

Decision No. 67279

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of M. A. NELSON on behalf of railroads party to Pacific Southcoast Freight Bureau Tariff 300 for authority to increase "All Freight" rates between San Francisco, Calif., on the one hand, and Daly City and East San Bruno, Calif., on the other hand, and between San Francisco, Daly City and East San Bruno, Calif., on the one hand and Oakland, Alameda, Richmond, Mulford and San Leandro, Calif., on the other hand, and to establish certain new carload commodity rates applying from and to the same points.

Application No. 45590

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 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
(Order Setting Hearing of
September 10, 1963)

And related matters.

Cases Nos. 5330, 5433, 5436,
5437, 5438, 5440, 5603
and 5604
(Orders Setting Hearing of
September 10, 1963)

A. T. Suter and Leland E. Butler, for applicant.

Eugene A. Read, for California Manufacturers Association;
Alan Silvius, for C. E. Grosjean Rice Milling Co.;
protestants.

C. D. Gilbert, A. D. Poe and J. X. Quintrall, for California Trucking Association; Ralph Hubbard, for California Farm Bureau Federation; Jefferson H. Myers, for San Francisco Port Authority; Charles C. Miller and James M. Cooper, for San Francisco Chamber of Commerce; Charles H. Costello, Sherman B. Erickson, Lloyd W. Gragg, H. W. Haage, Neville F. Hanson, Gordon Larsen, Richard E. Lloyd, Loren D. Olsen, Allen K. Penttila, Raymond I. Springer, for various shippers; interested parties.

Henry E. Frank and R. A. Lubich, for the Commission staff.

O P I N I O N

By Application No. 45590, M. A. Nelson seeks authority to increase certain rail carload "all freight" rates applicable between designated San Francisco Bay points and to establish certain rates on specified commodities between said points. The "all freight" rates are published in Pacific Southcoast Freight Bureau Tariff No. 300, issued by the aforesaid Nelson as tariff publishing officer. The application is made on behalf of the rail lines parties to the rates in question.¹

By Order Setting Hearing dated September 10, 1963, in Case No. 5432 and in the other cases enumerated in the title hereof, the Commission scheduled a hearing to determine whether increases should be authorized and directed in rates maintained by highway common carriers under alternative application provisions of the minimum rate orders, corresponding to increases which may be authorized in the above-mentioned rail tariff pursuant to Application No. 45590.²

¹ They are The Atchison, Topeka and Santa Fe Railway Company, Southern Pacific Company and The Western Pacific Railroad Company, hereinafter designated as Santa Fe, Southern Pacific and Western Pacific, respectively.

² Case No. 5330 relates to minimum rates and rules for the transportation of used, uncrated household goods and related articles. By Decision No. 58746, dated July 14, 1959, highway common carriers are no longer required to comply with the provisions of Minimum Rate Tariff No. 4-A, which contained said rates and rules. In view of this fact the aforesaid Order Setting Hearing has no meaningful relationship to Case No. 5330.

Public hearings of Application No. 45590 and of the aforesaid order setting hearing were held on a common record before Examiner Bishop at San Francisco on October 15 and 16, and November 26, 1963. With the filing of concurrent briefs on January 6, 1964, the matters were taken under submission.

At the hearings, evidence on behalf of applicant was adduced through four witnesses: An assistant freight traffic manager and the assistant to the manager of the Bureau of Transportation Research of Southern Pacific, an assistant general freight agent of Santa Fe and the assistant auditor of revenues of Western Pacific. Evidence was also introduced by expert traffic witnesses on behalf of California Manufacturers Association and C. E. Grosjean Rice Milling Company, protestants, and on behalf of four shippers of scrap tin plate who appeared as interested parties.

The rates here in issue are presently 13½ cents per 100 pounds, minimum weight 36,000 pounds, and 11 cents per 100 pounds, minimum weight 60,000 pounds. They apply between San Francisco, on the one hand, and Daly City and East San Bruno, on the other; also, between San Francisco, Daly City and East San Bruno, on the one hand, and Oakland, Alameda, Richmond, Mulford and San Leandro, on the other hand. The rates apply from and to all industrial and team tracks located within the switching limits of the participating carriers at the above-mentioned points. South San Francisco is within the switching limits of San Francisco on Southern Pacific, and Albany, Berkeley and Emeryville are within the switching limits of Oakland on Santa Fe and Southern Pacific.³

³The rates between San Francisco and Oakland-Alameda apply via all three roads, between San Francisco and Richmond via Santa Fe and Southern Pacific, and between San Francisco and San Leandro via Southern Pacific and Western Pacific. Mulford, Daly City and East San Bruno are served exclusively by Southern Pacific. The rates in question are local rates. They are not applicable to joint movements over two or three lines.

While the rates are designated as applying on "all freight", including shipments in tank cars, they are restricted not to apply on livestock, asphalt, liquefied petroleum gas, or petroleum products in general. It is to be observed also that on certain commodities specific commodity rates, lower than the all-freight rates, have been established between the points in question.

