bay region, on the one hand, and Los Angeles and other Southern California points, on the other.[1] The service in question includes pickup of

[1] The trailer on flatcar operation is popularly known as "piggy back" service. The service here in issue involves points, in the San Francisco Bay region, as far north as Cloverdale and Calistoga, and, in the Los Angeles area, as far east and south as Redlands, Corona, and Newport Beach.

shipments at consignor's premises at point of origin and delivery to consignee's premises at point of destination. In this application authority is sought to increase certain of the applicable accessorial charges for split pickup and for split delivery of shipments transported via the aforesaid "trailer on flatcar" service.

Public hearing of the application was held before Examiner Carter R. Bishop at San Francisco on April 15, 27 and 28, 1955. Briefs have been filed and the matter is now ready for decision.

The accessorial charges for split pickup and for split delivery involved herein are set forth in Southern Pacific Freight Tariff No. 1505-C, which also contains the rates applicable to the through transportation under the trailer-flatcar service. The charges in question are stated in cents per component part and vary with the weight of the component. They range from 52 cents per component weighing not over 100 pounds to 403 cents per component weighing over 20,000 pounds. The charges are the same for split deliveries as for split pickups. Applicants propose herein to substitute for the present charges amounts ranging from 100 cents per component weighing not over 100 pounds to 600 cents per component weighing over 10,000 pounds.[2]

The record discloses that prior to September 10, 1954, the present charges for trailer-flatcar split pickup and split delivery service were identical with the split pickup and split delivery charges concurrently in effect in the Commission's Minimum Rate

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[2] The present charges are published in Items Nos. 195 and 205 series of the above-mentioned tariff. The present and proposed charges are compared in Appendix "A" of this decision. Items Nos. 200 and 210 series of the tariff contain split pickup and split delivery charges applicable only in connection with certain commodity rates on apples. Those charges are not involved in this proceeding.

Tariff No. 2.[3] Effective on the above-mentioned date, and pursuant to Decision No. 50297 of July 20, 1954, in Case No. 5432 (Petition No. 17), the charges named in that tariff were increased by varying amounts. The accessorial charges for split pickups and split deliveries applicable in connection with through movement via highway carriers thus increased are still in effect. It is to the level of these charges that applicants seek herein authority to increase the corresponding accessorial charges applicable to trailer-flatcar split shipments.

Applicants offered evidence through an assistant engineer employed in Southern Pacific's Bureau of Transportation Research and through an assistant freight traffic manager of that carrier. The engineer described the operation of the trailer-flatcar service. Under this arrangement, he said, a carload shipment on a southbound movement, for example, is loaded by the shipper at point of origin into a highway van supplied by the rail carrier. The loaded van is then hauled by tractor to the Southern Pacific Company's terminal in San Francisco where it is placed on a flatcar and moved via that company's rails to its Los Angeles terminal. At the latter point, the witness explained, the van is removed from the flatcar and hauled thence by tractor over the public highways to the consignee's facilities at point of destination. There the van is unloaded by the consignee. Northbound trailer-flatcar shipments are handled in the same manner. According to the witness the highway portion of the trailer-flatcar service, from shipper's facilities to rail forwarding point and from rail receiving point to consignee's facilities,

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[3] Minimum Rate Tariff No. 2 names minimum rates, rules and charges for the state-wide transportation of general commodities by highway permit carriers. Accessorial charges for split pickup and split delivery are named in Items Nos. 160 and 170 series, respectively.

is actually performed by Pacific Motor Trucking Company under a contractual arrangement with the rail lines participating in the service. The rail portion of the movement ordinarily takes place, he said, in either the advance or regular sections of Southern Pacific Company's fast overnight merchandise trains operating between San Francisco and Los Angeles.

With reference to those shipments transported in trailer-flatcar service which are accorded split delivery the engineer testified that in some instances on arrival at the rail destination the contents of the van is removed and portions placed in two or more other vans for movement via highway to the various destinations of the components of the split shipment. In other instances, he said, the entire contents of a van may consist of a single split and will go through to destination without transfer to other vans en route.[4]

The engineer had made a comparative study of the split pickup and split delivery services rendered by applicants under the provisions of the aforesaid Tariff No. 1505-C with similar services rendered by highway carriers serving the San Francisco Bay and Los Angeles areas. The witness stated that his study had been confined to the services rendered by the respective carriers in the terminal areas and did not embrace the line haul movements between the two areas in question.[5] As a result of his study the witness concluded

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[4] Assertedly, 12½ per cent of the total trailer-flatcar traffic transported by applicants between the San Francisco Bay and Los Angeles areas during the month of March 1955 was accorded split pickup or split delivery traffic.

