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ORIGINAL

Decision No. 68459

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of SOUTHERN PACIFIC COMPANY for authority to cancel Local and Joint Commodity Tariff No. 2-B and to publish in lieu thereof Local and Joint Commodity Tariff No. 2-C containing increased rates on shipments of milk and cream and related articles.	Application No. 46597 (Filed April 28, 1964)

C. W. Burkett and Albert T. Suter for Southern Pacific Company, applicant.
Clifford J. Van Duker, for Tomales Bay Creamery, protestant.
Henry E. Frank and Charles J. Astrue, for the Commission staff.

OPINION

This application was heard June 23, 1964 before Examiner Thompson at San Francisco and was submitted July 23, 1964 on briefs. Protestant is Tomales Bay Creamery, a consignee of shipments of sour cream in San Francisco.

Southern Pacific Company seeks authority to cancel its Local and Joint Commodity Tariff No. 2-B and to publish in lieu thereof Local and Joint Commodity Tariff No. 2-C containing increased rates on shipments of milk, cream and related articles. The amounts of the proposed increases are substantial, in some instances over 400 percent.

Applicant established reduced commodity rates on milk and cream on June 16, 1930, in an effort to secure this traffic from truck lines and to improve its revenues. Peak revenues of $367,234 were received in 1943 from this traffic. Since then the revenues have declined year by year to a low of $16,282 in 1963. At present approximately 95 percent of the California intrastate traffic handled by applicant under Tariff No. 2-B consists of shipments of sour cream to protestant. The remaining 5 percent comprises occasional shipments of ice cream mix from Modesto to Santa Barbara and from Orland to Mt. Shasta and of milk from Modesto to Delano.

In addition to the local rates of applicant, Tariff No. 2-B contains local and joint rates of Pacific Motor Trucking Company (P.M.T.), Railway Express Agency (R.E.A.) and Pacific Greyhound Lines. Those carriers are not parties to this application. At the hearing applicant declared that no joint rate traffic has been handled by applicant for many years and that it is probable that P.M.T., R.E.A. and Pacific Greyhound Lines' successor, Greyhound Lines, Inc. (Greyhound) were not aware of their participation in Tariff No. 2-B. It requested leave to present late-filed exhibits containing statements of officials of those companies concerning this matter. Leave was granted. Exhibit 3 is a verified statement of the director of traffic of Greyhound stating that no request has been made on Greyhound for any of the services described in Tariff No. 2-B for the past several years. He asks that the local and joint rates in said tariff applicable to Greyhound be canceled. Exhibit 4 is a similar verified statement and request signed by the vice president of P.M.T., and Exhibit 5 is a similar verified statement and request signed by the vice president of R.E.A. While Greyhound, P.M.T. and R.E.A. should have joined in the filing of this application, no good purpose would result from the dismissal of this application on procedural grounds. By the verified statements of their officers, these carriers wish to be joined in this application as though they were parties to it.

Milk and cream traffic is handled in baggage cars on passenger trains except that substitute truck service is used to handle the traffic to and from stations at which passenger trains do not stop or at which there is no passenger train service. Of the present 41 origin points the initial haul from 21 points is via substitute truck service. Traffic from ten points of origin moves via freight trucks to the freight docks at Sacramento from which point it must be shuttled to the passenger station for forwarding on train 21. Empty cans returning are handled in the reverse order. All milk and cream traffic with the exception of shipments from Palo Alto is handled via Oakland, from which station it is moved in substitute truck service to San Francisco. All milk and cream traffic, except shipments between Livermore and San Francisco, has at least a portion of the movement by rail. Shipments between Livermore and San Francisco are moved in substitute truck service between Livermore and Oakland and are transferred at Oakland for movement via truck between Oakland and San Francisco. In connection with the movement between Oakland and San Francisco, applicant obtains from P.M.T. the services of two small trucks, with drivers, which are used to transfer baggage, and the head-end traffic transported in baggage cars, between its San Francisco depot and its depot at 16th Street in Oakland. Those trucks are available exclusively for this service 24 hours daily. The head-end traffic consists mainly of sour cream and empty cans with some newspapers and periodicals.

