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Decision No. 56457

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

J. F. PRITCHARD & CO. OF CALIFORNIA, Complainant, vs. THE ARCATA AND MAD RIVER RAILROAD COMPANY, THE ATCHISON, TOPEKA & SANTA FE RAILWAY CO., CALIFORNIA WESTERN RAILROAD, NORTHWESTERN PACIFIC RAILROAD COMPANY, PACIFIC ELECTRIC RAILWAY COMPANY, PETALUMA AND SANTA ROSA RAILROAD COMPANY. Defendants.	Case No. 5936

OPINION AND ORDER

This proceeding is at issue on the complaint of J. F. Pritchard & Co. of California, alleging that defendant railroads violated Sections 460 and 494 of the Public Utilities Code in the transportation of carload shipments of lumber from Arcata, Fort Bragg, South Fork and Willits, to Merced. Complainant seeks reparation in the amount of $5,000, or such other amount, plus interest thereon at the rate of 6 per cent, as the Commission finds appropriate.

A proposed report was prepared and filed by Examiner Jack E. Thompson on December 13, 1957, which report is attached hereto. Exceptions were filed by complainant on January 30, 1958, and defendants' reply to exceptions was filed February 14, 1958. The matter is now ready for decision.

Complainant lodged three exceptions to the proposed report.

Exception No. 1

A portion of the testimony of defendants' witness Arthur A. Moser dealt with the application, filed June 27, 1935, of The Atchison, Topeka and Santa Fe Railway Company for authority to depart

from the provisions of Section 460 of the Public Utilities Code (then Section 24(a) of the Public Utilities Code) in the establishment of a rate in cents per thousand feet, board measure, non-intermediate in application for the transportation of lumber from Arcata and other points to Redondo Beach, the order of the Commission in said application granting that authority, and the manner in which defendants exercised the authority in the publication of said rate. Complainant objected to this testimony and moved that it be stricken on the ground that it is immaterial and irrelevant. Complainant argued that the only tariff or tariff provisions which may be properly considered in this proceeding are those which were in effect at the time the shipments here involved moved. The Examiner overruled the objection and denied the motion to strike. Complainant has taken exception to this ruling, reiterating its contention that the issue regarding a violation of Section 460 must be decided upon facts and conditions present at the time the alleged violation occurred and not on conditions which existed some twenty years prior to the alleged violation of Section 460 here at issue. The tariff provisions and the order referred to in the portion of witness Moser's statement objected to not having been in effect at the time the involved shipments moved, having been superseded by other orders and tariff filings, it was contended therefore could be of no probative value in the determination of the matter at issue. Defendants in their reply support the ruling of the Examiner.

The issue is academic in that all of the matters set forth in the testimony objected to are also related in the Commission's Order No. 24(a)-3881 dated June 28, 1935, and Order No. 24(a)-3960 dated December 21, 1935, and the applications and tariff pages specifically referred to and incorporated by reference in said

orders, of which official notice has been taken. These matters are relevant and material to the case at issue even though the said orders and tariff pages were superseded by subsequent orders and tariff pages, because the order and tariff pages in effect at the times the shipments were transported refer, through the chain of orders and applications, back to Order No. 24(a)-3881 and the application filed therein. As stated in the proposed report, "The extent of the authority granted by the Commission in Order No. 460-293 cannot be ascertained other than by referring to the prior orders of the Commission and the applications to which said orders make reference." The Examiner's ruling is affirmed.

Exception No. 2

Complainant takes exception to the recommended ultimate finding of the Examiner, "...; that it has not been shown that defendants have violated Section 460 of the Public Utilities Code." Complainant stated that the finding in the proposed report, to the effect that Order No. 24(a)-5223 used the word "changes" rather than "charges", is incorrect and that said order actually used the word "charges" and that Order No. 460-293 used the word "changes". Complainant contends that it is the difference in the wording of the two orders and the difference in their objectives that establish defendants' violation of Section 460.

A review of Order No. 24(a)-5223 dated January 22, 1946 shows that the word used was "changes" as reported by the Examiner.

Complainant also states that no authority was granted authorizing complete elimination of reference in individual items to the order granting relief and that the authority simply authorized the individual item reference to one Section 460 order number instead of each item referring to a different number. The record shows that this assertion is contrary to the fact. Order No.

