

AP/JR *

Decision No. 82645

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

BBD TRANSPORTATION COMPANY, INC.,
GRILEY FREIGHT LINES, CHESLEY
TRANSPORTATION CO., INC., W. S.
EMERIAN TRUCKING COMPANY, B & G
TRUCKING, INC., TRANS-CAL FREIGHT
WAYS, ART BAKER TRANSPORTATION
COMPANY, JEROME H. MC LEOD TRUCKING,
W. E. WHITE, CARL R. BUTLER, WILLIE
SHEPARD, EDGAR STANFUL TRUCKING,
TRUCKING UNLIMITED, C & E TRUCKING
COMPANY, INC., OLIVER F. MILLER
TRUCKING, LOU ROBERTSON TRUCKING,
JOE LANE, J & L TRUCKING, SELMER
BORNHOLDT, DONALD M. BUNIK, JAMES
HALL, RICHARD C. HAMILTON, FRANK
HERNANDEZ, JOHN ROCHER, WILLIAM
RYLAARSDAM, W. E. SMITH, GEORGE M.
WINSTON TRUCKING COMPANY, ACME
GENERAL CORPORATION, AMERON PIPE
PRODUCTS, CAL-STRIP STEEL CORPORA-
TION, WESTERN ALLIED CORPORATION,
WESTERN AIR & REFRIGERATION, INC.,
VALLEY CITIES SUPPLY COMPANY, MARCH
PIPE COMPANY, J. C. FABRICATORS, INC.,
ANGELES METAL SYSTEMS, MAGNA METALS,
INC., ROYAL MARINE, ROYAL TRUCK
BODIES, BELL PIPE & SUPPLY COMPANY,
ENSCO MANUFACTURING COMPANY, INC.,
STORAGE RACK SYSTEMS, INC., and AIR
CONDITIONING COMPANY, INC.,

Complainants,

vs.

PACIFIC SOUTHCOAST FREIGHT BUREAU,
KAISER STEEL CORPORATION, UNITED
STATES STEEL CORPORATION, THE ATCHISON,
TOPEKA AND SANTA FE RAILWAY COMPANY,
CENTRAL CALIFORNIA TRACTION COMPANY,
HOLTON INTER-URBAN RAILWAY COMPANY,
MC CLOUD RIVER RAILROAD COMPANY, NORTH-
WESTERN PACIFIC RAILROAD COMPANY,
PETALUMA and SANTA ROSA RAILROAD COM-
PANY, SACRAMENTO NORTHERN RAILWAY, SAN
DIEGO and ARIZONA EASTERN RAILWAY COM-
PANY, SOUTHERN PACIFIC TRANSPORTATION
COMPANY, STOCKTON TERMINAL and EASTERN
RAILROAD, TIDEWATER SOUTHERN RAILWAY
COMPANY, THE WESTERN PACIFIC RAILROAD
COMPANY, and UNION PACIFIC RAILROAD
COMPANY,

Defendants.

Case No. 9424
(Filed August 15, 1972;
amended September 22, 1972)

Silver and Rosen, by Michael J. Stecher and John P. Fischer, Attorneys at Law, for BBD Transportation Company, Inc., et al., complainants.
W. Harney Wilson, Attorney at Law, for Pacific Southcoast Freight Bureau, and railroad defendants;
Leland E. Butler, Attorney at Law, for Atchison, Topeka and Santa Fe Railway Company; and Marshall W. Vorkink, Attorney at Law, for Union Pacific Railroad Company; defendants.
Wayne L. Emery, Attorney at Law, for United States Steel Corporation; Wayne L. Emery and William A. Main, Attorneys at Law, for Gordon E. Lloyd, a traffic manager of United States Steel Corporation; Thelan, Marrin, Johnson, and Bridges by William F. Hoefs, Attorney at Law, for Kaiser Steel Corporation; interested parties.

O P I N I O N

By this complaint, as amended, 27 certificated and permitted highway carriers who haul iron and steel articles (steel) and 16 manufacturers who ship and receive those commodities (receivers) allege that certain reduced California intrastate railroad rates on steel filed by the Pacific Southcoast Freight Bureau (PSFB), Agent, in the name of and on behalf of all carriers parties to its Freight Tariff No. 272-B, ICC 1866, are unjust, unreasonable, discriminatory and therefore, unlawful.^{1/} The

^{1/} The specific commodity descriptions and the rates complained of were initially published in Supplement 36 to Tariff 272-B, Section 4-A, Items 8500, 8600, 8625, and 8650, applicable between many points in California, effective July 26, 1972. On October 16, 1972 the PSFB issued Freight Tariff 272-C, ICC 1908, which cancelled Tariff 272-B effective December 9, 1972. On November 3, 1972 the complaint was amended on the record to include Tariff 272-C which continued the four items in question.

specific grounds upon which complainants rely as to the asserted unlawfulness of those rates are as follows:

1. The reduced rates are unlawfully discriminatory.
2. The reduced rates are not compensatory either to the railroads or motor carriers, and are a device to avoid the provisions of Section 452 of the Public Utilities Code.
3. The reduced rates are a subterfuge and are not intended to move traffic by rail in any intra-state commerce.
4. The reduced rates will foster unsafe motor carrier operations on the public highways, all to the detriment of the shipping public and general public at large.
5. The reduced rates are not in the public interest.

Complainants allege that they will suffer irreparable harm if the reduced railroad rates remain effective.

The defendant railroads in their answer deny the essential allegations of the complaint.

By Decision No. 80550 dated October 2, 1972 the complaint was dismissed as to defendants, United States Steel Corporation (U. S. Steel) and Kaiser Steel Corporation (Kaiser Steel), because they are not common carriers or public utilities and because the complaint did not state a cause of action against them before this Commission.

Nine days of public hearing were held before Examiner Norman Haley between October 11, 1972 and February 5, 1973. All of the sessions were in San Francisco except one on November 6, 1972 which was in Los Angeles. Twenty-one witnesses testified and thirty exhibits were received. The matter was submitted March 2, 1973 with the filing of concurrent briefs.

Background

The defendant railroads contend that in the five years prior to 1972 they lost a major portion of their steel traffic in the western region of the United States to truck transportation. In the latter part of 1971 the railroads decided that they should reduce many of their rates on steel in an attempt to regain some of the lost traffic.^{2/} The complainant highway carriers had been observing railroad rates on steel between a number of points in California served by rail. Among the reduced railroad rates proposed throughout the State, reduced rates between points in the Los Angeles basin area and points in the San Francisco Bay area were of primary concern to complainants and will serve as examples. Between those areas the railroads determined that in addition to the lowest rate of 63 cents per 100 pounds, minimum weight 60,000 pounds, applicable to many steel articles,^{3/} there should be published a rate of 43 cents, minimum weight 80,000 pounds, and a rate of 35 cents, minimum weight 120,000 pounds.^{4/}

The proposed rate reductions were publicized in the November 6, 1971 and April 1, 1972 issues of the weekly Traffic Bulletin, a railroad publication. In accordance with its procedures, the PSFB scheduled a public hearing on April 18, 1972

- 2/ PSFB Dockets 368, 369, 370, and joint Docket 9161. Docket 368 was the California intrastate docket. The four dockets proposed reductions in steel rates from the primary steel producing points to the major consuming markets in the west, viz.: Los Angeles basin area, San Francisco Bay area, Portland, Seattle, Spokane, Salt Lake-Geneva, and Phoenix. All of the adjustments were proposed and considered together.
- 3/ There also were some lower rates in Tariff 272-B on designated steel articles moving between specific points located within these two areas.
- 4/ Throughout this opinion rates are stated in cents per 100 pounds, and do not include authorized general increases published by defendants, or surcharges on minimum rates applicable to highway carriers.

to consider the matter. On June 12, 1972 the PSFB filed with this Commission Special Tariff Docket Application No. 7362 for an order permitting the reduced rates to go into effect on a temporary basis.^{5/} The application stated that the temporary adjustment had been approved by the railroads "...for the sole purpose of attempting to divert the heavy movement of iron and steel articles back to rail." The application was granted by Order No. STD 7419 dated June 20, 1972. The reduced rates were filed in Supplement 36 to Tariff 272-B to become effective July 26, 1972 with an expiration date of April 26, 1973.^{6/}

By petition filed July 14, 1972 (I & S Case No. 9402) most of the complainants in this proceeding sought suspension and investigation of the reduced rates published in Items 8500, 8600, 8625, and 8650 of Supplement 36 to Tariff 272-B. That petition was filed 12 days before the effective date of the tariff supplement. The Commission did not suspend the reduced rates. Accordingly, the subject rates went into effect on the

^{5/} Authority is required under Section 454 of the Public Utilities Code when a reduced rate is to be published on a temporary basis because of the increase that will result when it expires.

^{6/} Reduced rates subject to minimum weight of 80,000 pounds apply to steel articles in a list designated as Column A of Item 8500, Tariff 272-B. Reduced rates subject to minimum weight of 120,000 pounds apply to steel articles in a list designated as Column B. The reduced rates are subject to certain restrictions. For example, paragraph 2 of Item 200 of the tariff, Rules 24 and 29 of the Uniform Freight Classification, and PSFB Tariffs 194-U and 264-K do not apply (certain car ordering, excess quantity, and stopping in transit privileges). A number of the other steel rates, including the 63-cent rate, minimum weight 60,000 pounds, are subject to those tariff and classification provisions.

published effective date, pursuant to Section 455 of the Public Utilities Code.^{7/} I & S Case No. 9402 was dismissed by Decision No. 80509 dated September 19, 1972.