Applicant contends that the present rates are below out-of-pocket costs and therefore are unreasonable. It contends that much of the traffic now moves in substitute motor carrier service and that the shipments, as they are now handled, are similar to any other less than truck load movement and, accordingly, the rates to be charged for the transportation of these shipments should be on the same relative rate basis as movements via motor carrier.

Exhibit 1 is the proposed Tariff No. 2-C. It sets forth rates in cents per 100 pounds from numerous origin points in California to San Francisco and provides for rates for transportation from Modesto to Delano and to Santa Barbara and from Orland to Mt. Shasta. According to applicant's assistant manager in charge of general mail, baggage and express traffic, applicant has not received a request for service between any other points. The rates include transportation from depot to depot and the free return of empty containers. The rates in cents per 100 pounds are equivalent to the first class rates in P.S.F.B. Tariff No. 255, the tariff in which applicant's less than carload rates are published. Tariff No. 2-C also provides for surcharges to be applied to shipments from, to or between points in the central coastal area. Other than the rate level, the principal difference between the rates in Tariff No. 2-C from those in Tariff No. 2-B is that the latter provides rates in cents per can (5 gallon, 10 gallon, etc.) whereas proposed Tariff No. 2-C provides rates in cents per 100 pounds.

Exhibit 2 is a comparison of revenues with the estimated out-of-pocket costs of handling milk and cream shipments from certain California points to San Francisco. It was prepared by a transportation analyst in applicant's research bureau and is summarized below in Table I.

TABLE I

Comparison by Southern Pacific Co. of Revenues and costs of handling shipments of sour cream from points shown to San Francisco

	5-Gallon Cans 1/			10-Gallon Cans 1/		
	Present Cost (a)	Present Revenue (b)	Proposed Revenue (c)	Present Cost (d)	Present Revenue (e)	Proposed Revenue (f)
1. El Centro	1.68	1.04	2.04	2.60	1.49	4.24
2. Livermore	2.00	.31	1.35	2.99	.50	2.77
3. Marysville	1.81	.48	1.46	2.72	.64	3.00
4. Redding	1.39	.58	1.60	2.12	.82	3.30
5. Sacramento	1.39	.41	1.41	2.10	.55	2.90
6. San Luis Obispo	1.39	.58	1.60	2.13	.82	3.30
7. Suisun-Fairfield	1.93	.35	1.37	2.91	.51	2.81

There are certain apparent anomalies in the estimated costs shown on Exhibit 2 (Table I above); such as the cost of transportation from Livermore, a distance of about 40 miles, exceeding the cost of transportation from El Centro, a distance of over 600 miles; and the costs from Redding being about the same as those from Sacramento even though the former is twice the distance of the latter to San Francisco. The explanation of these apparent anomalies lies in the manner in which the cost estimates were developed. The analyst developed his estimates by applying cost factors to the actual manner and method in which applicant performs the service. The cost per mile of providing service in substitute motor service greatly exceeds the cost per mile of transporting the shipments in baggage cars so that the amount of substituted motor service provided has a great influence on the estimated costs of the total service. Table II below sets forth the manner in which the analyst developed the estimated costs of shipment originating at El Centro and at Livermore. In order to understand this cost

1/ Revenues and costs include return of empty cans.

development a knowledge of how the traffic is handled is necessary. Shipments from Livermore are picked up at applicant's depot by a P.M.T. truck in regular freight service and are transported to applicant's depot at 16th Street in Oakland. The shipments are transferred to the P.M.T. trucks in baggage service and transported to San Francisco. El Centro shipments are picked up by P.M.T. substitute motor service and transported to Los Angeles Union Station where they are loaded onto baggage cars on Train No. 91 and transported to the 16th Street Depot at Oakland. The shipments are transferred to the P.M.T. trucks in baggage service. The return of the empty cans is done in the reverse manner.