[5] The witness also stated that his study was further limited to the services of split delivery, since initial investigation had disclosed that comparatively little of the trailer-flatcar traffic involved herein was accorded split pickup service.

that the accessorial services performed in the terminal areas by the rail lines or by their agent, Pacific Motor Trucking Company, in connection with split pickup or split delivery of trailer-flatcar shipments involved similar operations, and were substantially the same, as the corresponding services of highway carriers operating between the Los Angeles and San Francisco areas. Differences in times of delivery of split shipments, the witness asserted, were dependent not upon whether they were transported between the two metropolitan areas by a highway carrier or by rail trailer-flatcar service, but upon such factors as the number of splits, the number of consignees and their relative locations, traffic congestion, and accessibility and efficiency of operation of consignees' platform facilities.

The engineer stated that in the course of his study he visited the facilities, observed the operations, examined the records and conferred with the supervisory personnel of Southern Pacific and of the highway carriers utilized in his investigation. These latter were Willig Freight Lines, Sterling Transit Company and Charles P. Hart.[6] The witness stated that these highway carriers were selected because they transported in split delivery service between the two

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[6] The witness testified that he studied the split delivery operations of Southern Pacific in the San Francisco and Los Angeles areas, of Willig Freight Lines in the San Francisco area and of Sterling Transit Company in the Los Angeles area, while his investigation of Charles P. Hart was limited to an examination of that carrier's records.

The record discloses that the engineer's observation of the actual delivery of split shipments from the terminals of the rail and highway carriers in the destination areas to the premises of the consignees was limited to four trips which he made on the vehicles of the carriers selected. Two of these trips were made on Southern Pacific equipment, one each in the San Francisco and Los Angeles areas. The other trips were made on vehicles of Willig Freight Lines and of Sterling Transit Company in the San Francisco and Los Angeles areas, respectively. According to the engineer, his entire investigation extended over approximately three weeks in March and April of this year.

areas in question some of the commodities which moved between the areas via Southern Pacific in trailer-flatcar split delivery service.

The assistant traffic manager testified that the split pickup and split delivery charges applicable to less-than-carload shipments of so-called general commodities transported by rail between the San Francisco Bay and Los Angeles territories, as well as between other points in this State, were increased to the levels herein sought for carload trailer-flatcar traffic, effective September 10, 1954. That action, he stated, was taken in compliance with the Commission's order in Decision No. 50297, supra, by which the split pickup and split delivery charges in Minimum Rate Tariff No. 2 were increased.[7] Prior to the above-mentioned date, the witness said, the rail less-than-carload split charges were the same as those previously in effect in the minimum rate tariff and those which, as hereinbefore stated, are still applicable on the carload trailer-flatcar traffic involved herein.[8]

This witness explained that highway carriers are generally required, by the above-mentioned decision, to observe, in connection with truckload, as well as less-truckload traffic, charges no lower than the increased split pickup and split delivery charges prescribed therein. He pointed out, however, that highway permit carriers are permitted to observe, and highway common carriers to publish and

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7 The less-than-carload rates and accessorial charges in question are named in Pacific Southcoast Freight Bureau Tariff No. 255 series. They are generally subject to the Commission's minimum rate orders as reflected in the provisions of its Minimum Rate Tariff No. 2. The rail carload rates on most commodities, however, are not subject to the Commission's minimum rate orders.