In lieu of the present all-freight rates applicant proposes to publish the following alternating scale of rates:

| <u>Rate</u> | <u>Minimum Weight</u> |
|-------------|-----------------------|
| 21½ | 40,000 pounds |
| 18 | 60,000 " |
| 16 | 80,000 " |
| 14 | 100,000 " |

The proposed rates would be subject to the same geographical application, routing and commodity limitations as are the present rates.

The aforesaid assistant freight traffic manager testified concerning the history of the rates here in issue and the circumstances which led to the filing of the instant application. Transbay all-freight rates, he said, were first established in 1907 and since that time, with one exception, have not been increased other than to reflect the increases authorized by this Commission corresponding to those authorized by the Interstate Commerce Commission in the various "Ex Parte" general revenue proceedings. The single exception took place in 1953 when this Commission authorized the rail lines, by Special Docket Authority No. 454-578, to replace a single rate of 6 cents, minimum weight 30,000 pounds, with two alternating rates, namely, 10 cents, minimum weight 36,000 pounds, and 8 cents, minimum weight 60,000 pounds. The present rates

reflect these latter rates as increased by two of the aforesaid general revenue adjustments.⁴

The rail lines have long considered the transbay "all-freight" rates to be depressed and since 1959 have been working on proposals to increase them to more compensatory levels. The present proposal has been the subject of hearing on the carriers' public docket, at which shippers were invited to express their views, and by letter dated September 28, 1960, addressed to approximately 450 shippers and shipper organizations, applicant announced the intention to file formal application with the Commission seeking authority to make the proposed rate increases. The application herein was not filed, however, until July 9, 1963.

The assistant freight traffic manager introduced an exhibit comparing the present and proposed all-freight rates with estimated out-of-pocket costs of Southern Pacific for representative movements embraced by the application. The costs had been developed by the aforesaid research assistant for various weights ranging from 36,000 pounds to 100,000 pounds and for movements in six different types of freight cars: plain box cars, damage-free (D.F.) box cars, shipper-owned tank cars, carrier-owned tank cars, ordinary gondola cars, and covered hopper cars. In Table I, below, are set forth the rates and estimated costs for movement between San Francisco and Oakland, as representative of the proposed rate adjustment, in four representative types of equipment. Except as noted, the figures shown have been taken from the aforesaid exhibit.

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A review of the Commission's tariff files discloses that, prior to the series of general revenue increases which took place during and subsequent to World War II, the transbay all-freight rate was 3-3/4 cents, minimum 30,000 pounds. This is to be compared with the present rates of 13 1/2 and 11 cents, minimum weights 36,000 and 60,000 pounds, respectively.

TABLE I

Statement Comparing Present and Proposed All-Freight Rates Between San Francisco and Oakland with Estimated Out-of-Pocket Costs
(Rates and Costs are in Cents per 100 Pounds)

| | Weight of Load (in Pounds) | | | | |
|------------------------------------|----------------------------|--------|--------|--------|---------|
| | 36,000 | 40,000 | 60,000 | 80,000 | 100,000 |
| (a) Plain Box Cars | | | | | |
| Estimated Out-of-Pocket Cost | 23.0 | 20.8 | 14.2 | 10.9 | 8.9 |
| Present Rate | 13½ | 13½ | 11 | 11 | 11 |
| Percent Above Cost | -- | -- | -- | 0.9* | 23.6* |
| Percent Below Cost | 41.3 | 35.1* | 22.5 | -- | -- |
| Proposed Rate | -- | 21½ | 18 | 16 | 14 |
| Percent Above Cost | -- | 3.4 | 26.8 | 46.8 | 57.3 |
| (b) Damage-Free Box Cars | | | | | |
| Estimated Out-of-Pocket Cost | 23.9 | 21.6 | 14.7 | 11.3 | 9.2 |
| Present Rate | 13½ | 13½ | 11 | 11 | 11 |
| Percent Above Cost | -- | -- | -- | -- | 19.6* |
| Percent Below Cost | 43.5 | 37.5* | 25.2 | 2.7* | -- |
| Proposed Rate | -- | 21½ | 18 | 16 | 14 |
| Percent Above Cost | -- | -- | 22.4 | 41.6 | 52.2 |
| Percent Below Cost | -- | 0.5 | -- | -- | -- |
| (c) Shipper-Owned Tank Cars | | | | | |
| Estimated Out-of-Pocket Cost | 22.1 | 19.9 | 13.6 | 10.4 | 8.5 |
| Present Rate | 13½ | 13½ | 11 | 11 | 11 |
| Percent Above Cost | -- | -- | -- | 5.8* | 29.4* |
| Percent Below Cost | 33.9 | 32.2* | 19.1 | -- | -- |
| Proposed Rate | -- | 21½ | 18 | 16 | 14 |
| Percent Above Cost | -- | 8.0 | 32.4 | 53.8 | 64.7 |
| (d) Covered Hopper Cars | | | | | |
| Estimated Out-of-Pocket | 24.4 | 22.1 | 15.0 | 11.5 | 9.4 |
| Present Rate | 13½ | 13½ | 11 | 11 | 11 |
| Percent Above Cost | -- | -- | -- | -- | 17.0* |
| Percent Below Cost | 44.7 | 38.9* | 26.7 | 4.3* | -- |
| Proposed Rate | -- | 21½ | 18 | 16 | 14 |
| Percent Above Cost | -- | -- | 20.0 | 39.1 | 48.9 |
| Percent Below Cost | -- | 2.7 | -- | -- | -- |