24(a)-5223 granted J. P. Haynes, Agent, Pacific Freight Tariff Bureau, permission "to publish and file, non-intermediate in application in his Tariff No. 48-T (C.R.C. No. not yet assigned) various rates, rules and regulations now published in his Tariff No. 48-S, C.R.C. No. 75, as more specifically set forth in the application which is hereby referred to and by reference made a part hereof."

The application referred to and made a part of Order No. 24(a)-5223 states:

"This petition requests one 24(a) Authority number to be shown on title page of Tariff No. 48-T..." (Emphasis added.)

Order No. 460-293, the authority in force and effect at the time the shipments involved were transported, grants J. P. Haynes, Agent, permission "to publish and file in his Tariff No. 48-U, Cal. P. U. C. No. (not yet assigned), single Section 460 authority number in lieu of present outstanding Section 460 authority number." (Emphasis added.)

It is clear that defendants' tariff publishing agent was permitted to make reference to the authority on the title page of the tariff and that defendants were not required to make reference to the authority in the individual rates on which the departures were authorized.

The exception is overruled.

Exception No. 3

Complainant takes exception to the ultimate finding recommended by the Examiner that complainant has not shown that defendants have charged, demanded, collected or received rates and charges in excess of those specified in their schedules and tariffs in violation of Section 494 of the Public Utilities Code.

Complainant specifically attacks the Examiner's conclusion that the construction of Item 130 of the tariff advanced by complainant is without merit because the item, read in the ordinary

context of the words therein, is capable of being applied, and, in doing so, reiterates the argument that, there being no actual circumstance where an unnamed point is between named destination points on the same line, the item, construed in the ordinary context of the words therein, is not capable of being applied. Complainant again argues that, in order for Item 130 to have application to actual conditions, the word "points" must be construed in the singular as well as the plural.

Defendants in their reply state that, so far as they know, there is no situation presently existing where there is an unnamed point between named destination points; however, such a situation could easily exist and it is the purpose of Item 130 to cover such a situation.

Complainant's thesis is that the item means that an unnamed point between the origin and a named destination point takes the rate to the named point. The language provides, however, that it will take the rate applicable to the higher rated of the points between which the unnamed point is located. This clearly indicates that the unnamed point must be between two named destination points. If such were not the case, and if the complainant's thesis were correct, then inasmuch as Merced is also between the origin area and Solano Beach on the same line or route, and the rate to Solano Beach is subject to Item 130 series as a named point, the $15.54 per thousand board feet rate, plus 15 per cent surcharge, to Solano Beach would more likely be applicable to Merced than the $13.07 per thousand board feet rate, plus 15 per cent surcharge, to Redondo Beach. Under complainant's theory, in order to find the applicable rate to Merced, one would have to find the "higher rate" to a named destination point.

In complainant's reply to defendants' statement of facts and argument, it was stated: "The object of the applicable rate provisions of Item 130 becomes quite apparent when received under the following illustration:"

Complainant then drew a diagram of two routes from an origin point designated as "A". Route 1 is from "A" via points "D", "B", and "C". Route 2 is from "A" via points "C", "B" and "D". "C" and "D" are named points and "B" is an unnamed point. In the illustration the unnamed point is between two named points by either route. Complainant has argued, however, because the tariff does not have any unnamed points between named destination points any interpretation based thereon must fail. It is noted that the provisions of Item 130 series, used literally, and as construed by the defendants and the Examiner would also be given effect in complainant's illustration.

Complainant's theory is unacceptable. It is clear that the exception in Item 130 applies only when the unnamed point is between two named destination points. Complainant's exception is overruled.

This proceeding being at issue upon the complaint of J. F. Pritchard & Co. of California, full investigation of the matters and things involved having been made, the presiding officer in the proceeding having made and filed a proposed report containing findings of fact and conclusions thereon, which report is attached hereto and made a part hereof, and, exceptions to said report having been filed and after due consideration having been overruled,

IT IS ORDERED that the findings of fact and conclusions of law in the proposed report attached hereto are approved and adopted, and, that the recommended order in said proposed report is approved and adopted as the order of the Public Utilities Commission of the State of California in this proceeding.

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

Dated at San Francisco, California, this 1st day of APRIL, 1958.

