

58730

ORIGINAL

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation
 into the rates, rules and regulations,
 charges, allowances and practices of
 all common carriers, highway carriers
 and city carriers relating to the trans-
 portation of any and all commodities
 between and within all points and places
 in the State of California (including,
 but not limited to, transportation for
 which rates are provided in Minimum Rate
 Tariff No. 2).

Case No. 5432
 Petition for Modification
 No. 137

Wm. Meinhold, for J. P. Haynes, Chairman, Pacific

Southcoast Freight Bureau, petitioners.

Norman R. Moon, for Highway Transport, Inc., and
 M. L. Trucking Co., protestants.

William D. Wagstaffe, for California Packing

Corporation; C. O. Bender, for California Traffic
 Service; Wm. G. Jackson, for Wm. Volker & Co.;

Arlo D. Poe, J. C. Kaspar, and James Quintrall,
 for California Trucking Associations, Inc.,
 interested parties.

O P I N I O N

On February 4, 1959, J. P. Haynes, Chairman, Pacific Southcoast Freight Bureau, filed Petition No. 137 herein, seeking authority to amend its Tariff 255-F by adding, to paragraph (f) of Item 920-R (Split Delivery) of said tariff, a note providing, in effect, that the carrier will accept from the shipper component parts of a split delivery shipment being progressively received and handled on a leased portion of its freight house platform during any one calendar day, prior to being furnished with a manifest or written delivery instructions covering the entire split delivery shipment.

Public hearing was held before Examiner Jack E. Thompson on May 13, 1959 at San Francisco. The matter was taken under submission on June 1, 1959 upon the filing by petitioner and by the

California Trucking Associations, Inc., of memoranda of points and authorities relating to the question of discrimination.

Petitioner asserts that the proposal is designed to remedy an unsatisfactory condition in connection with the handling of freight at the depot of the Southern Pacific Company in Los Angeles.

California Traffic Service states that it is a non-profit corporation composed of approximately 125 shippers which is engaged in the collection and shipment of property of its members. It leases platform space at the Southern Pacific Company's freight house in Los Angeles. At various times during the day, members tender shipments to California Traffic Service. Under the present rules of the railroad's tariff, California Traffic Service must tender all of the freight comprising a split delivery shipment at one time and furnish the carrier with a manifest or written delivery instructions at the time of the tender. The present rules result in a practice whereby California Traffic Service, in order to accommodate its members, waits to tender the split delivery shipments until the last minute of the deadline within which the railroad will receive shipments. This is at the busiest hour on the railroad's platform.

Evidence was presented showing that the Southern Pacific Company employs at its freight house in Los Angeles a number of freight handlers who are engaged for the purpose of receiving shipments on behalf of the railroad and loading freight into rail cars and semi-trailers. It has been shown that there are peak and trough periods of activity at the freight house during the business day. If the sought rule is authorized, California Traffic Service will tender and Southern Pacific Company will receive and load much of the freight comprising the split delivery shipment during the so-called slack periods. It was demonstrated that this will result in better

efficiency and use of freight handlers and will curtail, to some extent, misloadings, improper stowage and leftovers which often result from the press of business at the deadline for receiving.

Petitioner stated that the proposed rule was directed to the situation existing at the freight house of the Southern Pacific Company at Los Angeles and that there were no comparable situations on the lines of other railroads nor at other points and places served by the Southern Pacific Company in California. It proposes, however, to make the proposed rule available to all persons, places and localities.

The propriety of the granting of the petition is challenged on the ground that the proposed rule is discriminatory, in violation of Section 453 of the Public Utilities Code. More specifically, it is contended that the carrier controls the leasing of space on its platform and thus may, by granting or refusing to lease space, make the sought progressive loading provisions applicable or inapplicable. There is no indication, however, that the petitioning carriers do not have platform space available for such shippers as may require similar arrangements. Moreover, these carriers have stated that they will make such arrangements with all shippers having a sufficient volume of traffic to justify the leasing of platform space.

The record shows, and it is not disputed, that the proposed progressive loading arrangements will improve carrier-operating efficiency. There is no showing of any actual preference in favor of, or prejudice or discrimination against, any shipper. Should preference, prejudice or discrimination in contravention of the Public Utilities Code arise in the future as a result of the inability or unwillingness of the petitioning carriers to provide equal treatment to all shippers under substantially similar circumstances, or because of any other reason, the Public Utilities Code provides

suitable remedies. The Commission has ample authority to require the correction of any unlawful inequity and would, of course, exercise that authority should there be occasion to do so.

In the circumstances, the authority sought is justified and will be granted.

O R D E R

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

IT IS ORDERED that Pacific Southcoast Freight Bureau is authorized to establish, on not less than five days' notice to the Commission and to the public, in its Tariff 255-F, the note and the reference thereto in paragraph (F) of Item 920-R as proposed in its petition filed February 4, 1959 herein.

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

Dated at San Francisco, California, this 7th day of July, 1959.

Robert M. Borge
President
John E. Borge
William J. Borge
E. J. Borge
Theodore J. Borge
Commissioners