* Calculated by the staff

The transportation research assistant introduced and explained a series of exhibits illustrating the methods by which he developed the estimated out-of-pocket costs which were utilized in the comparison of rates and costs hereinabove mentioned. The study was confined to transbay movements. No study was made of the costs incurred in transporting shipments between San Francisco and Daly City or East San Bruno.⁵ This witness explained that transbay traffic of Southern Pacific is routed via Redwood Junction, Dumbarton Bridge and Newark. Thus, the actual operating distance between the San Francisco Bayshore yard and the West Oakland yard is 58 miles. At one time the carrier regularly handled its transbay traffic by car ferry via Oakland Wharf, a distance between San Francisco and Oakland of 7 miles. According to the witness, however, it was found that operating costs were lower via the all-rail route over Dumbarton Bridge than via Oakland Wharf.⁶

The costs include switching services between terminal yards and the industrial spurs of consignor and consignee. The costs were developed, the research assistant said, by the so-called directly assigned and unit cost method. It reflects a combination of unit costs, developed on a system-wide basis, with specific studies of the actual operations involved in the traffic movements here in issue. As hereinbefore mentioned, the aforesaid estimated costs are out-of-pocket costs. The research witness testified that, considering Southern Pacific operating expenses in the aggregate, total cost is roughly 126 percent of out-of-pocket cost. It was

⁵ The record indicates that very little traffic moves under all-freight rates between these points.

⁶ According to the record, when Southern Pacific is not physically able to handle a transbay shipment via the all-rail route, such shipment is moved across the bay by barge, which is operated by Santa Fe.

his opinion, however, that there is no practicable method by which costs other than out-of-pocket costs can be allocated to specific movements, such as are involved herein.

Transbay shipments moving under the all-freight rates via Western Pacific are handled in switching service between the consignor's spur in Oakland, for example, and the carrier's Oakland dock, are then transported by car ferry to the carrier's San Francisco dock, from which point the cars are handled in switching service to the consignee's spur track. The distance between Western Pacific's San Francisco and Oakland terminals is 6.6 miles.

The record does not include an out-of-pocket cost study of handling Western Pacific carloads from consignor's spur on one side of the bay to consignee's premises on the other side. However, exhibits were prepared jointly by the aforesaid research assistant of Southern Pacific and the assistant auditor of revenues of Western Pacific which purport to show the out-of-pocket cost of performing the service between Western Pacific terminal yard in Oakland and its yard in San Francisco. Most of the figures utilized in this study were taken or developed from annual reports filed with the Interstate Commerce Commission; certain insurance cost and barge and car statistical figures were taken from company records. The resulting estimated cost for the terminal-to-terminal service was \$21.47 per car. This figure the research assistant compared with a corresponding cost figure of \$15.30 per car for movement via Southern Pacific between that carrier's San Francisco and Oakland terminal yards.

According to the research assistant, comparison of the aforesaid terminal-to-terminal cost estimates is a proper means of ascertaining which of the two lines incurs the lower out-of-pocket

costs in rendering the complete service between consignor's spur track on one side of the bay and consignee's spur on the other side. In his opinion, based on inspections made of Western Pacific track layout and operations on both sides of the bay, the operations involved and the costs incurred in switching cars between industries and terminal yards are substantially the same via Western Pacific as via Southern Pacific. The witness concluded, therefore, that, as between the two, Southern Pacific is the low cost line.

Carload shipments transported via Santa Fe from Oakland to San Francisco move via that carrier's rail line to its ferry slip at Richmond, from which point they are moved by car barge to the Santa Fe slip at San Francisco, thence via switch movement to consignee's spur. The total distance via this route, terminal yard to terminal yard, is 21 miles. The record is devoid of Santa Fe cost figures. Applicant did not arrange for a cost study because of the relatively small movement via the Santa Fe under the all-freight rates here in issue,⁷ coupled with the inconvenience of bringing cost experts from Los Angeles to make the study, and because of the comparative results of the cost studies via Southern Pacific and Western Pacific. Since the Western Pacific route, a rail-water route, was shown to involve a more costly operation than that of the all-rail Southern Pacific, and since the Santa Fe route entails a rail-water operation which is considerably longer and less convenient than that of Western Pacific, the Southern Pacific cost witness expressed the opinion that, of the three carriers performing the services in issue, Southern Pacific is the one with the

⁷ Figures introduced by Southern Pacific and Santa Fe witnesses indicate a movement under the all-freight rates in issue of approximately 160 carloads per month. This total is broken down to 127 cars via Southern Pacific, 18 cars via Santa Fe and 15 cars via Western Pacific.

lowest costs. Accordingly, the present and proposed rates have been compared by applicant with those costs.