8 In this connection the record discloses that the applicant rail lines do not generally accord split pickup or split delivery service to carload shipments. An exception to this rule is made in the case of shipments handled in the trailer-flatcar operations.

apply, the lower split charges now in effect in Southern Pacific Tariff No. 1505-C when, under the alternative rate provisions of Minimum Rate Tariff No. 2, they observe, or publish and apply, "for the same transportation" the line haul trailer-flatcar rates named in Tariff No. 1505-C. The rail lines realize, the witness stated, that their present rate advantage is a temporary one. Assertedly, contract truckers are now observing the split charges, and the accompanying line haul rates, named in the rail trailer-flatcar tariff. The witness alleged that, unless the increases sought herein are authorized, it will only be a matter of time before the highway common carriers will be compelled to reduce their split charges on competitive traffic to the level of the rail charges here in issue.

These latter charges, the assistant traffic manager further alleged, are not sufficiently high to compensate applicants for the split pickup and split delivery services in question. On the other hand, it was his view that the proposed charges would be just and reasonable. In support thereof he introduced an exhibit in which the present and proposed charges were compared with the present published charges of applicants for the same services rendered in connection with carload shipments moving in trailer-flatcar service between California, on the one hand, and Portland, Oregon, and Tacoma and Seattle, Washington, on the other hand. There were also shown applicants' published charges for partial loading or partial unloading of carload trailer-flatcar shipments transported between California, on the one hand, and points in Idaho, Oregon, Utah and Wyoming, on the other hand.

The interstate split pickup and delivery charges shown on the exhibit, the witness testified, are applicable in the San Francisco Bay and Los Angeles areas. The services for which they are published, he alleged, are rendered in the same type of equipment

and involve the same operations as is the case with the split pickup and delivery services for which the charges here in issue are published. He pointed out that the charges for split service on shipments from or to Portland, Oregon, and Tacoma and Seattle, Washington, are in all instances higher than the corresponding charges now in effect on the California intrastate traffic here in issue, and are in some instances higher and in others lower than the charges proposed in this application.[9]

California Trucking Associations, Inc., a nonprofit association of for-hire highway carriers of property operating within this State, intervened in support of applicants' proposal. It introduced evidence through its director of research.[10] This witness testified that he was thoroughly familiar with the operations of a large number of highway carriers through personal inspection and that he had also observed the San Francisco-Los Angeles rail trailer-flatcar operation. He found no difference between the physical operations of highway carriers, on the one hand, and of Pacific Motor Trucking Company, on the other hand, in performing split pickup and split delivery services in connection with carload shipments transported under Minimum Rate Tariff No. 2 and Southern Pacific trailer-flatcar Tariff No. 1505-C, respectively. The director further stated that Pacific Motor Trucking

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9 Calculations based upon the data contained in the exhibit disclose that the charges sought herein would be lower than the corresponding charges on the above-mentioned Portland-Seattle-Tacoma traffic for component parts weighing up to, and including, 500 pounds and for component parts weighing over 3,203 pounds, that they would be the same as such interstate charges for component parts weighing from 3,200 to 3,203 pounds, and that they would be higher than such interstate charges for component parts weighing over 500 pounds to and including 3,199 pounds.

10 The testimony of this witness was received over the objections of counsel for Industrial Shippers Association on the ground that it would be irrelevant, incompetent and immaterial. Counsel asserted that in an increase proceeding such as this it is incumbent upon applicant to justify, through its own witnesses, the relief sought.

Company is a member of the above-mentioned association and is subject to the same wage agreements that govern other members of the association.

A survey of the effect of the increased split pickup and split delivery charges[11] in Minimum Rate Tariff No. 2, this witness further testified, had been made by the association under his direction. This survey, he said, disclosed that the highway common carriers had published and were observing those charges. As to permit carriers, the investigation revealed that some were applying the split pickup and split delivery charges named in Minimum Rate Tariff No. 2 on truckload traffic moving between the points here in issue, while others were observing, under the alternative rate provisions of that tariff, the lower accessorial charges named in Tariff No. 1505-C.[12]

Industrial Shippers Association protested the granting of the application. Its president testified that this association is a nonprofit corporation whose membership is made up of 52 industrial firms located in the San Francisco Bay and Los Angeles areas. The function of the association, he said, is to consolidate the less-than-carload lots of freight of its members into carloads and to ship the consolidated lots between the two areas in question. On southbound shipments, the witness explained, the less-than-carload lots are picked up from the members' platforms in the Bay area by local equipment operated by the association, and are brought to the association's premises in Oakland, where they are consolidated. The

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[11] Established pursuant to Decision No. 50297 of July 20, 1954, supra.