President

Commissioners

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

J. F. PRITCHARD & CO. OF CALIFORNIA, Complainant, vs. THE ARCATA AND MAD RIVER RAILROAD COMPANY, THE ATCHISON, TOPEKA & SANTA FE RAILWAY CO., CALIFORNIA WESTERN RAILROAD, NORTHWESTERN PACIFIC RAILROAD COMPANY, PACIFIC ELECTRIC RAILWAY COMPANY, PETALUMA AND SANTA ROSA RAILROAD COMPANY, Defendants.	Case No. 5936

PROPOSED REPORT OF EXAMINER JACK E. THOMPSON

Complainant is a corporation engaged in the manufacture and sale of water cooling towers, with its plant and principal place of business located at Merced.

Defendants are common carriers by railroad who, under joint rates, transport lumber from Arcata, Fort Bragg, South Fork and Willits to Merced and to Redondo Beach.

The complaint in this proceeding was filed April 29, 1957 and alleges:

1. Defendants assessed and collected rates and charges from complainant in excess of the rates and charges specified in their schedule of rates and charges in effect in violation of Section 494 of the Public Utilities Code.

2. The charges assessed and collected by defendants from complainant are greater for a shorter distance 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, in violation of Section 460 of the Public Utilities Code.

Complainant seeks an order from the Commission directing defendants to cease and desist from the aforementioned violations, and

to pay to complainant, by way of reparation on shipments moved in the past, the amount of $5,000 or such other amount, plus interest thereon at the rate of six percent as the Commission finds appropriate.

The alleged causes of action involve the transportation of 37 carloads of rough redwood lumber from Arcata, Fort Bragg, South Fork and Willits to complainant at Merced during the period May 14, 1955 through June 27, 1955.

Defendants deny the alleged violations and, as a defense to the alleged violation of Section 460, contend that authorization to depart from the long- and short-haul prohibition of said section was granted by the Commission prior to the alleged causes of action, and that such authorization was in effect at all times covered by the complaint.

By written stipulation, the parties waived oral hearing and agreed that the matters complained of may be taken under submission by the Commission for decision on verified statements of fact and memoranda of argument to be submitted by the parties, provided however, that the waiver of oral hearing should not constitute a waiver of any rule or practice before the Commission, and, except for the fact that it is submitted in writing, the evidence shall in all other respects meet the requirements for oral hearing.

The matter was taken under submission November 12, 1957 upon the filing of complainant's reply to defendants' statement of facts.

Preliminarily, a ruling is required on an objection and a motion. Complainant objected to, and made a motion to have stricken from the record, a portion of the statement defendants' witness Arthur A. Moser made which relates to the circumstances under which

the rate to Redondo Beach, here in issue, was first published in Pacific Freight Tariff Bureau Tariff No. 48-O, which tariff has since, and prior to the causes of action alleged herein, been canceled and superceded by subsequent issues of Tariff No. 48. Complainant argued that the only tariff provisions that may be considered in this proceeding are those in effect at the times of the alleged causes of action, namely, the provisions of Pacific Southcoast Freight Bureau Tariff No. 48-U.[1] The statement objected to is relevant and material to the issue involving the alleged violation of Section 460 of the Public Utilities Code. The objection is overruled and the motion is denied.

Complainant avers that the charges assessed and collected by defendants on five carloads of rough redwood lumber were based upon a through one-factor rate of 40 cents per 100 pounds, plus 6 percent surcharge, as published in Items 14, 16, 600 and 4274 of P.S.F.B. Tariff No. 48-U, said charges being approximately $19.50 per 1,000 board feet of lumber shipped; and on 32 carloads, the charges assessed and collected were based upon a combination of rates over Stockton as follows: $10.11 per 1,000 board feet plus 15 percent surcharge to Stockton as published in Items 14, 16, 650 and 3158 of P.S.F.B. Tariff No. 48-U, and 14 cents per 100 pounds plus 6 percent surcharge from Stockton to Merced as published in Items 12, 600 and 4274 of said tariff, said combination of rates resulting in an approximate charge of $18.46 per 1,000 board feet of lumber shipped.

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[1] Pacific Southcoast Freight Bureau was formerly known as Pacific Freight Tariff Bureau. It will be termed hereinafter P.S.F.B. Tariff 48 contains the rates for the transportation of lumber in carload shipments. The letters "O" and "U" designate issues of the tariff which is re-issued from time to time.