The highway carrier complainants in this proceeding are subject to minimum rates and rules established by this Commission in Minimum Rate Tariff 2 (MRT 2).^{8/} The lowest truckload rate published in MRT 2 in July 1972 for transportation between the Los Angeles Territory and the San Francisco Territory of a large number of steel articles subject to class 35.1 (volume incentive) was 93 cents, minimum weight 45,000 pounds. However, Items 200 through 241 of the tariff provide that when certain lower common carrier rates are applicable (including lower railroad rates) they may be used by highway carriers in lieu of the rates provided in MRT 2 or in combination with MRT 2 rates.^{9/} The railroad rate of 63 cents, minimum weight 60,000 pounds, for transportation of many steel articles between points in the Los Angeles basin area and points in the San Francisco Bay area prior to July 26, 1972, being lower

7/ Under Section 455 of the Public Utilities Code all rates not suspended shall become effective, subject to the power of the Commission, after hearing, to alter or modify them.

8/ Appendix D to Decision No. 31606 (1938) 41 CRC 671-731, as amended. Certificated highway common carriers are required to maintain and observe tariff rates no lower than minimum rates required to be assessed by highway permit carriers.

9/ Among other things, Item 200 of MRT 2 is in compliance with the directive contained in Section 3663 of the Public Utilities Code, as follows:

"In the event the Commission establishes minimum rates for transportation services by highway permit carriers, the rates shall not exceed the current rates of common carriers by land subject to Part 1 of Division 1 for the transportation of the same kind of property between the same points."

Items 210 through 230 relate to combinations of MRT 2 rates with common carrier rates. Items 240 and 241 contain rates for accessorial services performed by highway carriers which are not included in common carrier rates.

than the rate published in MRT 2, therefore constituted the minimum rate for highway carriers between industries and other locations served by rail.^{10/} When the railroads reduced their rates to 43 cents and 35 cents, effective July 26, 1972, those rates became the new minimum rates for highway carriers between rail-served points. At that time a number of highway carriers reduced their rates to 50 cents, minimum weight 80,000 pounds, for transportation between points on rail. Truck rate reductions were also made to points off rail. On August 15, 1972 the complaint in this proceeding was filed.

Complainants' Showing

In support of their allegations complainants introduced 12 exhibits and presented evidence through 17 witnesses. The witnesses included representatives of highway carriers, shippers, receivers, and individuals in the fields of labor, and truck operation and safety.

BED Transportation Company, Inc.

The president of BED Transportation Company, Inc. (BED) testified for complainants with respect to the rates which his company has collected for the transportation of steel articles both before and after the railroad rate reduction on July 26, 1973. The witness stated that prior to the reduction approximately 85 percent of the commodities BED transported were steel articles. Of that approximately 65 percent were steel articles subject to the four tariff items in question transported from steel mills. The carrier employs approximately 60 people and operates approximately 35 truck-tractors, 90 semitrailers, and

^{10/} The railroad rate of 63 cents, minimum weight 60,000 pounds, and many other rates on steel articles formerly published in Tariff 272-B are in effect in Tariff 272-C, along with the reduced rates of 43 cents and 35 cents.

22 other vehicles consisting of pickups, bobtails, and forklifts. BBD has a continuing maintenance program. It transports approximately 25 loads daily in each direction between the Los Angeles basin area and the San Francisco Bay area.

The witness became aware of the rail rate reductions in May, 1972. He said that prior to the reduced rail rates becoming effective he had discussions with traffic officials of U. S. Steel concerning truck rates to be charged in the future. He said that U. S. Steel offered BBD lower truck rates than the mill had been paying in the past. In June, 1972 U. S. Steel mailed BBD a transportation service agreement (Exhibits 4 and 5). This agreement was signed by a representative of BBD and returned to U. S. Steel. The agreement was subject to termination by either party at any time on 30 days' notice in writing to the other party. Among other things, it provided for a truck rate between railheads of 50 cents, minimum weight 80,000 pounds, replacing the previous truck rate of 63 cents. Higher rates were provided for deliveries to off-rail destinations.

The carrier president testified that subsequent to the issuance of the reduced railroad rates in June, 1972 BBD began to lose traffic and revenue. Some of this he attributed to ratepayers waiting for lower rail and truck rates to go into effect. When the reduced rates went into effect on July 26, 1972 BBD found that it had lost three customers and some freight formerly transported for other customers. One customer, on a cost-plus government contract, diverted its freight to rail because BBD could not transport it at the lowest rail rate of 35 cents. The witness did not know how much business went to other highway carriers. He was of the opinion that BBD had lost some traffic to other highway carriers

who were hauling to off-rail receivers from shippers other than U. S. Steel.

The president of BBD testified that due to the loss of business his company had lost substantial revenue. He stated that under the four railroad tariff items involved BBD had a gross revenue of \$167,172 in June, 1972. In July that figure was reduced to \$115,285 and in August it became \$29,948. As a further result of the loss of business the carrier has not replaced 8 to 10 drivers who have terminated their employment, and has let one rate man go. Nine tractors and 25 to 30 trailers have been idle. With respect to the trailers this is approximately twice as many as were idle prior to the rate reductions. Where the carrier had 65 percent of its business from the steel mills prior to July 26, 1973 the witness estimated that after that date it transported 55 percent from the mills under the four tariff items in question. He said he had found new freight (other than steel items) to make up some of the loss.

In an effort to keep costs down BBD has utilized some subhaulers.^{11/} However, the witness cited a number of factors which he considered undesirable in connection with the use of subhaulers for transporting steel articles. It

11/ Item 10 of MRT 2 contains the following definition:

"INDEPENDENT-CONTRACTOR SUBHAULER means any carrier who renders service for a principal carrier, for a specified recompense, for a specified result, under the control of the principal as to result of the work only and not as to the means by which such result is accomplished."

Minimum rates have not been established for transportation performed by subhaulers for principal carriers except in connection with truckload transportation of cement, rock, sand, and related products as provided in Minimum Rate Tariffs 7-A, 10, 17-A, and 20.

was his opinion that this transportation is generally unreliable because the subhauler tries to operate on a very small margin of profit, which assertedly leads to equipment breaking down. He felt that the equipment of subhaulers, and sometimes the number of hours it is operated were productive of unsafe conditions. He said that overlying carriers have no control over subhaulers. With respect to delivery times the witness stated that subhaulers are unreliable; that when loads are in transit communications cannot be established; and that in order to satisfy customer needs it is sometimes necessary to send someone out to search for a subhauler vehicle which has been delayed or has broken down. He also cited examples of damage which can occur to steel articles by incorrect tarping, improper tying down of loads, and improper concentration of weight on truck beds. He said that subhaulers frequently do not have specialized equipment suitable for transporting steel.

The president of BBD stated on cross-examination that trucks have certain service advantages over rail such as overnight service between points in the Los Angeles basin area and points in the San Francisco Bay area. He agreed that railroad service between the major areas involved takes four to five days, and that railroad equipment has the advantage of heavier loading capability. He pointed out that motor carriers are required to tie down loads which is an operation that the railroads do not have to perform.

A vice president of BBD also testified on behalf of complainants. He stated that he reviewed Southern Pacific Transportation Company (SP) waybills covering steel movements in California for June, July, and August, 1972 and calculated

the numbers of shipments and tons.^{12/} He found that in June there were 80 shipments totalling 28½ million pounds, in July there were 56 shipments totalling 15 million pounds, and in August there were 57 shipments totalling 8½ million pounds. He calculated the average shipment weight to be in excess of 140,000 pounds. Transit time averaged four days both north and south. He was of the opinion that the great majority of origins and destinations involved movements between two Kaiser Steel facilities and between two Bethlehem Steel facilities.

The vice president of BBD introduced Exhibit 6 which was a revenue summary for August 1972 based upon the SP waybills. The purpose of the exhibit was to compare actual revenue under the reduced rates with revenue that would have been obtained had the rates in effect prior to July 26, 1972 been used. According to his figures, as adjusted in Exhibit 10, SP would have received \$50,346.11 under the old rates and \$30,239.44 under the new rates, or a difference of \$20,106.67.

The vice president of BBD stated that he was employed by BBD on September 25, 1972. For approximately a year and a half prior thereto he was employed as a general traffic manager of Soule Steel Company (Soule Steel). He explained that Soule Steel is a major producer of reinforcing bars, structural steel for buildings, fence posts, and various other steel articles. In California Soule Steel has plants in Dominguez, San Francisco,

12/ During a subpoena duces tecum deposition on October 24, 1972 the traffic manager in charge of rates and divisions of SP turned over to complainants' attorney copies of SP waybills covering approximately 270 carloads of steel handled under Tariff 272-B for the first eight months of 1972. The deposition was incorporated in the record at RT 446. An assistant traffic manager of Union Pacific Railroad Company furnished complainants with an affidavit (Exhibit 11) stating that his company transported only two intrastate shipments under the tariff between January 1, 1972 and September 20, 1972. Complainants did not seek waybill data from the Atchison, Topeka and Santa Fe Railway Company (ATSF).

Newark, Sacramento, Fresno, Ventura, Los Angeles, Santa Ana, and San Diego. That company has customers throughout the State, and in other states. Transportation is performed by for-hire motor carriers and with its own private trucks. Soule Steel production is somewhat over 1,200 tons a day, of which approximately 600 tons move within California. This company was not solicited by the railroads for intrastate traffic either before or after the rate reductions, and intrastate rail service has not been used. However, at the time of the rate reductions the witness contacted SP concerning availability of service to Fresno, Sacramento, and Newark. He was informed that transit time would be approximately four days, which assertedly was unsatisfactory to Soule Steel. He was also informed that there was a shortage of gondola-type cars. These cars are needed for the loading and unloading of Soule Steel shipments because such operations cannot be performed using box cars or other types of covered cars. Upon several subsequent occasions the witness was informed that there was still no way of getting the cars and service that would be required.