[12] According to the record, the line haul rates in Tariff No. 1505-C in connection with which the split pickup and split delivery charges here in issue are applicable are generally on the level of the line haul rates in Minimum Rate Tariff No. 2. Certain lower railhead-to-railhead rates are also named in the trailer-flatcar tariff; however, the aforesaid accessorial charges are not applicable in connection therewith.

line haul carrier then picks up the carload shipments, transports them to the Los Angeles area and makes split deliveries as instructed by the association. On northbound shipments, the president said, the procedure is reversed. Split pickups of carload shipments are made by the carrier in the Los Angeles area and are then transported to the association's premises in Oakland. The association then segregates the property and delivers the individual lots to the ultimate consignees in the Bay area. According to the witness, the association makes one composite shipment each working day in each direction. The quantity shipped varies, ranging from two trailers to five or more trailers per shipment.

Prior to the aforesaid increases in the split pickup and split delivery charges provided in Minimum Rate Tariff No. 2, the witness said, the shipments of Industrial Shippers Association moved via highway carriers. However, in November 1954 the association transferred its traffic between the two metropolitan areas of the State from highway carriage to movement via Southern Pacific trailer-flatcar service.[13] Assertedly, the only reason for this change was that the highway carrier split pickup and split delivery charges had been increased, whereas the corresponding charges of Southern Pacific had remained at the lower level.

The witness introduced an exhibit in which the split pickup and split delivery charges paid by the association during March 1955 in connection with trailer-flatcar service were compared with the payments which would have been made had the increased charges sought herein been applicable. According to the exhibit the total payment of the accessorial charges in question amounted to $1,292, whereas,

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[13] The witness stated that in April of this year the association instituted a smaller operation in which it consolidates property at Los Angeles for shipment as carloads to San Joaquin Valley points. Those shipments, he said, are transported by a highway carrier.

under the sought basis, they would have aggregated $2,458. The witness expressed a strong doubt as to whether the association would be able to continue its present operations between the San Francisco Bay and Los Angeles areas in the event of the granting of the relief herein sought.[14]

California Manufacturers Association, while not appearing as a protestant, cross-examined applicants' witnesses at length and generally supported, by objections, motions and argument, the position of the Industrial Shippers Association.

On brief, protestant argued that the application herein failed to conform to certain requirements of the Commission's rules of practice, and that the application should, therefore, be dismissed.[15] Protestant further argued that applicants had failed to justify the sought increases as required by Section 454 of the Public Utilities Code. Specifically, it was contended that applicants had failed to adduce evidence regarding revenues, expenses and rate of return; that the engineer's study was not adequate to warrant a conclusion that the split pickup and split delivery services of the rail lines and of the highway carriers, respectively, are the same; that the assistant traffic manager's assertion concerning the need for additional revenue was inconsistent with applicants' failure to justify the sought increases on the basis of costs; and that the testimony of intervenor's director of research was irrelevant and

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[14] The witness added, however, that in the event the association should find it possible to continue operations under the higher charges, it would continue to utilize the rail trailer-flatcar service, as it has found such service to be satisfactory.

[15] The requirements to which protestant referred were those set forth in subdivisions (a), (d), (e), (f) and (g) of Rule 23. At the outset of the hearing counsel for protestant moved for dismissal of the application herein on these same grounds. Later, he reiterated his motion on the grounds that applicants had failed to justify the granting of the sought relief. Counsel for California Manufacturers Association and for Sherwin-Williams Company joined in the motion.

immaterial. Finally, protestant contended that applicants' "zone of reasonableness" theory is erroneous.

The argument of California Manufacturers Association on brief was along the same lines as that of Industrial Shippers Association. Additionally, it alleged that applicants' showing was deficient in the following respects: value of service and other recognized elements of rate making were inadequately developed or totally ignored; appropriate comparisons of the proposed rates with other rates for the same or comparable services were not made; no showing was made as to the reasonableness of the line haul rates in connection with which the accessorial charges here in issue are applicable; and the evidence of record as to cost, revenue and other competitive advantages to applicants resulting from the trailer-flatcar service is grossly incomplete and, to a degree, misleading.