The Southern Pacific traffic witness also introduced an exhibit in which comparisons were made of the present and proposed all-freight rates with the then existing minimum, rail and common carrier truck carload class rates between the same points. Comparison was also made with revised minimum rates recommended in an examiner's proposed report and with proposed increased rail class rates, both of which sets of rates were the subject of proceedings pending before the Commission when the instant application was being heard. By Decision No. 66453, dated December 10, 1963,⁸ the Commission adopted said minimum rate revisions as recommended by the examiner. These rates have since been published in the rail tariff and in common carrier truck tariffs, and are presently in effect. In Table II below, the present and proposed all-freight rates between San Francisco and Oakland are compared with the new carload class rates between the same points, also authorized by Decision No. 66453:

TABLE II
(Rates are in Cents per 100 Pounds)

| <u>Present Rail Class Rates</u> | | |
|---------------------------------|-----------------|-----------------------|
| <u>Class</u> | | <u>Rate</u> |
| 5 | | 24 |
| A | | 26 |
| B | | 22 |
| C | | 20 |
| D | | 18 |
| E | | 16 |
| <u>All-Freight Rates</u> | | |
| <u>Present</u> | <u>Proposed</u> | <u>Minimum Weight</u> |
| 13½ | | 36,000 |
| | 21½ | 40,000 |
| 11 | 18 | 60,000 |
| | 16 | 80,000 |
| | 14 | 100,000 |

⁸ In Application No. 45042 and in Case No. 5432 (Petitions for Modification Nos. 233 and 235).

The class rates shown above are subject to a so-called Central Coastal Surcharge, which varies in amount according to the weight of the shipment. On shipments weighing 40,000 and 100,000 pounds the surcharge would amount to 1.125 and 0.95 cents per 100 pounds, respectively. Additionally, rail shipments transported in tank cars under the class rates are subject to a tank car arbitrary of 5½ cents per 100 pounds.

The aforesaid Southern Pacific traffic officer drew particular attention to the fact that the proposed all-freight rate of 21½ cents would be less than half the Class 50 rate (50½ cents) proposed in Application No. 45042 by the rail lines, and that the proposed all-freight rates for the heavier weight brackets would reflect even greater differences. Since, however, the increased class rates as proposed by the rail lines were found by Decision No. 66453, above, to be not justified, these comparisons are of no assistance in appraising the merits of the proposals herein.

As hereinbefore stated, applicant proposes, concurrently with the establishment of the sought increased all-freight rates, to publish certain carload commodity rates between the same points. These rates would be lower than the proposed all-freight rates in the respective weight brackets. In some instances they would result in increases over, and in others in reductions under, the presently applicable rates and charges.⁹ Generally, the traffic witness testified, the rates proposed for the five commodities or commodity groups are the commodity rates presently published from or to points beyond those embraced by the instant application, and they would apply, under intermediate application rules, from and to

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The commodities in question are iron and steel scrap, scrap tin plate, scrap or waste paper, certain vegetable and sea-animal oils, and canned goods. The present rates are either the all-freight rates or commodity rates named from or to more distant points. The present and proposed rates are set forth in detail in Exhibits 4 and 5 of record.

certain of the involved points without specific publication. Under the proposed adjustment the rates in question would be made applicable between all points between which the all-freight rates are named.

The traffic manager of California Manufacturers Association, protestant, introduced a series of exhibits in which the proposed all-freight rate adjustment was compared with that which was made in the all-freight rates between Los Angeles and Los Angeles Harbor - Long Beach, pursuant to Decision No. 65277, dated April 23, 1963, in Application No. 44202. The comparisons showed that the Southern California rates were lower, for the corresponding weight brackets, and that they reflect smaller percentages of increase over the rates previously in effect, and lower per car, per-car mile and per-ton mile revenue, than is the case with the rates herein proposed by applicant. (The shortline distance between Los Angeles and Los Angeles Harbor, the exhibits show, is 19 miles. The per-mile revenues shown for the San Francisco Bay rates were based, as to Southern Pacific movements between San Francisco and Oakland, on the authorized tariff route distance of 7 miles via Oakland Wharf, rather than the actual operating distance of 58 miles via Dumbarton Bridge.) This witness also drew attention to the fact that the Southern California adjustment includes a rate subject to a minimum weight of 110,000 pounds in addition to rates for minimum weights of 100,000 pounds and lower. He expressed the view that the transbay all-freight rates should also include the 110,000-pound weight bracket, in order to provide equal treatment.