BBD Cost Evidence

The comptroller of BBD introduced the results of a cost study he prepared of his company's steel hauling operations (Exhibit 8). This study purports to show that the total of the fixed and variable costs per 100 pounds for the movement of steel articles by that company between Los Angeles and San Francisco was 57.582 cents. By fixed costs the witness was referring to those costs that do not vary with the volume of traffic handled, as contrasted to variable costs which do vary with the volume of traffic handled.^{13/} The figures relied upon

^{13/} The term "variable costs" has generally replaced the term "out-of-pocket costs".

reflected 1971 operations with 1972 estimated expenses. The cost figures were based on the average length of haul, north and south, for 1971. The comptroller said that the BBD operation is balanced both north and south so that there is no dead-head (empty truck) mileage involved. On cross-examination the witness stated that as an accountant he would consider traffic moving at a rate that covers variable costs and also contributes something in addition to alleviate some of the overhead burden. He explained, however, that BBD has turned down some business that would yield an amount above its variable cost, because the company does not consider it feasible to haul traffic just to help its overhead. He said that business has remained steady over the last four or five years (prior to the rate reductions). He explained that BBD has four terminals, two of which are owned and two of which are leased on a month-to-month basis. He said that in the latest report to the Commission BBD reported 72 percent revenue from steel and 28 percent from general commodities.

Emerian Trucking

The owner of W. S. Emerian Trucking Company testified concerning the rates he charges for transportation of steel articles from Soule Steel, Dominguez, Los Angeles County, to Fresno and Sacramento. This carrier transports approximately 50 percent of the Soule Steel traffic. The remainder is transported by other highway carriers and in proprietary trucks. Emerian generally transports from four to six loads a week, averaging approximately 45,000 pounds per load. He continues to charge the rail rates in effect prior to July 26, 1972 which is 50 cents to Fresno and 66 cents to Sacramento, minimum weight 80,000 pounds. The witness stated that the present rail rates, minimum weight 80,000 pounds, are 45 cents

to Fresno and 43 cents to Sacramento. On a minimum weight of 120,000 pounds they are 35 cents to Fresno and 38 cents to Sacramento. Although Emerian has been collecting the higher railroad rates in effect prior to the reductions on July 26, 1972, he is fearful he will not be able to continue to do so.

He said that his fuel and labor costs for the 852-mile round trip between Dominguez and Sacramento, without any allowance for maintenance costs, would be \$177.00, whereas the lowest rail rate of 38 cents on a 45,000-pound load would produce \$171.00. However, on the basis of the lowest rail rate of 35 cents to Fresno he would receive \$157.50, an amount higher than his fuel and labor costs to Fresno which he estimates to be between \$105.00 and \$110.00.

Emerian operates 13 pieces of equipment consisting of eight 40-foot trailers and five tractors. He employs five drivers, four of whom are line drivers. Emerian has never used subhaulers, and indicated that he believed they would not be satisfactory. It was his conclusion that if the reduced railroad rates stay in effect he will be required to withdraw from the steel hauling business between rail-served points.

Griley Freight Lines

The manager of the heavy haul division of Griley Freight Lines testified that prior to the rail rate reduction his division earned between \$5,000 and \$6,000 per month transporting from 12 to 16 truckloads of coiled steel from Pittsburg to one account in the City of Commerce, Los Angeles County. That commodity is within the scope of the rail tariff items involved. He stated that although there had been no complaints from the customer, his company has not transported any shipments for that customer subsequent to the effective date of the rail rate reductions.

U. S. Steel

Complainants subpoenaed a traffic manager of U. S. Steel. According to this witness, the U. S. Steel plant at Pittsburg, California, is served by SP, ATSF, and the Sacramento Northern Railway. Within the plant there are a number of loading tracks located at various mills where specific steel articles are produced. These tracks can accommodate approximately 21 rail cars depending upon the length of the cars. The witness gave an example of loading time of approximately one hour at the rod mill which has a track capacity of three cars. Rail transit time to the consignee's plant in the Los Angeles area takes from three to five days, and averages four. The traffic manager was of the opinion that transit time is important, but was not aware of customer requirements in that regard. The witness stated that rail shipments are made daily from Pittsburg to Los Angeles, but did not know how many. He said that rail shipments are also made to interstate destinations.

The traffic manager explained that whether U. S. Steel or the consignee pays the freight depends upon a number of factors, including the nature of the product and size of shipment. The witness stated that the selection of the mode of transport (rail or truck) is left to the customer (receiver). He explained that if a customer specifies the routing, U. S. Steel attempts to honor it. In the case of a customer-preferred truck routing, U. S. Steel may select another carrier if the preferred carrier does not have equipment, is bankrupt, or does not possess necessary operating authority or insurance. The witness stated that in October 1972, a month he was familiar with, there were no requests for carriers that were not honored by U. S. Steel. The traffic manager stated that he

had no knowledge of whether any traffic had been diverted from truck to rail during any particular month. The witness said that requests to change the mode of transportation from truck to rail would come into the plant but would not come within his purview. He stated that he was certain that in conjunction with customer orders there are continuous requests to change carriers. He was not certain whether highway carriers use subhaulers, but presumed that they did.

The U. S. Steel traffic manager stated that when the rails published the reduced rates he made a study looking into the matter of the impact of those rates on the traffic of his company. With respect to truck transportation he stated that he contacted a number of carriers individually to discuss the rail rate reductions. He said that highway carriers were of the opinion that the 43-cent railroad rate was too low for truck transportation. Subsequently his company mailed highway carriers copies of the transportation service agreement containing a 52-cent rate (Exhibit 4), which rate subsequently was replaced by a 50-cent rate (Exhibit 5). The traffic manager stated that the only carrier representative that stated that the 50-cent rate was too low was the representative of BBD. The witness stated he had no idea whether a truck company could operate at the 50-cent rate. He stated that the 52-cent rate, and subsequently the 50-cent rate, were determined following separate discussions with individual truck lines.

Kaiser Steel

Complainants subpoenaed the general traffic manager of Kaiser Steel. The witness stated that he became aware of the rail rate reductions for the first time when they were published in the PSFB dockets in May 1972. The traffic manager

explained Exhibit 7 (marked by defendants' counsel) which shows that from January through October 1972 Kaiser Steel shipped from its mill in southern California to destinations north of Bakersfield (excluding Rocktram)^{14/} 419 rail carloads and 4,798 truckloads. Rail carloads for May, June, and July averaged 33 per month, as compared to an average of approximately 84 per month for August, September, and October following the rate reductions. This was an increase of 155 percent. Truckloads for May, June, and July averaged approximately 655 per month, as compared to 509 per month for August, September, and October. This was a reduction of approximately 22 percent. The witness stated that in the month of September 1972 there were 32 carloads transported to Rocktram. He said Kaiser Steel registers every Rocktram bill for transit with the assumption that more than 90 percent will be interstate commerce. He said that a very small percent of such transit shipments are intrastate.

In connection with railroad transportation from the Kaiser Steel mill he said that a boxcar, or a DF (damage free) car, or a covered gondola can be used. He stated that in connection with the transportation of galvanized coiled steel

^{14/} Certain rail movements from Kaiser Steel, San Bernardino County, to Rocktram, Napa County, consist of skelp, a specialized type of steel plate used in the manufacture of pipe. At Rocktram the skelp is fabricated into pipe, the majority of which moves outbound from Rocktram to interstate destinations at through rates under tariff provisions governing fabrication in transit. The rate for the pipe is the through rate from Kaiser Steel to ultimate destination, minus the rate for skelp from Kaiser Steel to Rocktram. A truck movement of skelp inbound to Rocktram with the outbound movement of pipe by rail would not qualify under rail tariff transit provisions.

that ordinary 40-foot flatbed trailers are used. The witness stated that Kaiser Steel had contracts with several highway carriers for transportation of iron, steel, and tinplate prior to the effective date of the reduced rail rates, and that the truck rate from San Francisco to Los Angeles is 50 cents. He stated that the motor carriers proposed the 50-cent rate and that each carrier wrote a letter acknowledging it.

Steel Receivers

Representatives of five receivers (major manufacturers who use steel) were called to testify for complainants. Although they both ship and receive, the testimony of these witnesses went principally to the inbound transportation from the steel mills to the receiving facilities of their companies. Three of the receivers are located on rail and two are located off rail. With respect to transportation between the major metropolitan areas involved it was stated that railroads can load heavier than trucks but that rail service is not as good. None of the witnesses had been solicited by the railroads subsequent to the railroad rate reductions for inbound California intrastate traffic, although some of them had been solicited for interstate traffic.

One of the receiver witnesses testified that in prior employment with Kaiser Steel he had used rail service to California points for transportation of structural steel, girders, and skelp. Another receiver witness stated that his company uses rail service on material that is over truck capacity, and where overnight delivery is not required. In other respects the witnesses stated that service is very important and that they had not used inbound rail service and would not use it at the lower rates (1) due to the greater

length of time in transit compared with truck, and (2) because those receivers located off rail would have the substantial disadvantage of making physical transfer of lading at rail-head to truck or forklift for ultimate delivery. It was explained that where cranes are needed, one lift would be required to effect physical transfer from rail car to truck, and another to unload the truck at the delivery point. One receiver witness explained that when a forklift can be used it is easier to unload from a truck than from a rail car. It was stated that truck service is needed because some of the articles are highly finished and are susceptible to rust, which usually can be prevented with overnight service. It was asserted that on some articles, freight damage claims are lower by truck. Other reasons advanced for preferring fast truck service for deliveries of steel articles to these manufacturers were production changes and requirements, short supplies of particular items, inadequate storage facilities or the cost of storage, contract penalty clauses, demands of contractors, and advantages of lower inventories. One receiver witness testified that although his company does not use rail service either inbound or outbound it spent \$30,000 for a new rail spur solely to obtain lower truck rates. It was stated that the going truck rates between points in the Los Angeles basin area and points in the San Francisco Bay area range from 43 to 50 cents (the lowest rail rate is 35 cents). For deliveries to off-rail points it was explained that combinations of the new rail rates and truck rates were lower than the through rates published in MRT 2. It was asserted by one witness that if there were no for-hire trucks available, proprietary trucks would be substituted.