Defendants answer that, because the particular shipments involved are not identified by waybill number or car number, they are unable to admit or deny that said rates were actually assessed or collected, but that the rates alleged by complainant to have been assessed were the carload rates applicable at the time for the transportation of rough redwood lumber from Arcata, Fort Bragg, South Fork and Willits to Merced.

Complainant contends that, under the provisions of the tariff, the published rate of $13.07, plus 15 percent surcharge, from Arcata and the other origin points to Redondo Beach is applicable to movements from the origin point to Merced.

Item 100 of the tariff provides that except as otherwise specifically provided in connection with individual rates, the rates in the tariff will apply to directly intermediate points on the same line or route. Merced and Redondo Beach are points in the State of California on the lines of The Atchison, Topeka and Santa Fe Railway Co. Merced is intermediate to Redondo Beach under authorized routes from Arcata, Fort Bragg, South Fork and Willits pursuant to Items 8000 and 8025 of the tariff.

Item 5016 of the tariff sets forth the following rates for the transportation of rough redwood lumber in carload lots from Arcata and the other origin points to Redondo Beach: 64 cents per 100 pounds, minimum carload 34,000 pounds; 53 cents per 100 pounds, minimum carload 50,000 pounds; and, 1,307 cents per 1,000 board feet, minimum carload 20,000 board feet.[2] The rates in cents per 100 pounds are

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[2] All rates subject to increases as provided in Item X-175-E of P.S.F.B. Tariff 48-U.

not in issue and are not material herein. The 1,307 cent rate is flagged as follows:

⊢	Applies on intrastate traffic only
†	Rates in cents per 1,000 feet (board measure)
(88)	To points on UP rates will not apply in connection with ATSF
(2)	Applies to points named only (subject to Item 130, except as noted)

Defendants conceded that if it were not for the (2) reference, the aforementioned rate would be applicable to shipments to Merced. The controversy respecting the alleged violation of Section 494 of the Public Utilities Code concerns the application of Item 130 of the tariff, which item is set forth in the margin.[3]

Complainant contends that the exception in Item 130 is applicable in this case because Merced, the intermediate point, is an unnamed point within the meaning of the item in that no rates in cents per 1,000 board feet are published by defendants to Merced and for the further reason that the rates published to Merced in Item 4274-A are not subject to Item 130. In his argument it is contended that the plural usage of the word "points" in Item 130 is one which may also be read in the singular form "point" and the exception therein may be construed that when the unnamed point (Merced) is intermediate to only one named point (Redondo Beach), the provisions of Item 100 respecting the intermediate application of the rates prevails and that the rate restriction designated in the reference (2) has no application. According to complainant, any other interpretation would make Item 130 a nullity, impossible of application and therefore void

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[3] Where rates in this Tariff are stated as applying to points named only, and also make reference to this Item, such rates apply to the points named only EXCEPT that a point not named herein, but which is located between and on the same line as points named herein, will take the rate applicable to the higher rated of the points between which the unnamed point is located, provided, that in cases where the same rate applies to the points between which the unnamed point is located, such rate will also apply to the unnamed point. Rates hereby made applicable to such intermediate unnamed points are nonintermediate rates.

in the tariff. Several illustrations and hypothetical situations were presented in explanation of this thesis. Defendants do not accept complainant's construction of Item 130.

The exception in Item 130 will apply only if all of the conditions therein are met. Merced is an unnamed point within the meaning of the item. It has not been shown, however, and the evidence would indicate otherwise, that Merced is between named points on the same line. The arguments of complainant concerning the objective of the provisions of Item 130 have been given careful consideration; however, we conclude that the construction of the aforesaid item propounded by complainant is without merit because the item, read in the ordinary context of the words therein, is capable of being applied. On the basis of the evidence presented, it is concluded that the rates published and maintained by defendants for the transportation involved are those stated by complainant as actually having been assessed and collected.

The next issue is whether, by publishing, assessing and collecting said rates, defendants have violated Section 460 of the Public Utilities Code. The probanda for a violation of Section 460 in the instant case are:

1. Merced is intermediate to Redondo Beach from Arcata and other origin points, over authorized routes wholly within California published by defendants.