Under the internal routing provisions of Southern Pacific tariffs the transbay rates here in issue are applicable via that company's lines only via Oakland Wharf. Thus they may not be applied as maximum from and to intermediate points on the actual route of

operation. The rates may not be applied for example, on a shipment originating at Newark and destined to San Francisco, a distance of 37 miles, which may be compared with the aforesaid operating distance of 58 miles from Oakland to San Francisco. In the opinion of the Association's witness, there is no justification for establishing the sought increased all-freight rates, now that the Dumbarton Bridge route is the low cost operating route of Southern Pacific, without concurrently opening up the tariff routes so that the rates will apply from and to the aforesaid intermediate points. In this connection, he pointed out that applicant's exhibits show lower costs for shipments originating or terminating at points other than points located within the San Francisco or Oakland switching areas. For example, the cost on a movement from Mulford to San Francisco is less than from Oakland to San Francisco. The record shows that this is due primarily to the fact that the much more extensive switching areas at these latter points reflect higher switching costs than do the smaller communities, such as Mulford. He asserted that, similarly, the cost of transporting a shipment to San Francisco from Newark, for example, an intermediate point on the route of operation but from which the all-freight rates may not be applied, would be less than the cost of a movement from Oakland to the same destination.

The aforesaid witness indicated in his testimony that if the carriers had proposed increases no greater than those which were sought, and granted, in the Los Angeles - Los Angeles Harbor all-freight rates, California Manufacturers Association would not be appearing as a protestant in the instant application. In his brief, he concluded that the sought Bay Area increases had not been justified and that the application should be denied.

The four witnesses for various shippers of scrap tin plate testified that there is a substantial movement of that commodity under the present all-freight rates, particularly under the rate of 11 cents, minimum weight 60,000 pounds. This movement is from the can manufacturing plants of their companies in Oakland, San Leandro and Mulford to South San Francisco (in the San Francisco switching limits). The weights of the shipments, considering the four shippers as a group, range from 30,000 pounds to as high as 140,000 pounds. The average weight ranges from 55,000 to 60,000 pounds. The consignors bear the transportation charges.

Applicant proposes to publish on scrap tin plate from Mulford, for example (in lieu of the present all-freight rates of 13½ cents, minimum weight 36,000 pounds, and 11 cents, minimum weight 60,000 pounds), a specific commodity rate of 11½ cents, minimum weight 100,000 pounds, subject to the provision that if car is loaded to full space or weight carrying capacity, then actual weight, but not less than 80,000 pounds, will apply. The basis for this rate is a rate of the same volume and subject to the same minimum weight provisions now in effect from more distant points to San Francisco. If the proposed increases in all-freight rates are authorized, this rate of 11½ cents will apply from certain intermediate points on authorized routes, under intermediate application rules of the tariff. The carriers simply propose, by specific publication, to make the rate applicable between all points between which the all-freight rates apply.¹⁰

¹⁰ An exhibit introduced by the assistant traffic manager of Continental Can Company shows that under intermediate rules the following rates, also in effect from more distant points, would also be available on movements from Mulford and Oakland to San Francisco; 13½ cents, minimum weight 30,000 pounds, 15½ cents, minimum weight 60,000 pounds and 12½ cents, minimum weight 80,000 pounds. The traffic witness for applicant testified that the carriers would have no objection to publication of these rates in the same manner as is proposed for the above-mentioned rate of 11½ cents.

The shipper witnesses opposed the sought increase on scrap tin plate from 11 cents to 11½ cents and the substantial increase in minimum carload weight. They pointed out that on iron or steel scrap, although the carriers propose an increase from 11 cents to 11½ cents, they contemplate no change in the present minimum weight of 60,000 pounds, and that on scrap or waste paper it is proposed to make no change in either the rate or the minimum weight. (In this connection the record shows that, as in the case of scrap tin plate, the proposed scrap iron or steel and scrap or waste paper adjustments reflect commodity rates and minimum weights which are presently in effect to San Francisco from points beyond the involved East Bay points.) The witnesses asserted that the proposed adjustments are discriminatory against shippers of scrap tin plate. They further testified that their revenue from the sale of scrap tin plate is so small after deducting the freight charges that their companies cannot stand any rate increases on this commodity.

The aforesaid witness for Continental Can Company further proposed that rates on scrap tin plate should be established for movements from Oakland and Mulford to San Francisco at levels no higher than the present rates on prime tin plate from Pittsburg, California, to the same destination. He compared the substantially higher values of prime tin plate with the low return on the sale of the scrap material, and the higher classification ratings on the former with the lower ratings on the latter commodity. He expressed the opinion that rates on scrap tin plate from Oakland and Mulford

to San Francisco which exceeded the rates on prime tin plate from Pittsburg were, and would be, unjust and unreasonable.¹¹

The other witnesses for scrap tin plate shippers agreed in principle with the position of the Continental witness, except that they asserted that the rates on scrap tin plate should definitely be less than the rates on the prime plate. In the Appendix hereof a comparison is made of the present rates on the scrap metal, the rates proposed by applicant and those proposed by Continental Can Co. It will be noted that the rate of 11½ cents proposed by applicant fits into Continental's proposed scale.