The receiver witnesses stated that they usually designate the routing of steel articles from the mills but that their routing is not mandatory. This means that the steel mills have the right to substitute carriers. In general, the receivers stated that they would obtain no benefit from the railroad rate reductions, and that there had been no reductions made in the price of steel since the rail and truck rate reductions became effective. It was stated that the price of steel on a delivered basis is generally the same from any mill in California as from the controlling mill, which is the mill closest to destination. When steel articles move from a mill more distant than the controlling mill, the more distant mill absorbs a portion of the freight charges so that steel prices will be equalized. Therefore, a receiver in Los Angeles pays the same amount of freight whether he takes delivery from Kaiser or Pittsburgh. Although the steel mills normally pay the freight, steel articles sometimes arrive on a collect freight basis. In any event the delivered price of steel is adjusted on the invoice. It was stated that some of the steel articles contained in the tariff items in question are noncompetitive and on those particular items the prices are not equalized by the mills.

Teamsters Local 224

Complainants called a business agent of Teamsters Union Local 224 to testify. This witness testified on behalf of Local 224 with respect to the policing of effective labor agreements with truck companies in the Los Angeles area. Among these trucking companies are certain heavy haulers engaged in the transportation of steel articles.^{15/} He said certain of the steel haulers

^{15/} The witness stated that these included De Lair, West Transportation, BBD, Carey, General Cable, Motor Transport, B & G, B & L, Burton and Abel Truckline, Cargo Carriers, Brothers Transportation, among others.

transport only steel articles, whereas some transport other commodities as well. It was the substance of his testimony that since the reduced railroad rates became effective some of the trucking companies transporting steel articles have reduced the number of drivers which they employ. The union representative said that he was aware that the steel business lost to his members has not gone to union carriers in the Los Angeles area. He said that possibly the lost steel traffic had gone to non-union truckers. However, he did not know whether other truck companies or the railroads had increased their steel traffic since the railroad rates were reduced.

Truck Operation and Safety

A transportation safety consultant testified concerning truck safety on the highways. This witness possessed background and experience in truck operation, government regulation, and safety. He stated that at one time he operated his own trucks and was familiar with the transportation of steel. Essentially it was his testimony that highway carriers that disregard the law can be a safety hazard. He asserted that there is a correlation between safety on the highways and freight revenue. He contends that highway carriers must have sufficient revenue to keep vehicles in safe operating condition, and that drivers should be able to rest after driving the maximum number of hours allowed by governmental agencies. The witness stated that truckers who handle steel articles should be experienced, that drivers should not haul steel without some instruction, and that trucks should be maintained in excellent mechanical condition. He explained that steel should be properly tied down so that plates will not slide off in transit. It was his opinion that owner-operators (apparently referring to subhaulers) are primarily

concerned with retaining possession of their trucks. He said that in order to do this they travel fast and make as many trips as possible to earn sufficient revenue to cover truck payments, fuel, insurance, taxes, and living expenses. He said that owner-operators generally do not have established safety or preventive maintenance programs. He contends that there are many instances where they disregard the hours of service regulations of both the state and federal governments. On cross-examination the safety consultant stated that some motor common carriers also violate safety regulations.

A retired field investigator formerly employed by this Commission testified on behalf of complainants. It was the opinion of this witness that under the alternative rate provisions in MRT 2, truck rates and rail rates are generally the same. He believes this is undesirable for the reason that trucks do not perform the same type of service that the railroads do. It was his opinion that larger permitted carriers generally are better informed of their costs to operate per mile than are the smaller carriers. He stated that each year a number of permitted carriers in California go out of business due to insufficient revenue to pay for required insurance, C.O.D. bonds, and subhaul bonds.

Complainants' Rail Cost Evidence

A certified public accountant was called by complainants to testify concerning the results of a study he had made relative to railroad transportation of steel articles. The study consisted of a break-even analysis, cost and revenue analysis, and cost increase analysis. It was his position that under the break-even analysis the railroads would require 80 percent more weight at the reduced rate of 35 cents to equal the revenue that they would have received at the rate of 63 cents.

The accountant's cost and revenue analysis reflected both variable and fully allocated (fully distributed) cost data relative to certain railroad movements of steel articles obtained from a 1966 study prepared by the Interstate Commerce Commission.^{16/} He utilized the fully allocated costs. According to his figures fully allocated costs would be approximately 73 percent of the revenue produced by the steel shipments involved.

In his cost increase analysis the accountant applied the fully distributed cost factor of 73 percent of revenue to a 1966 rate from San Francisco to Long Beach of 45.5 cents, minimum weight 60,000 pounds, to arrive at a 1966 cost of 33.6 cents. He then indexed the 33.6-cent figure upward to reflect an estimated cost of 46.6 cents as of April 1, 1972.^{17/} The witness also calculated that 73 percent of the 63-cent rate would approximate a fully distributed cost of 46.6 cents. This cost would exceed the 35-cent rate by 11.6 cents.

Throughout his analyses the accounting witness assumed that the average shipment weight under the 63-cent rate, minimum weight 60,000 pounds, was the same as the average shipment weight

^{16/} Cost and traffic data previously developed by the ICC related to railroad movements in the Western District (west of the Mississippi River). It was the opinion of the witness that the ICC data covered mostly interstate traffic but did not exclude intrastate traffic. He said that the ICC figures on the steel articles involved reflected a weighted average carload of 95,200 pounds, transported a weighted average distance of approximately 640 railroad miles. The distance of 640 miles is approximately 40 percent greater than the railroad distance of 461 miles between Los Angeles and San Francisco.

^{17/} He assumed that the 73 percent relationship of fully distributed costs to revenues in 1966 was reasonably the same in 1972.

under the new 35-cent rate, minimum weight 120,000 pounds, (at least 120,000 pounds in both instances). On this assumption he considered the cost for all shipments transported the same distance to be the same. He admitted on cross-examination that he did not know the average weight of shipments under the 63-cent rate. He also admitted that the unit cost for 120,000 pounds would be considerably less than the unit cost for 60,000 pounds, and that if he had used 63 cents for a minimum weight of 60,000 pounds that his analyses would show an income rather than a net loss.

The accounting witness stated that in preparing his analyses he reviewed railroad general increase cases and studies in California, which reflected fully allocated costs.^{18/} The witness was of the opinion that fully allocated costs provide a fair allocation of overhead in addition to variable costs. He said all overhead is a cost and may not be dismissed simply because something contributes to overhead reduction. He stated that a rate which covers variable costs and contributes some dollars to overhead, but does not cover fully allocated costs, does not consider overall railroad operations. The witness was of the opinion that a rate that does not cover all overhead costs will result in a loss and will not insure capital investment necessary to continue operations.

The witness stated that he did not know whether SP is making or losing money on its systemwide operations. He explained that in Decision No. 80377 intrastate operations of California railroads were separated from systemwide operations. He said that California intrastate railroad operations showed a net loss

^{18/} The witness referred to Decision No. 78022 (1970) in Application No. 51944, and Decision No. 80377 (1972) in Application No. 53107.

of \$5.8 million, and that SP showed a California loss of \$2.9 million under then effective costs and proposed revenues, including a 2-1/2 percent surcharge.

The accounting witness stated in connection with his study that he did not find any prior proceeding before this Commission involving railroad rates on individual commodities. He did not know whether fully allocated costs or variable costs have been used in connection with railroad rates on specific commodities in previous decisions.

Defendants' Showing

Defendants presented four witnesses and introduced 18 exhibits. The evidence was presented for the purpose of showing that from 1967 through 1971 SP lost to trucks more than 90 percent of the steel traffic between northern and southern California; that following the rail rate reductions that intrastate steel traffic on ATSF and SP increased; that the reduced intrastate railroad steel rates were developed by established methods of railroad costing and rate making; that the reduced steel rates are well above variable costs and have been reasonably compensatory to the railroads; and that the use of fully allocated costs for individual commodity movements, including steel in California, would produce erroneous results.

SP Steel Costs

Defendants adduced cost evidence from a transportation analyst in the SP Bureau of Transportation Research. This witness introduced Exhibits 16, 17, and 18 reflecting the results of a railroad variable cost study for transportation of steel between certain California points. The SP cost witness gave his definition of variable costs as those which would not exist without the movement being considered. He said any excess of revenue

over variable costs would first go to cover overhead, and any excess over that would be profit.

Exhibit 16 shows the variable costs assignable to various segments of a transportation move (terminal costs, line haul cost, etc.). Separate factors are stated for two types of gondola cars and for box cars and flat cars. The exhibit is based on ICC Form A Unit Costs for Movement Within the Western District (Mountain Pacific and Transteritory) for the Year 1969. The witness stated that he would not use any different technique for costing rates in California than on an interstate basis. In Exhibit 17 the witness indexed upward the 1969 costs in Exhibit 16 to the April, 1972 level. The costs were updated based on a method prescribed in ICC Statement 2-58, which the witness stated was a standard ICC method of indexing costs of a given year up to a current level. The overall index in Exhibit 17 was 119.9 percent of the 1969 costs.