TABLE II

Development of Out-of-Pocket Costs of handling sour cream in a 10-gallon can from origin points shown to San Francisco and return the empty can.

Cost of Item	El Centro	Livermore
Platform at origin	$0.00	(
Line haul to transfer	0.2052	($0.7644
Platform at transfer	0.00	(
Line haul to Oakland	0.2090	(
Platform at Oakland	0.1127	0.1127
Line haul, Oak. - S.F.	0.8990	0.8990
Platform at S.F.	0.1656	0.000
Subtotal	$1.5915	$1.7761
Claim & Accounting (1)	.0318	0.0355
Cost of cream shipment	$1.6233	$1.8116
Return of Empties		
Platform at S.F.	$0.1104	$0.00
Line haul S.F.- Oak.	0.5993	0.5993
Platform at Oak.	0.0751	0.0751
Line haul to Transfer	0.0545	(
Platform at Transfer	0.0	(0.5096
Line haul to origin	0.1368	(
Platform at origin	0.000	(
Cost to return empty can	$0.9761	$1.1740
Total cost	$2.5994	$2.9856
Cost per Exh. 2	$2.60	$2.99

(1) 2% of subtotal

An examination of Table II discloses what appear to be inconsistencies and therefore the figures require some explanation. The amount of $0.2052 shown for the cost of handling and transporting the shipment from El Centro Depot to Train No. 91 represents the estimated additional expense of loading full cans by the driver on the truck at El Centro. No charge was made for station or platform expense at El Centro or Los Angeles Union Station or for the line haul cost of operating the truck. The analyst stated that the amount represents the out-of-pocket cost of handling the cream shipments and the amount of $0.1368 similarly represents the out-of-pocket cost of the driver unloading the empty can at El Centro. The amounts of $0.7644 and $0.5096 the analyst stated are the estimated costs of diverting the truck from P.M.T. terminal at Oakland to 16th Street Station, a round-trip distance of approximately four miles. The amount does not include any handling costs or the cost of operating the truck between Livermore and Oakland. The above amounts were determined by dividing the monthly out-of-pocket cost by the average number of cans of cream handled per month. In the case of El Centro the divisors were 2 five gallon cans and 25 ten gallon cans and in the case of Livermore the divisors were 53 five gallon cans and 58 ten gallon cans. The amount of $0.2090 for line haul cost on Train 91 between Los Angeles and Oakland was developed by determining the ton-mile cost of operating a baggage car in accordance with the standard formula and applying that cost to the weight of the can of cream.

The amounts shown for line haul cost of transportation between San Francisco and Oakland were developed by applying the formula agreed upon by applicant and P.M.T. for the payment for the use of the trucks. That formula provides something more than the direct costs to P.M.T. of operating the equipment but inasmuch as the payment by applicant to P.M.T. rests upon that formula the amount is considered by applicant to be an out-of-pocket cost of Southern Pacific Company.

Failure to include platform cost at San Francisco in the development of costs from Livermore was not explained.

The measures used in developing the cost factors were not the same. That explains the apparent anomalies in the exhibit. Those cost estimates, because of the inconsistencies, do not provide a reliable basis for rate making because of the different considerations employed in developing them. The establishment of a higher rate for transporting a shipment 40 miles, than one of over 600 miles, would be incongruous and would defy any reasonable rule of rate making. The fact remains, however, that the amounts estimated by the analyst reasonably represent the out-of-pocket costs to Southern Pacific Company of transporting the traffic and that any errors would appear to be those of ommision, such as the failure to include certain platform costs, which would tend to understate the costs. Although the cost estimates do not provide a reliable basis for determining the reasonableness of a particular rate, as a whole they clearly show that the present rates are unreasonably low and they do provide a basis for determining a reasonable level of rates as a whole.