A traffic consultant, testifying on behalf of Grosjean Rice Milling Company, protestant, stated that there is a modest carload movement of rice from the mill of his client in San Francisco to Oakland and San Leandro under the present all-freight rate of 11 cents. The shipments are made in covered hopper cars and the weight averages 136,000 pounds. This business, he said, is highly competitive with shipments from mills located in the Sacramento and San Joaquin Valleys. A rate exhibit introduced by the consultant shows that if the increases herein sought are authorized the effective rate on rice for the movements here in question will be 12½ cents, minimum weight 60,000 pounds, which is the present rate from San Francisco to San Jose, applied as maximum at Oakland and San Leandro. Although the record shows that the present rates on rice from the valley origins to these destinations ✓

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This witness cited a decision of the Interstate Commerce Commission, issued in 1929 in Newport News Shipbuilding and Dry Dock Co. v. B. & O. R.R. (160 ICC 620), in which that Commission found that rates on scrap iron or steel between eastern points based on 70 percent of the manufactured iron or steel rates would reflect a fair basis for rates for the future. However, applicant in its brief argues that the case in question is no longer controlling and cites the decision in Institute of Scrap Iron & Steel, Inc. v. A. C. & Y. R.R. (316 ICC 55). In the latter case, the I.C.C. noted that the transportation characteristics of manufactured iron and steel and scrap differ widely; the Commission further said that, from a transportation standpoint, there is no justification for requiring a rigid relationship between the rates on the prime product and on the scrap.

are somewhat higher than the present all-freight rate of 11 cents from San Francisco, the margin of profit which Grosjean enjoys, the consultant said, is so narrow that it could not afford to pay a rate of 12½ cents. It is the position of this shipper that a specific commodity rate of 11 cents should be published on rice for the movements in question, and since the lowest rates from the competitive valley points are subject to minimum weights of 140,000 pounds for shipments in bulk, Grosjean is willing to accept the same minimum weight in connection with the requested rate. It is also the position of this company that, in the light of the cost evidence of record for 100,000-pound shipments in plain box and hopper cars, a rate on rice in excess of 11 cents, subject to minimum weights of 100,000 pounds in packages and 140,000 pounds in bulk, has not been justified.

The record shows that at the time this matter was heard there was pending before the railroads a shipper's proposal for a reduced rate on rice from San Francisco to Oakland.¹² The afore-said traffic consultant testified that if such proposal were adopted it would be acceptable to his client.

A representative of California Trucking Association stated the position of that organization. The Association, he said, offers no objection to the proposed rate increases. It asks that, if the Commission finds the sought rates justified, common carriers be ordered to amend their tariffs accordingly, to reflect the changes in rates authorized by the Commission.

Members of the Commission's Transportation Division staff and various parties assisted in the development of the record. Briefs were filed by applicant and the two parties who entered appearances as protestants. It is to be noted that notices of

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Pacific Southcoast Freight Bureau Proposal 9372.

hearing in this matter were mailed to all addressees, totaling about 450, to whom copies of the application were sent, and also to others thought to be interested.

Discussion, Findings and Conclusions

Applicant's cost witness was cross-examined at considerable length regarding his exhibits and testimony. Certain questions were raised as to the reliability of some of the procedures utilized in the Southern Pacific cost studies. However, it appears that the studies are adequate in this instance to develop reasonable average per-car and per-hundredweight out-of-pocket costs incurred by Southern Pacific in transporting a representative cross section of commodities between the points involved, in the respective types of freight cars hereinabove designated, and for the respective shipment weights utilized.

The estimated costs developed for movement via Western Pacific did not include the cost of switching cars from and to the industrial tracks at origin and destination. Also the cost estimates for the terminal-to-terminal hauls were developed by different and less precise procedures than were the estimated costs via Southern Pacific. The record is persuasive, however, that said Western Pacific estimates are trustworthy for the purpose of determining which of the two carriers is the lower cost line, and that Southern Pacific has been shown to be such.

Although Santa Fe costs were not presented, it appears from the similarity of Western Pacific and Santa Fe transbay operations (both of which involve a ferry movement of freight cars) and from the fact that Santa Fe has a longer water haul, plus the rail movement from Oakland to Richmond, that the transbay operating costs of Santa Fe are higher than those of Western Pacific. Thus, Southern Pacific, with its all-rail haul of 58 miles via Dumbarton Bridge,

has been shown to be the low cost operator, of the three transbay rail lines, in the transportation in question.

A comparison of the present all-freight rates with the corresponding estimated out-of-pocket costs shows that, for the lower weight loads, the rates are substantially below the costs. Thus, for transportation of loads weighing 36,000, 40,000 and 60,000 pounds between San Francisco and Oakland, as set forth in Table I, above, the rates range from 19.1 to 44.7 percent below cost, depending upon the weight bracket and the type of freight car.¹³ For loads weighing 80,000 pounds such cost in some instances exceeds and in others is less than the applicable rate, while for loads weighing 100,000 pounds the present rate exceeds the estimated out-of-pocket costs in all types of equipment. The highest percentage by which the rate exceeds the cost is 29.4 percent, for movements in shipper-owned tank cars.

A comparison of the proposed rates with the out-of-pocket costs in Table I shows that the amounts by which the former exceed the latter range up to 64.7 percent. At 40,000 pounds the proposed rate of 21½ cents is slightly above or below the costs for movement in the various types of cars; the other proposed rates range above the corresponding costs as follows: at 60,000 pounds, from 20 to 32.4 percent; at 80,000 pounds, from 39.1 to 53.8 percent; at 100,000 pounds, from 48.9 to 64.7 percent.

