

ORIGINAL

Decision No. 54512

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation)
 into the rates, rules, regulations,)
 charges, allowances and practices)
 of all common carriers, highway)
 carriers and city carriers relating)
 to the transportation of general)
 commodities (commodities for which)
 rates are provided in Minimum Rate)
 Tariff No. 2).

Case No. 5432
 Petition for Modification
 No. 76

Petition by Savage Transportation)
 Company, Inc., for the extension of)
 San Francisco Territory as described)
 in territorial description in)
 Section 1, Item 270-3 Series of)
 Minimum Rate Tariff No. 2.

Charles Wallen, Jr., appearing for Savage
 Transportation Co., Inc., petitioner.
J. C. Kaspar and Arlo D. Poe appearing for
 California Trucking Association; Frederick
E. Fuhrman and B. M. Witmer appearing for
 Southern Pacific Co., protestants.
Clifford J. Van Duker appearing for American
 Distilling Co. and A. G. Schoonmaker Co. Inc.,
Eisner & Titchell by Norman A. Eisner
 appearing for American Distilling Co.;
Halsey H. Lyon appearing for A.G.Schoonmaker
 Co. Inc.; George T. Gerhardt appearing for
 George T. Gerhardt Co.; George W. Maisac
 appearing for Marin County Development
 Foundation Inc.; and Mrs. Vera L. Schultz
 appearing for County of Marin, intervenors.
Charles C. Miller appearing for San Francisco
 Chamber of Commerce; J. I. Quintrall
 appearing for Western Motor Tariff Bureau;
Alan H. Scurfield appearing for Mark-A-Ling,
 Inc.; Richard G. Horne appearing for
 Fiberised Bar & Line Co.; Allen K. Penttila
 appearing for The Sherwin Williams Co.;
Milton A. Walker appearing for Fibreboard
 Products Inc. and Joseph C. Wilson, III,
 appearing for Perolite Products Co.,
 interested parties.
Grant L. Malquist and J. W. Mallory, for the
 Commission's staff.

O P I N I O N

Savage Transportation Company, Inc., is a highway common carrier engaged in the transportation of property between Los Angeles, among other places, on the one hand, and San Francisco Territory and Sausalito, on the other. By this petition it seeks the extension of the San Francisco Territory, as described in Item 270 series of Minimum Rate Tariff No. 2, so as to include the City of Sausalito and the plant of the American Distilling Company adjacent to the City of Sausalito.

Public hearing was held June 28, 1956, in San Francisco before Examiner Jack E. Thompson. The matter was taken under submission and is ready for decision.

The San Francisco Territory is an area defined in Minimum Rate Tariff No. 2, which extends generally from San Francisco and Point Richmond on the north to San Jose on the south. The minimum rates for the transportation of property between San Francisco Territory and Los Angeles Territory are lower than the minimum rates for corresponding distances throughout the State. At the present time the established minimum class rates for the transportation of general commodities between Sausalito and Los Angeles are substantially higher than the minimum rates applicable between Los Angeles and points in San Francisco Territory.¹

¹ Comparison of Present Third Class Less-Than-Carload and Fifth Class Truckload Rates between Los Angeles on the one hand and Sausalito and San Francisco Territory on the other. (Not including Surcharge)

From:	Rates In Cents Per 100 Pounds To Los Angeles				
	Any Quantity	4,000 Pounds	10,000 Pounds	20,000 Pounds	Truckload
Sausalito	\$1.96	\$1.37	\$1.20	\$.91	\$.65½
San Francisco	1.67	1.09	.88	.71	.53
Difference	.29	.28	.32	.20	.12½
Ratio of Sausalito Rates To San Francisco Rates	117.4%	125.7%	136.4%	128.2%	123.6%

The petitioner alleges that the differential in rates is not warranted and that shippers and receivers of freight in Albany, Berkeley, El Cerrito, Richmond, San Leandro and other communities embraced within the San Francisco Territory receive an undue preference or advantage over shippers and receivers of freight in Sausalito in violation of Section 453 of the Public Utilities Code.

The vice president of petitioner testified in support of the petition. He stated that Savage Transportation Company, Inc., operates a terminal in San Francisco and that all less-than-truckload traffic originating at or destined to Sausalito or East Bay points is distributed through the terminal. He asserted that the cost to the petitioner of performing pickup and delivery service in Sausalito is less than its cost of receiving and delivering freight in the East Bay communities. This he stated is due not only to the shorter distance to Sausalito but also because of the lower tolls on the Golden Gate Bridge as compared with the San Francisco Bay Bridge. In comparing distances the witness used both actual mileages from the Civic Center of San Francisco and the constructive mileages from San Francisco as set forth in Distance Table No. 4. The witness testified that the petitioner transports approximately 300,000 pounds of freight per month from Sausalito to Southern California points. Essentially all of this traffic is from the American Distilling Company. Petitioner has a lesser volume of freight moving from Los Angeles Territory to Sausalito, most of which consists of less-than-truckload quantities destined to retailers. It was stated that because of the differential in rates, the American Distilling Company delivers its less-than-truckload shipments to the petitioner's terminal. According to the witness, this is disruptive of an orderly operation at the terminal and results in higher costs to the petitioner than if the shipments were picked up by petitioner at the plant at Sausalito.