Applicant contends that the proposed rate structure is reasonable because it reflects the same relative basis of rates applicable to the movement of similarly rated commodities via motor carrier. The rates in proposed Tariff No. 2-C are similar to the minimum rates tabulated in the Commission's Minimum Rate Tariff No. 2 for the transportation by highway carriers of articles rated first class. Minimum Rate Tariff No. 2 does not apply to the transportation of milk and cream in 5 gallon and 10 gallon cans. Radial highway common carriers and highway contract carriers do not publish rates and are free to assess any rate or charge for the transportation here involved. Highway common carriers are required to assess rates no greater than nor less than those maintained in their tariffs. A number of highway common carriers participate in Pacific Coast Tariff Bureau Exception Sheet No. 1 which provides a rating of Fourth Class on milk and cream. The rates of those carriers are equivalent to the Fourth Class Rates in Minimum Rate Tariff No. 2 which are about 22 percent lower than the First Class rates. Southern Pacific Company and other railroads maintain First Class rates on milk and cream but said rate is not the going rate of the motor carriers. That circumstance might appear to lend some credence to protestant's position that applicant's rates should not exceed the Fourth Class rates but it does not. The services covered by the rates set forth in the freight tariffs of applicant and of the motor carriers include pick up and delivery and do not include the free return of empty cans. Those tariffs contain minimum charges to be assessed regardless of freight classification. The minimum charge under those tariffs for the transportation of 10 gallons of cream from Livermore to San Francisco and the return of the empty can is approximately $6.00. The charge on a similar movement from El Centro is about $10.00. The traffic handled by applicant consists of shipments of one or two cans so that the minimum charges would in almost every instance supersede the charge computed at the class rate for either First Class or Fourth Class. Under such circumstances any hypothesis that the proposed basis of rates is desirable for competitive reasons must fail. In that connection applicant proposes that the rates be subject to certain surcharges which in Minimum Rate Tariff No. 2 are known as the Central Coastal Territory surcharges. Those surcharges were established in the minimum rate tariff to reflect the higher wages paid to local drivers in counties in the Central Coastal Territory and the resulting higher operating cost of providing pickup or delivery in that territory. Under the rates in Tariff No. 2-C pickup and delivery are not provided. Furthermore, other than in the case of Livermore, all shipments from California points are brought into Oakland by train. There being no competitive influences, as stated above, there can be no legitimate reason for the application of the surcharges.

Protestant presented evidence showing that the consignors of 95 percent of applicant's milk and cream traffic are farmers engaged in diversified farm activities such as raising crops and who have from 5 to 10 milk cows. It takes about 10 cows milked twice a day to provide five gallons of cream per day. The average price protestant pays the farmer for five gallons of cream is about $6.21 less freight charges. At the present rates the farmer at Redding receives a net price of about $5.60 and the farmer at El Centro receives a net price of about $5.17 for five gallons of cream. Under the proposed rates the farmer at Redding would receive $4.60 and the farmer at El Centro about $4.15. In almost all instances the farmer would receive about $1.00 less for each five gallons of cream and about $2.75 less for each ten gallon can of cream.[1/] According to the president of protestant the farmers would not bother to separate the cream, process it and ship it for the net prices that would result from the proposed rates.

1/ This effect results from the circumstance that the present tariff provides rates in cents per can which favor the ten gallon can and the proposed rates are in cents per 100 pounds regardless of the size of can.

The evidence is persuasive that the proposed increases are more than the traffic will bear.

We have found that the present rates are unreasonable and that there is no reasonable basis for the proposed surcharges. The elimination of the surcharges will decrease the proposed rates to San Francisco by 15 cents per five gallon can and 20 cents per ten gallon can. It is doubtful whether the resulting rates would permit the freedom of movement of cream from California origins; however, the resultant rates, as a whole, would not provide very much margin above the out-of-pocket costs of providing the services as a whole. Such a dilemma sometimes arises when there has been no gradual transition in rates to meet changing conditions and there results a sudden and substantial increase in rates.