In Exhibit 18 the witness developed variable costs for railroad movements of the steel articles in question between specified California origins and destinations for minimum loads of 80,000 and 120,000 pounds. According to Exhibit 18 the origins and destinations were selected as being representative of moves made in California of the steel products in question. The data in Exhibit 18 resulted from applying the data developed in Exhibits 16 and 17 for general service and special service gondolas. The SP cost witness said that gondolas in California steel service are classed as general service gondolas. Between 11 origins in the Los Angeles basin area and 11 destinations in the San Francisco Bay area, the variable costs for general service gondolas, minimum 80,000 pounds, range from 31 to 38 cents compared to the reduced rate of 43 cents. The variable costs between the same points,

minimum 120,000 pounds, range from 23 to 28 cents as compared to the reduced rate of 35 cents. From San Diego to Rocktram (non-transit) the variable cost for 30,000 pounds is 45 cents compared to the reduced rate of 60 cents, and for 120,000 pounds the cost is 33 cents compared to the rate of 52 cents. The witness stated that Exhibit 18 contains variable costs calculated only for gondolas because most of the moves are in that type of equipment. He explained that the unit costs in Exhibit 16 show that box cars and flat cars would have a lower variable cost than gondolas due to a lower combined tare weight and empty return ratio. He said that for this reason box cars and flat cars would contribute more to overhead and profit than would gondolas.

The SP cost witness stated that he furnished the average per car variable costs used in SP traffic Exhibit 15 (discussed below), based upon the arithmetic average of the unit costs shown in Exhibit 18.

The SP cost witness testified in opposition to complainants' rail cost evidence. He stated that fully allocated cost for a specific move would be the variable cost plus some arbitrary allocation of the overall fixed expenses of the operation. He said that any allocation of fixed expenses would be arbitrary because it would have to be based upon past traffic volume which would have no relation by definition to a specific movement. He said: "...any fully allocated cost, I would term it a statistical fiction, it's just an arbitrary allocation of expenses that bear no relationship to a given move." He noted that the fully allocated cost method in Exhibit 9 introduced by complainants' cost witness was on the basis of a prorata share of tons and a prorata share of ton miles for a given movement. He stated that this method penalizes a more efficiently

loaded or fully loaded car by assigning a greater share of the fixed costs than would be assigned to a lighter load. He said that a fully allocated cost basis would put a high burden on an operation which is operating below its full capacity by assigning a full share of fixed cost to a relatively small number of moves.

The SP cost witness asserted that demand elasticity exists where an increase in the price of a commodity will drive off business to the extent that the total revenue drops with a raise in price. He said that if SP was forced to set a rate at fully allocated cost it would drive off traffic which could be carried between variable and fully allocated cost and the railroad would be in a worse net revenue position than by using variable cost. He explained that if traffic is driven off there would be less traffic to share the fixed costs, so that there would be a greater fully allocated cost for each move which, in turn, would drive off more traffic. He rationalized that the end result would be a railroad with a high fixed cost and no traffic. He contended that it is not possible to price railroad services on a fully allocated cost basis. He said if a railroad were operating at a systemwide loss it still should not price on the basis of fully allocated cost. It was his opinion that variable cost is the only consistent and rational basis for determining the amount above which a load should be carried.

The transportation analyst stated that SP costs vary from move to move with differences in weight, distance, and type of car, but do not vary depending upon whether the move is across state lines or not. The witness explained that he had made trips over some portions of the SP system and found that in California it operates over topographic features

(mountains, deserts, and valleys) which are typical of those over which the railroad operates in other states such as Arizona, New Mexico, Oregon, and Nevada. He said that the costs of operations in California are very close to the costs of operations in any other state in which SP operates. He said he would be familiar with any variances that would exist on any part of the system.

SP Steel Rates and Revenue

Defendants produced testimony through the traffic manager in charge of rates and divisions of SP. This official has direct supervision of all freight rates west of Denver and El Paso on the one hand, and western Canada on the other hand, in which SP participates. His duties include supervision of ratemaking and adjustments in existing rates. He introduced and explained Exhibit 12 which is a study of steel tonnage (excluding skelp) on SP between northern and southern California for the years 1967 through 1971. The exhibit shows that tonnage declined from 763,950 tons to 62,884 tons (approximately 92 percent) during the five-year period.

The SP traffic manager introduced Exhibit 13 which is a schematic map showing the primary steel producing points and the major consuming markets in the west where the rail lines made rate adjustments on steel articles, effective July 26, 1972. The points shown on Exhibit 13 are San Francisco Bay area, Los Angeles basin area, Phoenix, Salt Lake - Geneva, Seattle, Spokane, and Portland. Between each point are three lines of figures showing in the first line the lowest railroad rate and its minimum weight in effect prior to July 26, 1972 at the X-267-B increase level. The second two lines each show two reduced rates and the respective minimum weights. The witness stated that all of the rates on Exhibit 13 were interstate with the

exception of the rates between the San Francisco Bay area and the Los Angeles basin area. He said that all of the reduced rates (intrastate and interstate) became effective July 26, 1972.

The SP traffic manager explained that in order to carry out the objective of diverting steel traffic back to the railroads it was necessary to maintain relationships between various competitive producing points in common markets. He said the rail carriers experienced a major decline in steel traffic from all producing points to all market areas, but while there may have been a heavier erosion of traffic in one area than another, that it was necessary to look at all of the origins and all of the destinations on common products. He stated that it was necessary to consider related rate adjustments from all steel producing mills to all consuming markets.

The SP traffic manager introduced Exhibit 15 which was a method employed to demonstrate that subsequent to the rail rate reductions of July 26, 1972, there was an increase in the movement of steel between northern and southern California by SP, accompanied by an increase in average monthly net contribution to overhead and profit. Revenue data were taken from the waybills for January through August 1972 previously furnished complainants at deposition (Footnote 12, above), minus waybills covering skelp, plus waybills for September.^{19/} There were no waybills between July 26 and August 1. Average per car variable costs furnished by the SP cost witness were subtracted from average per car gross revenue to arrive at average per car net contribution for the first seven months, and also for August and September. The average per car net

^{19/} The SP traffic manager said that charges were determined from the weights shown on the waybills, but that the rates used were the applicable tariff rates. He indicated that the rates and charges shown on the waybills cannot be relied upon.

contribution figures were multiplied by the numbers of cars in each period and divided by the number of months to arrive at average monthly net contribution to overhead and profit. The average number of cars per month and average net contribution per month were greater in August and September than for the first seven months prior to the rate reductions.

Through rebuttal testimony complainants demonstrated that certain duplicate and triplicate waybills had been counted for the months of August and September. Complainants did not recount the waybills for the first seven months. The September, 1972 waybills were introduced by complainants as Exhibit 19. Defendants filed Exhibits 22 through 29 which were stated to be the waybills for January through August previously furnished complainants, minus the duplications and the waybills covering skelp. Altogether the nine exhibits cover approximately 330 carloads.

During cross-examination of the SP traffic manager it was developed that, in addition to the exclusion of waybills covering skelp, a number of other waybills had been excluded from Exhibits 22 through 29. The witness explained that approximately 20 of those were in-transit movements of plate (other than skelp) from Kaiser Steel to Rocktram, and from 40 to 50 were movements of pipe in the reverse direction from Rocktram to Kaiser Steel. He said that the pipe moved in transit south to Kaiser Steel for coating and thereafter to interstate destinations such as New Mexico. The witness stated that those waybills also had been correctly excluded by persons working under his direction, but that he had not been aware of

the exclusions at the time Exhibit 15 was introduced.^{20/}

The SP traffic manager explained the procedures involved in developing railroad rates, processing rate proposals, publication, docketing, and public hearing before the PSFB. He said that a railroad attempts to arrive at a rate which it believes will move the traffic and add to its net revenue. The traffic manager stated that when he determines that a rate adjustment^{21/} is in order he checks what traffic is moving under the rates presently in effect. He stated that if a rate is currently published that is not moving any traffic, and if by reducing it one additional car is handled that was not handled prior to the reduction, then his company feels that it has increased its net revenue.

The witness stated that marketing and competitive factors are relied upon primarily as bases for making railroad rate adjustments. He explained that in making railroad rates costs are considered as a guide and for comparative purposes, but that rates are not based upon costs plus a profit. His department obtains data from the SP cost department that can be used in arriving at costs between any points served by the railroad. He categorized these as line haul, car, and administrative costs. He stated that

^{20/} Exhibit 15 can be restated from the data in Exhibits 19, and 22 through 29. In their brief defendants furnished recapitulations of the contents of those exhibits showing the waybills, car numbers, weights in pounds, rates, and revenue. The restated results of Exhibit 15 show an increase in average monthly net contribution to overhead and profit of 12.2 percent for August and September 1972 over the monthly average net for January through July.

^{21/} The witness was referring to the making of rates on individual commodities or groups of commodities between designated points.

these data are upgraded periodically to cover increased operating costs. The witness said that rail costs have increased substantially over the past two or three years, and that such costs for moving steel articles between San Francisco and Los Angeles are more now than they were in 1969. It was his opinion that the increased costs consist primarily of costs for labor and materials. The SP traffic manager said that the cost data furnished in connection with the rate reductions on steel articles were for movements from the two largest steel-producing mills in California to various destinations.

The SP traffic manager stated that public hearings before the PSFB are set at the request of either a carrier or other interested party and that the hearing is duly publicized and open to anyone interested in a particular matter being considered. He explained that SP solicits the views of shippers and receivers as to the appropriateness of proposed rate adjustments on all commodities. In connection with the proposal for reduced steel rates various interested shippers and receivers of steel participated in the proceeding including representatives of Bethlehem Steel, U. S. Steel, and Kaiser Steel. No trucking organizations were represented. The witness explained that at PSFB public hearings shippers or receivers have a right to express their views for the benefit of the participating rail carriers but that no decisions are made at such hearings. He stated that shippers and receivers do not participate in the setting of rates. He said that SP is merely guided by their views as to what rate level might do the job of moving traffic by rail. Rate proposals before the PSFB are acted upon jointly by the railroads participating in a particular tariff. The railroad official stated that in connection with the subject rate adjustments on steel articles that the railroads contacted the major steel producers first.