In their brief applicants argued that there is a clear distinction between maximum and minimum reasonable rates; that in order to justify particular rates and charges as not unreasonably high it is not necessary to show the cost of providing the service; that applicants have established with persuasive evidence that the proposed charges do not exceed a reasonable maximum level; and that the reasonableness of the proposed accessorial charges is to be determined apart from the reasonableness of the line haul transportation rates.

Conclusions

The evidence of record has been carefully weighed and appraised and the various arguments of the parties, advanced orally and on brief, have been fully considered. It is not deemed necessary to discuss in detail in this opinion the merits of the evidence and of the points raised by counsel. Comment should be made, however,

regarding two of the arguments advanced by protestant. The first of these is the contention that applicants, in order to justify the reasonableness of the proposed charges, are required to adduce evidence relative to the expenses, revenues and rate of return anticipated in connection therewith. In support of its position protestant cited several decisions of this Commission issued in recent years in other transportation rate or fare increase proceedings. In each of these decisions, protestant states, proposed increases were justified upon cost, revenue or rate of return evidence. A review of the decisions cited discloses that in every instance they issued from what are generally designated as "revenue" cases. In each proceeding all, or a substantial portion of the applicant utility's operations, charges, revenues and expenses were involved. Such is not true of the instant proceeding. As hereinbefore mentioned, the traffic involved herein constitutes approximately 12½ per cent of the traffic handled in applicants' trailer-flatcar service performed under Tariff No. 1505-C. The latter movement, in turn, manifestly embraces only a small segment of the total operations of the applicant carriers. The effect of the proposed increases on applicants' over-all revenue position would be negligible.

Moreover, as urged by applicants on brief, the request herein involves the establishment of charges which will not exceed a maximum reasonable level. In such a proceeding the element of costs does not assume the importance that it does in a minimum rate proceeding, for example.

The second point requiring comment is protestant's contention that the application herein should be dismissed on the grounds that applicants failed to include in it certain information required by Rule 23 of the Commission's Rules of Procedure.[16] One of the provisions cited, paragraph (d), relates specifically to general rate increase proceedings, and is therefore inapplicable. The failure to comply with paragraph (g), which relates to notification as to when applicant is ready to proceed with its showing has not hindered the development of the record. While, by the terms of paragraphs (a), (e) and (f) of the rule in question, the application should have included certain financial, revenue and expense data, the omission of such data has not, in this instance, hindered the development of a record sufficient for a proper determination of the issue now before us.

Upon careful consideration of all the evidence of record, the Commission is of the opinion and finds as a fact that the proposed increased charges have been justified. The application will be granted.

The motion of Industrial Shippers Association, California Manufacturers Association and Sherwin-Williams Company that the application be dismissed is hereby 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 Southern Pacific Company, Northwestern Pacific Railroad Company, Pacific Electric Railway Company, Pacific Motor Trucking Company and Petaluma and Santa

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16 Decision No. 47081, as amended by Decision No. 48072, in Case No. 4924.

Rosa Railroad Company be and they are hereby authorized to establish, on not less than five days' notice to the Commission and to the public, the increased charges as proposed in the application filed in this proceeding.

IT IS HEREBY FURTHER ORDERED that the authority herein granted shall expire unless exercised within sixty days after the effective date of this order.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 13th day of September, 1955.

President

Commissioners

APPENDIX "A"

Comparison of Present Trailer-Flatcar Split Pickup and Split Delivery Charges With Proposed Charges and With Present Split Pickup and Split Delivery Charges Provided in Minimum Rate Tariff No. 2.

Weight of Component Part (In Pounds)		Trailer-Flatcar Charge Per Component Part (In Cents)			Present Charge* in Minimum Rate Tariff No. 2
Over	But Not Over	Present#	Proposed	Per Cent Increase	
0	100	52	100	92.3	100
100	500	73	130	78.1	130
500	1,000	101	200	98.0	200
1,000	2,000	152	300	97.4	300
2,000	4,000	203	400	97.0	400
4,000	10,000	253	500	97.6	500
10,000	20,000	302	600	98.7	600
20,000	-	403	600	48.9	600

Items Nos. 195 and 205 series of Southern Pacific Company Freight Tariff No. 1505-C.

* Items Nos. 160 and 170 series.