2. The charge applicable to Merced is greater than the applicable charge to Redondo Beach.

While the rate to Merced is not on the same unit of measurement as the rate to Redondo Beach, it is readily apparent that where the density of lumber is greater than 3,550 pounds per 1,000 board feet, the published rate to Merced will provide a greater charge than the rate to Redondo Beach. It is within the knowledge of the

Commission that carloads of rough redwood lumber with densities exceeding 3,550 pounds per 1,000 board feet have been shipped within the State of California. The other matters to be proven have been established.

The only valid defense under the circumstances is that defendants were authorized by the Commission to depart from the long- and short-haul prohibition of Section 460. Defendants filed a copy of the Commission's Order No. 460-293 dated April 28, 1953 in their statement of facts. The aforesaid order incorporates by reference therein Petition No. 9603 dated April 22, 1953, which application designates the long- and short-haul departures by reference to other orders of the Commission. The extent of the authority granted by the Commission in Order No. 460-293 can not be ascertained other than by referring to the prior orders of the Commission and the applications to which said orders make reference. Accordingly official notice is taken of the orders of the Commission listed in the margin below.[4] Official notice is also taken of the applications and the tariffs and tariff items to which said orders make specific reference.

The evidence shows that by Petition No. 1482 dated June 27, 1935 F. W. Gomph as agent in the name and on behalf of all carriers' parties to Pacific Freight Tariff Bureau Tariff No. 48-O applied for permission to publish and file, nonintermodiate in application, rates

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[4] Orders of the Commission:
No. 24(a)-5223 dated January 22, 1946
No. 24(a)-4680 dated August 6, 1940
No. 24(a)-4204 dated March 1, 1937
No. 24(a)-4143 dated November 16, 1936
No. 24(a)-4104 dated September 14, 1936
No. 24(a)-4061 dated June 22, 1936
No. 24(a)-3960 dated December 21, 1935
No. 24(a)-3881 dated June 28, 1935

in cents per 1,000 board feet for the transportation of lumber, including rough redwood lumber, from points in northern California, including Arcata, Fort Bragg, South Fork and Willits, to certain points in southern California, including Redondo Beach. Said authority was granted, to expire December 31, 1935, by the Commission in Order No. 24(a)-3881 dated June 28, 1935 on a form which contains, among other things, the following statements:

> "This special permission does not waive any of the requirements of the Commission's published rules relative to the construction and filing of tariff publications."
>
> "The authority herein is limited strictly to its terms, and is void unless the rates, fares, rules and other regulations authorized hereunder are published and filed with this Commission within ninety days hereof. Item of tariff or supplement showing charges must bear notation 'Issued under authority of the Railroad Commission of the State of California, No. 24(a) _____ of _____ 19___'."
> (Emphasis Added)

The authorized rates were published by defendants and became effective June 29, 1935 in Supplement 35-A of P.F.T.B. Tariff No. 48-O and were specifically flagged with reference to the Section 24(a) authority as required in the order. The expiration date of the authority granted in Order No. 24(a)-3881 was extended from time to time.[5] All of the orders were on a form identical to that described above.

On July 23, 1940, defendants, through J. P. Haynes, Agent for carriers' parties to P.F.T.B. Tariff No. 48 Series, sought

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[5]

Order No. 24(a)-	Effective Date	Expiration Date
3881	June 28, 1935	December 31, 1935
3960	December 31, 1935	June 30, 1936
4061	June 30, 1936	September 30, 1936
4104	September 30, 1936	December 31, 1936
4143	December 31, 1936	March 31, 1937
4204	March 31, 1937	No Expiration Date

authority to substitute one Section 24(a) number, when issuing P.F.T.B. Tariff No. 48-R, for the Section 24(a) authority numbers listed in Appendix "A" to their application, which authorities covered the non-intermediate rates then in effect on forest products. Included in the list in Appendix "A" is the authority granted in Order No. 4204 dated March 1, 1937. The authority sought was granted by the Commission in Order No. 24(a)-4680 dated August 6, 1940, which order was in the same form as mentioned above in connection with Order No. 24(a)-3881.

On January 16, 1946, defendants filed an application for similar authority in connection with the issue of Tariff No. 48-T. The application contains the following statement:

> "This petition requests one 24(a) Authority number to be shown on the title page of Tariff 48-T (CRC No. not yet assigned) which will be a reissue of Tariff 48-S, CRC No. 75, the proposed authority number to cover all non-intermediate rates now in effect in present tariff which were authorized by the Section 24(a) authority numbers listed in Appendix "A" hereof."