Intervenors testified in support of the petition. The executive vice president of American Distilling Company testified that one tenth of their sales are in Los Angeles Territory and that they are now changing their sales practice so as to serve the retailers directly as well as to distribute through jobbers and wholesalers in the area. The change of sales practice will result in more of their products being shipped in less-than-truckload quantities to Los Angeles retailers. He considered the differential in rates as between Sausalito and San Francisco to be too high. At the present time the American Distilling Company has three trucks with which it makes deliveries in the Bay area. These trucks transport 75 percent of the company's less-than-truckload shipments destined to Los Angeles Territory to the petitioner's terminal in San Francisco. Because of the differential in rates and because of the change in sales practice, he stated that the American Distilling Company contemplates acquiring additional trucks and delivering its less-than-truckload shipments to the Los Angeles Territory.

A supervisor for the County of Marin intervened in support of the petition. She introduced into evidence Exhibit No. 3 which is an excerpt from the meeting of the Marin County Board of Supervisors held June 26, 1956. The exhibit shows that the Board unanimously endorsed the petition and further that it resolved that the Commission should be requested to establish like rates between Los Angeles and points in Marin County. The supervisor testified that it was the position of the Board that Marin County is an integral part of the economic unit which includes the entire San Francisco Bay area and that industry and residents in Marin County are at a disadvantage because of an artificial economic barrier in the form of freight rate differentials. She stated that the San Francisco Territory was established for rate purposes during the

era of the ferry boats and that while at that time there may have been some justification for rate differences because of the separation by water of Marin County from the rate territory, the Golden Gate Bridge and the Richmond-San Rafael Bridge have eliminated the water barrier separating Marin County from San Francisco and the East Bay and the difference in rates is no longer warranted.

The chairman of the transportation committee of the Marin Development Foundation asserted that inequality of freight rates has prevented Marin County from attracting industry. He alleged that while Marin County has land and other resources attractive to the location of industry, the freight rate differential is sufficient to divert industries to locating in Contra Costa, Alameda, San Mateo and Santa Clara Counties, particularly portions of those counties embraced within the rate territory. This circumstance, he stated, results in an unjust discrimination against Marin County and an undue preference to the people in San Francisco Territory.

A Supervising Transportation Engineer of the Commission's staff testified concerning the manner in which cost studies underlying the present minimum rates here involved were developed. He stated that one of the basic factors in the development of the costs was the performance of carriers, in terms of pounds per man in the pickup and delivery of freight within San Francisco Territory. If the outer limits of the territory were extended as sought, it was his opinion, as an expert in cost analyses, that the performance factor would be substantially lessened which would result in a greater cost per 100 pounds for the transportation of property between San Francisco Territory and Los Angeles Territory.

An Associate Transportation Rate Expert of the Commission's staff related the historical background of the present territorial rates and offered an exhibit containing, among other things, a

comparison of the concentration of population and industry in Sausalito and several communities in San Francisco Territory.

The California Trucking Associations, Inc., opposed the sought extension of San Francisco Territory on two grounds: (1) it would single out one particular area for special treatment without arriving at an orderly solution of the basic problem respecting rate differential to points outside of, but adjacent to, the rate territories; and (2) petitioner has failed to present evidence respecting the cost of providing service between Sausalito and Los Angeles Territory, such evidence allegedly being indispensable to a finding of the reasonableness of the rates which would be applicable under the proposed extension.

Conclusions

The petition filed herein seeks a revision of Item 270 series of Minimum Rate Tariff No. 2 so as to include the City of Sausalito, and certain areas immediately adjacent thereto, within San Francisco Territory. Matters involving other points and places in Marin County and issues respecting discrimination or preference resulting from the published rates of petitioner are beyond the scope of the petition and therefore may not be considered herein.

The issues to be decided are (1) whether the minimum rates established for transportation between San Francisco Territory, on the one hand, and Los Angeles Territory and Los Angeles Basin Territory, on the other hand, would be just and reasonable minimum rates for the transportation of property between Sausalito and the latter territories and (2) whether by being excluded from San Francisco Territory, Sausalito is being unjustly or unduly prejudiced or discriminated against to the advantage of communities within the San Francisco Territory.