The commodity moving under the rates here involved is sour cream in 5 gallon and 10 gallon cans which is an agricultural commodity as that term is used in Section 726 of the Public Utilities Code. That section provides,

> "It is the policy of the State in ratemaking to be pursued by the commission to establish such rates as will promote the freedom of movement by carriers of agricultural commodities, including livestock, at the lowest lawful rates compatible with the maintenance of adequate transportation service."

The number of cans of cream protestant receives at the San Francisco depot from California origins varies widely from month to month; however, the evidence indicates an average of about 12 five gallon cans and 14 ten gallon cans per day. The proposed rates therefore represent an increase in freight charges to protestant of about $38.00 per day. The proposed rates less surcharges represent an increase in charges of about $33.00 per day. Applicant estimated the costs of moving the shipments from Oakland to San Francisco and of handling the shipments at its platform at San Francisco to be $1.80 per 10 gallon can or $1.65 per 100 pounds. Using the analyst's cost factors, the average daily out-of-pocket cost to applicant of moving protestant's shipments from the Oakland depot to San Francisco and returning the empty cans to Oakland is about $35.50. Protestant sends its truck daily to the applicant's depot in San Francisco to pick up cream shipments and to ship the empty cans. The trip requires one hour. According to the testimony the distance between the San Francisco depot and the 16th Street depot at Oakland is eight miles. The additional cost to protestant of picking up shipments at Oakland rather than at San Francisco should not exceed $5.00.

From applicant's showing it seems clear that rates to Oakland $1.65 per 100 pounds differentially lower than those to San Francisco would be reasonable. According to its presentation the out-of-pocket cost of transferring the shipments is $1.65 per 100 pounds. Such rates to Oakland, together with the additional cost to protestant of picking up shipments at Oakland, should provide a freight cost within a few cents per gallon of the present freight cost. Under those circumstances the traffic would continue to move.

We find that:

1. The present rates here involved are unreasonably low.

2. The proposed rates have not been shown to be reasonable.

3. The proposed increases in rates have not been shown to be justified.

4. The proposed rates less the proposed surcharges are just and reasonable.

5. Rates to Oakland $1.65 per 100 pounds differentially lower than those found herein reasonable for transportation to San Francisco are just and reasonable.

6. Rates to Oakland $1.65 per 100 pounds differentially lower than those found to be reasonable herein for transportation to San Francisco will promote the freedom of movement of sour cream in 5 gallon cans and 10 gallon cans, an agricultural commodity, and are required by the public interest.

7. The increases in rates that would result from the establishment of the rates herein found to be reasonable are justified.

Based on the foregoing findings we conclude that applicant should be authorized to establish the proposed rates less the proposed surcharges and concurrently therewith should be required to establish rates for the transportation of milk and cream to Oakland $1.65 per 100 pounds differentially lower than rates to San Francisco; that concurrently with the establishment of the rates authorized and required herein applicant should be authorized to cancel, on its own behalf and on the behalf of all participants therein, Tariff No. 2-B; and that in all other respects this application should be denied.

ORDER

IT IS ORDERED that:

1. Southern Pacific Company, a corporation, is authorized to establish the increased rates, but not the surcharges, proposed in Application No. 46597.

2. Concurrently with the establishment of the rates authorized above, Southern Pacific Company shall establish rates for the

transportation of milk and cream, including sour cream, to Oakland $1.65 differentially lower than the rates for such transportation to San Francisco.

3. Concurrently with the establishment of the rates authorized and required above, applicant, on its own behalf and on behalf of all participants therein, is authorized to cancel its Local and Joint Commodity Tariff No. 2-B.

4. Tariff publications authorized and required to be made as a result of the order herein may be made effective not earlier than thirty days after the effective date hereof on not less than thirty days' notice to the Commission and to the public.

5. The authorities herein granted shall expire unless exercised within ninety days of the effective date of this order.

6. In all other respects Application No. 46597 is denied.

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

Dated at San Francisco, California, this 12th day of JANUARY, 1965.

Frederick B. Holoboff
President

George G. Grover

William M. Bennett
Commissioners