Listed in Appendix "A" is Authority No. 24(a)-4680 dated August 6, 1940. The authority sought was granted by the Commission in Order No. 24(a)-5223 dated January 22, 1946 on a form similar to that described above except that the last sentence reads, "Item of tariff or supplement showing changes must bear notation ....."[6] (Emphasis Added).

On April 22, 1953, defendants filed a petition for one Section 460 authority number[7] to be shown on the title page of

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[6] The only difference in the forms is that where the prior orders used the word "charges", the form in Order No. 24(a)-5223 used the word "changes".

[7] In 1951 the Public Utilities Act was codified into the Public Utilities Code. Section 460 of the Code corresponds to Section 24(a) of the Public Utilities Act.

Tariff 48-U, to supercede all authorities granted by the Commission in connection with the nonintermediate rates published in Tariff 48-T as specified in Exhibit "A" to their application. Included in the list in Exhibit "A" is Authority 24(a)-5223 dated January 22, 1946. The authority sought was granted by the Commission in Order No. 460-293 dated April 28, 1953. The order was on a form substantially the same as that in Order No. 24(a)-5223 and had the word "changes" rather than "charges" in the last sentence thereof.

It is found as a fact that defendants were granted authority by the Commission to depart from the long- and short-haul prohibition of Section 460 of the Public Utilities Code in the publication in Tariff No. 48-U of a rate in cents per 1,000 board feet, non-intermediate in application, from Arcata, Fort Bragg, South Fork, and Willits to Redondo Beach. The authority for such departure is shown on the title page of said tariff.

Complainant argues that a shipper or a receiver of freight should not be required to go beyond the published tariff in order to determine what rate, rule or regulation is applicable to the movement of its traffic and therefore, if a tariff contains any rate, rule or regulation which is obviously contrary to law, such contrary provision must bear some notation directing attention to the authority under which the contrary provision has become legal. It is contended that none of the tariff provisions relative to the rates involved herein bear appropriate notations indicating that any relief from the provisions of Section 460 have been granted by the Commission.

The rate to Redondo Beach, which is set forth in Item 5016 of Tariff 48-U, is flagged as subject to the provisions of Item 130. Item 130 characterizes the rate as one which is not applicable to

intermediate points. Such characterization clearly places all persons on notice that the provisions of Section 460 of the Public Utilities Code may be involved. The title page of the tariff states that, except as specifically indicated otherwise, the only authority from this Commission held by defendants to depart from the long- and short-haul prohibition of the statute is contained in Order No. 460-293 of April 28, 1953. This is the order which contains the authority to publish the rate to Redondo Beach.

Complainant also contends that the authority granted by the Commission in Order No. 460-293 is void because defendants have not complied with the conditions and limitations specified therein with regard to notation of the rates or charges involved. As pointed out by defendants, the orders 24(a)-5223 and 460-293 granting them authority to make such notation on the title pages of the tariffs provide that the tariff or supplement showing changes must bear the appropriate notation. No changes in rates resulted from the exercise of the authority granted in Order No. 460-293, and, therefore, defendants were not required to make such notation with respect to individual rates.

Upon careful consideration of all of the facts and circumstances of record, we conclude that complainants have not shown that defendants have charged, demanded, collected or received rates and charges in excess of those specified in their schedules and tariffs in violation of Section 494 of the Public Utilities Code; that it has not been shown that defendants have violated Section 460 of the Public Utilities Code; and that the complaint should be dismissed.

RECOMMENDED ORDER

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

IT IS ORDERED that the complaint filed in this proceeding be and it is hereby dismissed.

The foregoing constitutes the findings, conclusions and order recommended by the Examiner in this proceeding.

In accordance with Rule 70 of the Rules of Procedure, the Secretary's office shall cause copies of this proposed report to be served upon all parties to this proceeding; and, in accordance with Rule 71, the parties herein may serve and file exceptions to this proposed report within twenty days after service thereof. Replies to exceptions, if any, may be served and filed within fifteen days after service of exceptions in accordance with Rule 72.

Dated at San Francisco, California, this 13th day of December, 1957.

Jack E. Thompson
Examiner