He said that SP dealt primarily with the major steel producers and not with the consignees (receivers). He stated that SP had discussions with U. S. Steel concerning whether reduced railroad rates would divert steel traffic back to rail.

The SP traffic manager confirmed testimony of other witnesses that routing instructions for transportation from steel mills would be specified by the receiver and that transit time by rail in connection with carload movements of steel articles between San Francisco and Los Angeles is four to five days, and by truck it is overnight. He stated that shippers of steel articles were asking SP to transport more of their business, and that such traffic had increased since the rate reductions. It was his opinion that the rate adjustments had accomplished their objective, both within California and interstate.^{22/}

The traffic manager stated that of its total railroad operation the SP California intrastate portion is very small, the bulk of the revenue being derived from interstate traffic.

ATSF Steel Costs

A senior analyst in the Cost Analysis and Research Department of ATSF introduced and explained a railroad variable cost study he prepared covering transportation of iron and steel articles in California (Exhibit 20). The ATSF costs were from Kaiser Steel to six destinations in northern California, and from Pittsburg to Los Angeles. The witness stated that the origins and destinations were provided by the ATSF Traffic Department as points where ATSF had movements of the traffic in question. The ATSF witness developed his costs from the ICC Form A Unit

^{22/} By Supplement 8 to Tariff 272-C, effective March 28, 1973, the PSFB eliminated the expiration date of April 26, 1973 with respect to the reduced intrastate railroad rates.

Costs in a manner similar to that employed by the SP cost witness. The costs reflect the operation of general service gondolas, special service gondolas, and flat cars. Costs are stated with respect to weights of 60,000, 80,000, and 120,000 pounds. For general service gondolas the costs for 60,000 pounds range from 41 cents to 49 cents compared to the rate of 63 cents. For 80,000 pounds the costs range from 32 cents to 38 cents compared to the reduced rate of 43 cents. For 120,000 pounds the costs range from 23 cents to 28 cents compared to the reduced rate of 35 cents. His costs for special service gondolas and flat cars for 80,000 and 120,000 pounds are from two to three cents higher than the costs for general service gondolas.

The ATSF cost witness said that the variable cost method is the accepted method of costing by ATSF. He stated that other railroads and railroad bureaus and associations also use the ICC formula to calculate costs at the variable cost level. He said that to the best of his knowledge fully allocated costs are never used for the purpose of costing the movements of single commodities. He stated that normally fully allocated costs would be used in connection with an overall rate increase where comparisons are being made of all expenses and all revenues to determine rate of return. The witness stated that all ATSF tracks, depots, stations, and employees in California are employed in both intra-state and interstate operations, and that no Santa Fe facilities within California are used exclusively for intrastate operations. He also stated under the costing methods that he utilized costs would be no different whether a commodity moves across a state line or remains within a state.

ATSF Steel Rates and Revenue

An assistant manager of pricing for ATSF introduced a study comparing net contributions of iron and steel rates on

ATSF traffic between northern and southern California before and after the rate reductions on July 26, 1972 (Exhibit 21). The period covered was from January 1 to October 31, 1972. Prior to July 26 there were 117 intrastate cars, and from July 26 to October 31 there were 263 cars. He determined the average variable cost per car from costs in Exhibit 20 and subtracted those costs from average revenue per car to arrive at the contribution per car. He expanded the number of cars on the basis of 254 work days for the year and multiplied by the contribution per car to arrive at net contribution per year before and after the rate reductions. The calculations showed an increase in net contribution of 72.4 percent per year after the rate reductions.

The ATSF pricing witness stated that in determining the revenue for Exhibit 21 he did not use the revenue appearing on the waybills, but took the actual weight that was shown and multiplied it by the applicable rate. He explained that the revenues that railroad agents put on waybills are more often than not incorrect and are not used as a basis for billing. He explained that a freight bill is prepared from the information on a waybill except that the rate is audited.

The pricing witness said that in 1971 and 1972 (prior to the rate reductions) ATSF intrastate steel traffic had been steadily going down. He made a comparison for the three-month period of August, September, and October, 1971 with the same period in 1972 and found that the 1972 movement following the rate reductions was greater than for the same period in 1971.

The ATSF pricing witness testified that among other duties he prepares testimony for presentation before the ICC and state regulatory commissions. He said that he analyzes

each application as it is placed on the public docket, and develops data based on special studies made by the ATSF cost department in Chicago. He stated that he had heard the testimony of the SP traffic manager concerning the background of rate adjustments on the iron and steel articles in question, and the PSFB procedures, and stated that he was in agreement with that testimony.

Discussions and Conclusions

Throughout the proceeding complainants maintained that the burden of proof rests upon defendants because they established the reduced rates. Defendants argued that the burden of proof is with complainants, who challenged the lawfulness of the reduced rates.^{23/} In complaint proceedings of this nature we long have held that the burden of proof rests upon the complainant to show by clear and satisfactory evidence that the common carrier rates complained of are unreasonable, discriminatory, etc.^{24/} There is no reason to hold any differently here. Although the burden of proof in this proceeding is with complainants, defendants also produced material evidence for the purpose of showing that the reduced rail rates are reasonably compensatory to the railroads, do not place a burden on other railroad traffic, are not contrary to the provisions of Section 452 of the Public Utilities Code, and otherwise are not unlawful.

The problem presented is whether the reduced railroad rates are in violation of the law in any respect. Complainants have contended that the reduced railroad rates are unreasonably low and for that reason they will have an adverse effect on

^{23/} Except under circumstances described in Footnote 5 above, there is no requirement that a railroad obtain authority prior to reducing carload commodity rates.

^{24/} Sunshine Biscuits vs ATSF Ry (1949) 49 CPUC 155; California Portland Cement Co. vs SP (1931) 35 CRC 904; Sacramento Navigation Co. vs N. Faye, et al. (1925) 26 CRC 18.

railroads, highway carriers, and the general public.^{25/}

Complainants' rail cost analyses (Exhibit 9) were presented for the purpose of showing that fully allocated railroad costs are higher than the reduced railroad rates. In several respects the data do not properly relate to the circumstances involved here. The costs reflect approximately 40 percent greater average railroad mileage than the rail distance between Los Angeles and San Francisco. Furthermore, the costs assume that rail carloads under a 60,000 pound minimum would be the same average weight as under a 120,000 pound minimum. Exhibits 15 and 21 both show that after the rates were reduced by providing for higher minimum weights the average weight per car increased substantially. In effect, Exhibit 9, page 3, compares the cost at 60,000 pounds with the 35-cent rate for 120,000 pounds to arrive at a net loss. Had the cost at 60,000 pounds been compared with the 63-cent rate at 60,000 pounds a net contribution to overhead and profit would have been shown. We cannot accept the cost analyses in Exhibit 9.

With respect to their position that fully allocated costs should be utilized for construction of the railroad steel rates, complainants cited cases in which the Commission discussed, among other things, what a reasonable common carrier rate should provide. In Transportation of Petroleum and Petroleum Products (1936) 40 CRC 221 the Commission stated:

"A reasonable rate is one that will produce as nearly as possible all expenses, including a fair and just proportion of fixed charges, overhead, bond interest, and all other charges as the nature of the traffic will permit."
(Emphasis supplied.)

^{25/} Certain allegations made by complainants to the effect that the reduced rail rates were the result of a conspiracy between the railroads and two steel mills whereby the rail rate reductions had been arranged for the purpose of fixing truck rates on steel at reduced levels, were withdrawn (RT 61, 62, 127 through 137, 285, and 318).

In Application of John Byrne, Agent (1937) 40 CRC 357, involving a wide range of heavy moving commodities, the Commission stated:

"The railroad exhibit of costs in this case is developed upon operating expenses only and not upon a fully compensatory basis. It omits any allowance for taxes, bond interest and dividends, and these constitute about one third of all railroad expenses." (Emphasis supplied.)

Common carrier rates which contribute little or nothing above variable costs toward fixed costs, taxes, interest, dividends, etc., can be too low. This is not the circumstance here.

The reduced railroad steel rates are substantially above variable costs. There is nothing in the cases cited by complainants to show that rail rates on individual commodities should not be constructed on the basis of variable costs plus such contribution to overhead and profit, as the traffic will permit (assuming, of course, that rates so constructed are not excessive).

We conclude that fully allocated cost is not the proper cost basis for the rail carload steel rates in contention. We conclude that variable (out-of-pocket) cost is the proper basis for determining the amount above which a rail carload of steel should be carried. On this issue we rely on the railroad cost and traffic evidence in this proceeding and on the following decisions involving reduced rates on specific commodities:

Reduced Rates on Petroleum and Petroleum Products (1959) Decision No. 58664; Reduced Rates on Lumber (1959) Decision No. 58419; Reduced Rates on Cement (1951) 50 CPUC 622-636; Reduced Rates on Cement (1939) 42 CRC 93-118.

We have consistently held that rates on individual commodities are not below a reasonable and sufficient level if they make a reasonable contribution to fixed costs above the variable (out-of-pocket) costs. The level of the rates which

reflect the amount of the contribution, may vary so long as it is within what has been termed the "zone of reasonableness".

In Reduced Rates on Cement 50 CPUC 632, 633 we said:

"It is well established that rates may be unreasonable because they are too low as well as because they are too high. There is a zone of reasonableness within which common carriers, so long as statutory restrictions are not transgressed, may and should exercise discretion in establishing their rates. The upper limits of that zone are represented by the level at which the rates would be above the value of the service, or be excessive. The lower limits are fixed, generally, by the point at which the rates would fail to contribute revenue above the out-of-pocket cost of performing the service, would cast an undue burden on other traffic, or would be harmful to the public interest. Rates at the upper limits of the zone may be termed maximum reasonable rates; those at the lower limits of the zone may be termed minimum reasonable rates."