The foregoing analysis has been made for movements between San Francisco and Oakland. The remaining transbay movements for which costs were developed show slightly lower costs, with correspondingly more favorable relationships with the present and proposed rates.

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Of the six types of freight cars utilized in the Southern Pacific cost study, the highest out-of-pocket costs were reflected by the covered hopper cars and the lowest by shipper-owned tank cars. Both types of cars are included in Table I.

It is clear that the present all-freight rate of 13½ cents, minimum weight 36,000 pounds, is insufficient to return the out-of-pocket costs of transporting transbay shipments which are subject to that rate. Likewise, the record shows that the present rate of 11 cents, minimum weight 60,000 pounds, is insufficient to return the out-of-pocket costs incurred in the transportation of transbay shipments of that order of weight and is also insufficient for shipments at the 80,000-pound level when such shipments are transported in three of the six types of cars.

The proposal to increase the number of all-freight rates, subject to different minimum weights, from two to four appears proper, in order that the lower costs per 100 pounds incurred in connection with the heavier shipments may be reflected in the rates. Such revision will also give recognition to the fact that rail cars are currently loaded more heavily than formerly and will promote more efficient use of the rolling stock. Consistent with these facts the proposal to increase the lowest minimum weight category from 36,000 to 40,000 pounds appears justified, and we so find.

We turn now to the all-freight rates specifically proposed, insofar as they relate to transbay shipments. The sought rate of 21½ cents, minimum weight 40,000 pounds, is, in the light of the cost evidence, clearly justified, and we so find. As measured by that evidence the proposed rate of 18 cents, minimum weight 60,000 pounds, also appears reasonable. However, the rates of 16 cents and 14 cents, with minimum weights of 80,000 and 100,000 pounds, respectively, appear to be excessive. Rates of 15 cents and 13 cents, respectively, the costs of record indicate, would be reasonable for the weight brackets in question. Accordingly, we find that the proposed rates of 21½ cents and 18 cents are justified and that, for the proposed minimum weights of 80,000 and 100,000 pounds, rates not exceeding 15 cents and 13 cents, respectively, have been justified.

In the following table are compared the present, proposed and justified all-freight rates for the transbay movements.

TABLE III

| <u>Minimum Weight (Pounds)</u> | <u>RATES</u> (In Cents per 100 Pounds) | | |
|------------------------------------|-------------------------------------------|-----------------|------------------|
| | <u>Present</u> | <u>Proposed</u> | <u>Justified</u> |
| 36,000 | 13½ | | |
| 40,000 | | 21½ | 21½ |
| 60,000 | 11 | 18 | 18 |
| 80,000 | | 16 | 15 |
| 100,000 | | 14 | 13 |

It is here pertinent to comment on the comparisons made by California Manufacturers Association traffic manager between the proposed rates and those established between Los Angeles and Los Angeles Harbor pursuant to Decision No. 65277, above. The record in the instant proceeding fails to show a similarity of transportation circumstances and conditions as between the two movements. For this reason, such comparisons are of questionable value in the disposition of the issues herein presented. Also, no probative evidence was adduced by this witness in support of his request for an additional weight bracket, and corresponding rate, of 110,000 pounds.

Next to be considered is the proposal that Southern Pacific internal routing between San Francisco and the involved East Bay points be opened up, for intermediate application of the all-freight rates, to permit routing via Dumbarton Bridge. As hereinbefore stated, such routing presently applies only via Oakland Wharf. It is true that the great majority of Southern Pacific transbay shipments move via Dumbarton Bridge. However, to broaden the internal routing as proposed by California Manufacturers Association would affect not only charges and rate relationships under the rates here in issue; such action would involve also the application of rates for movements from and to points beyond the Bay area. The evidence in this record is insufficient to afford

proper consideration of the proposal in all its aspects. Should the Association desire to pursue the matter further, it may do so through complaint procedure.

As hereinbefore mentioned, no cost estimates were introduced with respect to operations between San Francisco, on the one hand, and Daly City and East San Bruno, on the other. These movements concern only Southern Pacific. They involve considerably shorter hauls than are entailed in that carrier's transbay traffic. The record affords no basis on which to determine whether the proposed increases in the all-freight rates applicable between the aforesaid points are proper. We find that these increases have not been justified.

The contention of the witnesses for the can manufacturers that the rates on scrap tin plate from Oakland and Mulford to San Francisco should not exceed the present rates on prime tin plate from Pittsburg to the same destination has been given careful consideration. It is apparent that the transportation characteristics of prime tin plate are substantially different from those of the scrap material. Moreover, the record indicates that the aforesaid rates on prime tin plate are, by reason of competitive forces, lower than they would otherwise be. The principle announced in Institute of Scrap Iron and Steel v. A. C. & Y. R. R., 316 ICC 55, supra, to the effect that a rigid relationship between the rates on new iron or steel and the scrap metal is not justified from a transportation standpoint is applicable also to the metal products here in question. We find that the rate relationship sought by the can companies has not been justified.