Three principal facts relied upon in the establishment of the point-to-point rates between the territories were:

"(1) that railroads and other common carriers have long maintained rates for transportation between San Francisco Bay Territory and the Los Angeles metropolitan area relatively lower than rates maintained for equivalent distances between other points in the state, (2) that an unusually heavy volume of tonnage moves between the territories mentioned, enabling the carriers to experience favorable use factors, and (3) that such tonnage is distributed rather evenly as between northbound and southbound movements, making possible the obtaining of relatively high load factors,..."²

The practices of railroads and other common carriers of maintaining the lower rates was due in part to competition, not only as between two major railroads but also with vessels.

What are the transportation conditions with respect to Sausalito?

(1) railroads and other common carriers apparently did not and do not consider Sausalito to be a competitive point; (2) southbound tonnage consists principally of truckload shipments of alcoholic beverages and northbound tonnage consists of a relatively small amount of less-than-truckload shipments consigned to retailers; (3) the tonnage consists of truckload shipments which are not made daily in one direction and a small volume of less truckload shipments daily in the other direction.

It is alleged that Sausalito shippers are being prejudiced to the advantage of shippers in San Francisco Territory. Not all advantages result in unjust or undue discrimination or preference. The latter results where there is not sufficient difference in transportation conditions to justify the variance in rates, and the rate differential is shown to be a source of advantage to the points or traffic allegedly favored and a detriment to the other points and traffic. Here there is a substantial difference in transportation conditions. For example, Richmond is the point in San Francisco Territory most distant from Los Angeles and is 450 constructive miles

² Decision No. 31606, 41 C.R.C. 671,689 (1939).

from Los Angeles; Sausalito is 483 constructive miles from Los Angeles. Richmond is served by two railroads operating directly between the San Francisco Territory and Los Angeles; Sausalito is served by one rail line that connects with the rail line serving Los Angeles at Schellville. The rail operating distance from Los Angeles to Richmond is 466.8 miles and to Sausalito is 523 miles. Estimates of record concerning the population and number of manufacturing concerns in the two cities show that in 1954 Richmond had almost 20 times the population of Sausalito and five times the number of manufacturing concerns. The number of wholesale and retail businesses is usually proportional to population so that it may reasonably be inferred that the retail and wholesale business activity in Richmond is greater than that in Sausalito. Freight traffic is generated by the activity of manufacturers, wholesalers and retailers. It is apparent that with respect to distance, carrier competition and volume of traffic, transportation conditions in Sausalito are different than at Richmond and the difference is such that the circumstance that Sausalito does not enjoy the same minimum rates from Los Angeles as does Richmond does not constitute discrimination or preference. When Sausalito is compared to San Francisco Territory as a whole, the difference in conditions is more pronounced. Petitioner and intervenors relied upon the manner in which petitioner operates in serving Sausalito and the East Bay points. As has been pointed out by the Commission in the establishment of the minimum rates here involved and repeatedly thereafter, minimum rates are not designed to be the suitable and proper rates to be assessed by all carriers; in the establishment of minimum rates the Commission determines the lowest lawful rates for any type or class of carrier and prescribes these rates as the minimum rates for all affected carriers. Rates

thus developed are not designed to return the costs of all carriers for all services but give recognition to the fact that every service has its optimum method of performance.³

Cost of operations is an important consideration in the establishment of minimum rates. The Supervising Transportation Engineer pointed out that the extension of San Francisco Territory to include Sausalito would result, for the purpose of establishing reasonable minimum rates, in increasing the cost determined for performing pickup and delivery throughout the territory. It follows that the inclusion of Sausalito in San Francisco Territory would place an undue burden upon traffic originating within and destined to San Francisco Territory.

Upon consideration of all of the facts and circumstances of record, the Commission is of the opinion and finds that the extension of San Francisco Territory, as defined in Item 270 series of Minimum Rate Tariff No. 2, to include Sausalito and the area immediately adjacent thereto has not been shown to be reasonable or justified by transportation conditions.

The petition will be denied.

O R D E R

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

³ Decision No. 31606, 41 CRC 671, 686, 697 (1939) and Decision No. 46912, 51 Cal. P.U.C. 586, 592 (1952).

IT IS ORDERED that Petition for Modification No. 76
filed in this proceeding by Savage Transportation Company, Inc.,
is denied.

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

Dated at San Francisco, California, this 11th
day of February, 1957.

John E. Mitchell
President
Raul B. Gutierrez
Maurice Dore
R. K. G. G.
C. Lynn Fox
Commissioners