The circumstances involved in this proceeding are substantially parallel to those involved in Reduced Rates on Lumber Decision No. 53419. At page 11 we stated:

"The first question to be settled is whether or not the reduced rates here in issue are unreasonable. It has long been recognized that there is a zone of reasonableness within which common carriers may exercise discretion in establishing their rates. The lower limits of that zone are fixed, generally, by the point at which the rates would fail to contribute revenue above the out-of-pocket cost of performing the service. (Citing. See Investigation of Reduced Rates on Cement, 50 C.P.U.C. 622, 632 (1950)) Table 2, supra, shows that the reduced rates are above the costs developed by the Southern Pacific by a considerable margin. The question thus resolves itself into the acceptability of the railroad's cost estimates."

The California Supreme Court has recognized a zone of reasonableness in the establishment of freight rates, and what represents the lower limit of that zone. In Increased Rates,

Minimum Rate Tariff 2 (1957) 55 CPUC 789 we described the Supreme Court's holding as follows:

"...The extreme lower limit of the zone of reasonableness that could pertain to transportation has been defined by the California Supreme Court as '...in its minimum not so low that it will be destructive of the business of the common carrier, or that it will not return to the carrier at least the actual "cost of transportation".' S.P. v. Railroad Commission, 13 Cal 2d 87 (1939). The 'cost of transportation' referred to is out-of-pocket cost..."

Defendants presented the ATSF and SP cost studies (Exhibits 16, 17, 18, and 20) for the purpose of showing that the reduced rail rates are above the variable costs of performing the service. There is nothing in the record to show that defendants' cost or traffic evidence is understated or otherwise improper. The use of ICC Western District unit costs by the ATSF and SP cost witnesses is not inconsistent with past practice of developing railroad costs for individual commodities in California. In Reduced Rates on Lumber, Decision No. 58419, at page 11 we stated:

"As previously mentioned, protestants objected to the use of system-wide average unit costs. We are fully aware that it is virtually impossible, in an operation as large and diversified as that of Southern Pacific, to keep detailed cost records for every segment. In many instances averages must be used. In a study such as this, when such average costs are used in connection with factors peculiar to a particular segment or territory, a reasonably accurate picture is obtained. Even if local costs entirely could be obtained (which would be difficult if not impossible), we doubt whether the final results would be much different..."

The railroad steel rates between the Los Angeles basin area and the San Francisco Bay area are above the variable costs of ATSF and SP by considerable margins, as shown below:

<u>Rate</u>	<u>Minimum Weight in Pounds</u>	<u>Genl. Serv. Gondola Average Variable Cost in Cents (Exhs. 18 and 20)</u>	<u>Percent Rate Greater Than Variable Cost</u>
35	120,000	25	40%
43	80,000	34½	25
43	120,000	25	72
63	60,000	44½	42
63	80,000	34½	83
63	120,000	25	152

Exhibits and testimony of the railroad traffic witnesses show that increased traffic at the reduced railroad steel rates have increased average monthly net contribution to overhead and profit by approximately 75 percent in the case of ATSF, and by approximately 12 percent in the case of SP.^{26/} It has been demonstrated that the reduced rail steel rates are compensatory. No burden will fall on other railroad traffic. In fact, the contribution above variable costs will help reduce the overhead burden on other railroad traffic.

Prior to the rate reductions the railroad intrastate steel hauling business had steadily gravitated to trucks. Exhibit 12 shows that in 1967 SP handled 763,950 tons of steel (excluding skelp) between northern and southern California. By 1971 the

^{26/} Complainants' Exhibits 6 and 10 show that if different rates were assessed against the same rail traffic volume (SP, August 1972) that different revenue would be produced. Since the record shows that rail traffic volume and other conditions changed after July, 1972, it does not make for a valid comparison simply to apply to the August traffic the higher rates in effect prior to July 26, on the one hand, and the correct (lower) August rates on the other hand.

figure had dropped to 63,884 tons, a reduction of approximately 92 percent. The record shows that highway carriers of steel possess a very great advantage in being able to provide overnight service between the Los Angeles basin area and the San Francisco Bay area, in comparison to four-day average delivery by rail. The record indicates that highway carriers handle all or nearly all of the steel traffic to off-rail receivers, and that rail-truck combination service for the steel articles involved seldom, if ever, is performed within California. The rails have the capability of much heavier loading than trucks, and the advantage of lower costs (highway carriers generally do not haul for less than 50 cents). Because there had been a long precipitous decline in rail steel traffic prior to the effective date of the rail rate reductions, we conclude that the 63-cent rate was more than ratepayers generally were willing to pay for most rail service with much faster truck service available at the same rate. Exhibits 7, 15 (corrected), 20, and 21 show that following the rate reductions of July 26, 1972 rail steel traffic increased. Clearly, the railroads are now able to compete more effectively with highway carriers. A rate differential in favor of the rails is necessary if they are to continue to participate substantially in the intrastate steel traffic.

Complainants presented testimony and argument to the effect that the reduced rail rates caused the reduced truck rates, which in turn, have had an adverse effect on highway carriers to the degree that effective competition has been reduced, and that their operations may deteriorate to the point where transportation of steel on the highway may become unreliable and unsafe. Based on these points, complainants contend that the reduced rail rates are not in the public interest. We commented on the issue of rail rates being below truck costs in Reduced

Rates on Lumber, Decision No. 58419, page 13, as follows:

"In regard to the assertion that the trucking costs are higher than the reduced rail rates, we have said before:

'Although the statutory policy of this state is clearly against the continuation of destructive rate cutting practices, it is plainly not intended that this Commission should prevent the railroads from according the public the benefit of reduced rates when they have shown that they can operate more economically than other carriers; that the Commission should base rail rates upon truck costs; or that it should fix minimum rates for all carriers based upon the costs of the highest cost agency of transportation. Neither truck nor rail carriers are entitled to have an "umbrella" held over them if it appears that their services do not fill an essential public need. (Re Alcoholic Liquors, 43 C.R.C. 25, 36)' (Also citing SP Co. v Railroad Commission, 13 Cal 2d 89, 103).

The evidence of record shows that shippers and receivers usually can use either rail or truck service. The evidence shows that in many cases trucks are preferred because of convenience, speed of transit, or for other reasons. When the truck and rail rates are the same, these factors favor the truck. If additional service from the truck operator is considered more valuable, the trucker may charge and the shipper may pay a higher rate. The highway carrier is not required to charge the same rates as the railroad. We therefore find and conclude that the reduced rail rates are justified by transportation conditions."

We arrived at much the same conclusions in Reduced Rates on Petroleum and Petroleum Products, Decision No. 58664, pages 9 and 10.

The costs of one highway carrier engaged in the transportation of steel between the Los Angeles basin area and the San Francisco Bay area were disclosed. Exhibit 8 shows that the sum of the fixed and variable costs of BBD are approximately 57½ cents. The record is without evidence of the cost of transporting steel between those areas by any other highway carrier

complainant, or by any other steel hauler identified in the record. The oral testimony of Emerian that fuel and labor costs exceed the lowest rail rate from Dominguez to Sacramento was not backed up by records or summaries therefrom, which would be necessary to provide an adequate cost showing. The record discloses that all or nearly all of the highway carriers engaged in transporting steel between the Los Angeles basin area and the San Francisco Bay area charge 50 cents between railheads, and rates generally higher than 50 cents to off-rail receivers, as compared to the reduced rail rates of 43 and 35 cents. The record indicates that the 50-cent rate was arrived at by a number of highway carriers. We cannot conclude on this record that with very substantial demand for the service of for-hire trucks that the reduced rail rates caused highway carriers in general to reduce their rates between railheads below their own costs.

The highway carriers are charging above the railroad rates between the areas involved. The record does not show that those rates are not compensatory to highway carriers generally. If they deem it necessary to do so they may charge still higher rates to reflect their superior service, assuming in the case of highway common carriers that the requirements of Public Utilities Code Section 454 are met. In any event, it is up to the highway carriers to set their rates at levels compensatory to them. Under Section 3663 of the Public Utilities Code (Foot-note 9, above) the Commission is without authority to establish minimum rates for highway permit carriers which exceed railroad rates between rail-served points for the transportation here involved.

The record shows that certain principal highway carriers lost some steel traffic following the railroad rate reductions, and that the traffic losses were met by reducing the numbers of

drivers and trucks operated, and to some extent were compensated for by obtaining other kinds of traffic. The record discloses that following the railroad rate reductions highway carriers continue to haul steel in large quantities between points in California. The record does not support complainants' contentions that the reduced railroad rates have constituted destructive competition to highway carriers or will cause their operations to deteriorate, thus resulting in unsafe operations on the public highways.^{27/}

Complainants assert that the reasonableness of the reduced railroad steel rates should be considered in the light of the railroad net operating deficit from California intrastate operations reported in Decision No. 80377 of \$5,817,000, and particularly the ATSF and SP deficits of \$1,175,000 and \$2,900,000, respectively.^{28/} The railroads have experienced losses on California intrastate operations for many years. This should not prevent them from competing for available traffic where it is beneficial for them to do so.^{29/} The Commission has considered

27/ The Commission does not regulate truck safety. Safety relative to the condition and operation of for-hire trucks is regulated under the Vehicle Code. The truck safety provisions of the Vehicle Code are administered by the California Highway Patrol and other law enforcement agencies.

22/ 1972 annual reports show that ATSF and SP systemwide railroad operations are profitable.