The other major contention of these same witnesses is that if, in lieu of the present all-freight rate of 11 cents, a rate of 11½ cents is to be published on scrap tin plate, the minimum weight should be kept at 60,000 pounds, rather than being increased to 100,000 pounds with a "rock bottom" minimum weight of 80,000

pounds. While it has not been shown to what extent, if any, scrap tin plate is competitive with scrap iron or scrap paper, we see no justification for maintaining a higher minimum weight on scrap tin plate than on the other scrap materials when the proposed rates on the latter commodities are the same as, or lower than, that proposed for the same scrap tin plate. We find that the publication of the proposed commodity rate on scrap tin plate of 11½ cents, for all transbay movements involved herein, but subject to a minimum weight not to exceed 60,000 pounds, has been justified.

The proposals relating to the establishment, for transbay movements between the points involved herein, of commodity rates on the other commodities hereinbefore mentioned appear reasonable. We find that the increases proposed in those adjustments have been justified and that the proposed reductions are justified by transportation conditions.

There remains to be considered the request of Grosjean Rice Milling Company that concurrently with the establishment of increased all-freight rates a commodity rate be published on rice from San Francisco and Oakland to San Leandro, reproducing the present all-freight rate of 11 cents but subject to minimum weights of 100,000 pounds in packages and 140,000 pounds in bulk. As hereinbefore noted, there was pending before the rail lines, at the time of hearing, a shipper's proposal for a reduced freight rate on rice, to apply from and to the above-named points. It appears that a satisfactory adjustment may be concluded informally as a result of that proposal. Should the outcome be otherwise, protestant may bring the matter formally to the Commission's attention in another proceeding.

Upon careful consideration of all the evidence and argument, and in view of the findings hereinabove made, we conclude that Application No. 45590 should be granted to the extent provided

in the order which follows and that in all other respects said application should be denied.

O R D E R

IT IS ORDERED that:

1. Applicant is authorized to establish, between San Francisco, Daly City and East San Bruno, on the one hand, and Oakland, Alameda, Richmond, Mulford and San Leandro, on the other hand, increased carload all-freight rates, as follows:

| <u>Rate</u> <u>(In Cents per 100 Pounds)</u> | <u>Minimum Weight</u> <u>(Pounds)</u> |
|-------------------------------------------------|------------------------------------------|
| 21½ | 40,000 |
| 18 | 60,000 |
| 15 | 80,000 |
| 13 | 100,000 |

Said increased rates shall supersede the present all-freight rates between the same points, and shall be subject to the same commodity restrictions and routing and other provisions, except as to minimum weights, as apply in connection with the present rates.

2. Concurrently with the rate adjustment authorized in ordering paragraph 1 hereof applicant shall establish between San Francisco, Daly City and East San Bruno, on the one hand, and Oakland, Alameda, Richmond, Mulford and San Leandro, on the other hand, the specific commodity rates and corresponding minimum weights proposed in Application No. 45590, and as set forth in Appendix E thereof, except that the minimum weight in connection with the rate of 11½ cents on scrap tin plate shall not exceed 60,000 pounds. Applicant shall also concurrently establish for application between the above-specified points a commodity rate on scrap tin plate of 18½ cents per 100 pounds, minimum weight 30,000 pounds, which rate is presently applicable under intermediate application from and to certain of the points involved herein.

3. Tariff publications authorized to be made as a result of ordering paragraphs 1 and 2 hereof may be made effective not earlier than ten days after the effective date hereof on not less than ten days' notice to the Commission and to the public.

4. The authority herein granted shall expire unless exercised within ninety days after the effective date of this order.

5. Common carriers maintaining, under outstanding authorizations permitting the alternative use of rail rates, rates below the specific minimum rate levels otherwise applicable on the commodities and between the points for which increases are authorized in ordering paragraphs 1 and 2 hereof, are authorized and directed to increase such rates, on not less than ten days' notice to the Commission and the public, to the level of the rail rates established pursuant to ordering paragraphs 1 and 2 hereof, or to the level of the specific minimum rates, whichever is lower; such increases shall be made effective not later than thirty days after the effectiveness of the increased rail rates.

6. In all other respects Application No. 45590 is denied.

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

Dated at San Francisco, California, this 26th day of May, 1964.

William L. Bennett
President
George J. Trover
Fredrick B. Hallock
Commissioners

APPENDIX

Scrap Tin Plate

From Oakland and Mulford
To San Francisco
(Rates in Cents per 100 Pounds)

| <u>Minimum Weight (Pounds)</u> | <u>Present</u> | <u>Proposed</u> | |
|----------------------------------------|----------------|---------------------|-----------------------------------------|
| | | <u>By Applicant</u> | <u>By Continental Cen Co., Inc.</u> |
| 30,000 | | 13½ | 17½ |
| 36,000 | 13½ | | |
| 60,000 | 11 | 15½ | 12½ |
| 80,000 | | 12½ | |
| #700,000 | | 11½ | 11½ |
| 120,000 | | | 11 |

#When car is loaded to full space or weight carrying capacity actual weight will apply, but not less than 30,000 pounds.