29/ Railroad gross operating revenue from California intrastate freight operations is relatively small in comparison to revenue from highway carriers. On page 120 of our Annual Report for the fiscal year July 1, 1971 to June 30, 1972 we show that railroads reported \$100,780,000, or 6.91 percent of total for-hire carrier revenue. Highway carriers reported \$1,352,030,000, or 92.68 percent of the total. Air and water carriers accounted for less than one-half of one percent of total freight revenue.

this situation in prior proceedings involving reduced rates on individual commodities. In Reduced Rates on Cement (1951) 50 CPUC 622 the Commission said:

"We observe no necessary inconsistency in respondents' action in reducing particular rates while seeking general rate increases in other proceedings. Their evident objective in both instances is the same, i.e., to maximize their net revenues. The evidence in the present proceeding is convincing that the suspended rates, albeit they are reductions, will serve that purpose."

The circumstances are no different here.

Complainants' allege that the reduced railroad steel rates are a device to avoid the provisions of Section 452 of the Public Utilities Code. That section reads as follows:

"Nothing in this part shall be construed to prohibit any common carrier from establishing and charging a lower than a maximum reasonable rate for the transportation of property when the needs of commerce or public interest require. However, no common carrier subject to the jurisdiction of the commission may establish a rate less than a maximum reasonable rate for the transportation of property for the purpose of meeting the competitive charges of other carriers or the cost of other means of transportation which is less than the charges of competing carriers or the cost of transportation which might be incurred through other means of transportation, except upon such showing as is required by the commission and a finding by it that the rate is justified by transportation conditions. In determining the extent of such competition the commission shall make due and reasonable allowance for added or accessorial service performed by one carrier or agency of transportation which is not contemporaneously performed by the competing agency of transportation." (Former Sec. 13½.)

We have dealt with Section 452 in a number of prior cases. In Reduced Lumber Rates, Decision No. 58419, Pages 12 and 13 we stated:

"The next point at issue is the contention of protestants that under Section 452 of the Public Utilities Code, the reduced railroad rates are unlawful because they are below the cost of the transportation of lumber by truck. That section of the code permits the authorization of such rates if, after a showing, the Commission finds that the rates are justified by transportation conditions. The evidence is clear that the number of intra-state lumber shipments transported by respondents has declined to a marked extent over the past ten years. The decline is even more striking in the case of the short-line railroads located in the northern California lumber producing areas. The testimony of a number of shippers and receivers of lumber clearly shows that the trend during the past few years has been away from rail shipments. The evidence plainly leads us to the conclusion that, under the rates in effect prior to those involved in this proceeding, the railroads have been unable to compete on an equal basis with other forms of transportation. It is also apparent that the reduced rail rates will provide the railroads an opportunity to halt the decline in lumber traffic and probably increase the amount of rail lumber shipments. As the reduced rates are clearly above the out-of-pocket costs, no burden will fall on other railroad traffic. In fact, any increase in lumber tonnage will help contribute towards the rail-overhead burden. The public will therefore benefit from the lower cost of shipping lumber."

In Reduced Rates on Cement at 42 CRC 110, 111, we stated:

"It is a well-established principle that in the absence of statutory restrictions to the contrary, common carriers have the right to establish rates which are less than maximum reasonable rates provided such rates are not so low as to cast a burden on other traffic, and provided, of course, that no discrimination results."

The reduced railroad steel rates are above rail variable costs by considerable margins. Steel traffic has increased, and monthly net contributions have increased. The contributions help reduce the rail overhead burden on other traffic. To this extent the general public has benefitted. The reduced railroad steel rates are justified by transportation conditions. They do not transgress the provisions of Section 452 of the Public Utilities Code.

In the complaint it is alleged that the reduced railroad steel rates are unlawfully discriminatory. Section 453 of the Public Utilities Code reads as follows:

"No public utility shall, as to rates, charges, service, facilities, or in any other respect, make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage. No public utility shall establish or maintain any unreasonable difference as to rates, charges, service, facilities, or in any other respect, either as between localities or as between classes of service. The commission may determine any question of fact arising under this section."
(Former Sec. 19.)

To be unlawful, discrimination, prejudice, and preference must be unjust and undue. (Scott Lbr. Co. v ATSF R. Co. (1947) 47 CPUC 593; Reduced Rates on Cement (1951) 50 CPUC 622; Reduced Rates on Cement (1939) 42 CRC 92.) The record contains no evidence to show that the reduced railroad steel rates are unlawfully discriminatory to any person or corporation, or that any unreasonable difference in rates or charges exists either as between localities or between classes of service.

Unless a reduced common carrier rate has been shown to be unreasonably low or otherwise unlawful, the Commission has no basis to change it.

Findings

1. Steel, as described in and for which rates are provided in Items 8500, 8600, 8625, and 8650 of PSFB Tariff 272-C, has been transported by railroad between points in California, principally by ATSF and SP. Prior to 1972 intrastate steel tonnage on these railroads steadily declined, having been diverted to truck. Intrastate steel tonnage on SP between northern and southern California declined from 763,950 tons in 1967 to 62,884 tons in 1971, a reduction of more than 90 percent.

2. Effective July 26, 1972 the defendant railroads reduced California intrastate rates on steel concurrently with reductions in interstate rates from the primary steel producing points to the major consuming markets in the western part of the United States.

3. Between the Los Angeles basin area and the San Francisco Bay area the railroad steel rates were reduced from 63 cents, minimum 60,000 pounds, by adding rates of 43 cents and 35 cents, minimum 80,000 and 120,000 pounds, respectively.

4. The reduced railroad rates of 43 cents and 35 cents are subject to fewer tariff privileges than the 63-cent rate.

5. In the two months following the rate reductions there was an average monthly increase in intrastate steel tonnage on SP. In the three months following the rate reductions there was an average monthly increase in intrastate steel tonnage on ATSF.

6. Between the Los Angeles basin area and the San Francisco Bay area prior to July 26, 1972 the 63-cent rate was generally more than ratepayers were willing to pay for railroad transportation of most steel articles with much faster truck service available at the same rate.

7. Railroad movements of skelp in 1972 from Kaiser Steel to Rocktram, in conjunction with railroad movements of pipe outbound from Rocktram were principally through movements subject to tariffs governing fabrication in transit. Most of such through railroad movements of skelp and pipe were interstate commerce.

8. The lowest rate maintained by highway carriers prior to July 26, 1972 for transportation of steel between rail-served points in the Los Angeles basin area and rail-served points in the San Francisco Bay area was 63 cents, minimum weight 60,000 pounds, also the lowest rate maintained by the railroads on most steel articles.

9. The rate maintained by highway carriers beginning July 26, 1972 for transportation of steel between rail-served points in the Los Angeles basin area and rail-served points in the San Francisco Bay area was generally 50 cents. Rates to receivers located off rail were higher than 50 cents by different amounts depending upon the carrier and the distance off rail.

10. The sum of the fixed and variable costs of BBD for transporting steel between the Los Angeles basin area and the San Francisco Bay area is approximately 57½ cents per 100 pounds. The costs of other highway carriers transporting steel between those areas are not a matter of record.

11. Following the railroad rate reductions, BBD, Griley, and an undisclosed number of highway carriers within the labor jurisdiction of Teamsters Union Local 224, lost some steel traffic. The record does not show to what extent other highway carriers may have gained or lost steel traffic in California. BBD, Griley, and some other steel carriers also transport commodities other than steel.

12. Railroad variable costs developed by the witnesses from ATSF and SP, utilizing ICC Rail Form A Unit Costs, Mountain Pacific and Transterritory, and related procedures, were reasonable costs and procedures for use in developing railroad rates for movements of steel in California.

13. The reduced railroad steel rates are above variable costs of ATSF and SP by substantial margins.

14. The reduced railroad steel rates make reasonable net contributions to overhead and profit above the variable costs of ATSF and SP.

15. Fully allocated costs (California separations) are currently used only in railroad general increase proceedings to determine whether the rates for transportation of property in intrastate commerce in California are paying in excess of a fair proportionate share of the cost of maintenance of an adequate national railway system.

16. Fully allocated costs generally have not been used in California as bases for establishing railroad rates for movements of specific commodities.

17. It is not inconsistent for railroads in California to seek general increases in rates and, concurrently, reduce rates on particular commodities.

18. Rail transit time between the Los Angeles basin area and the San Francisco Bay area averages four days. Highway carriers have the capability of making overnight delivery.

19. In connection with the transportation of steel between points in the Los Angeles basin area and points in the San Francisco Bay area the railroads have the advantages over highway carriers of heavier loading capability and lower costs. Highway carriers have the advantages of substantially faster transit time, and the ability to make direct delivery to off-rail receivers.

20. The lowest common carrier rates by land for transportation of steel between railheads in the Los Angeles basin area and railheads in the San Francisco Bay area are the rates maintained by the railroads.

21. Highway carriers may and do maintain steel rates higher than the lowest common carrier rates by land.

22. The Commission should not prevent the railroads from according the public the benefit of reduced steel rates when they have shown that they can operate more economically than other carriers.

23. There is no evidence to find that the reduced railroad steel rates are destroying effective and reliable highway carrier competition; that they will cause unsafe conditions on the public highways; or that they otherwise are adverse to the public interest.

24. The reduced railroad steel rates are not unlawfully discriminatory.

25. The reduced railroad steel rates are not unreasonable or unjust. The reduced railroad rates do not burden other railroad traffic. They are well above a minimum reasonable level.

26. The reduced railroad steel rates are justified by transportation conditions.

27. The reduced railroad steel rates are not contrary to the provisions of Section 452 of the Public Utilities Code.

The Commission has carefully reviewed the entire record in this matter and concludes that the relief requested in this proceeding should be denied.

O R D E R

IT IS ORDERED that the relief requested 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 MARCH, 1974.

Vernon L. Stenger
President

William J. Squore

[Signature]
[Signature]
Commissioners

Commissioner J. P. Vukasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.