

Decision No. 11811

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of)
the Southern Pacific Company to in-)
crease certain freight class rates)
between San Francisco and other Bay)
points, and territory located in)
California north of Chico and Corning.)

APPLICATION NO. 8556.

F.B. Austin and E.C. Hallmark, For Southern Pacific Company.
Seth Mann, For San Francisco Chamber of Commerce.
W.D. Wall, For Traffic Bureau San Jose Chamber of Commerce.
E.W. Hollingsworth, For Traffic Bureau Oakland Chamber of Commerce.
J.C. Sommers, For Traffic Bureau Stockton Chamber of Commerce.
G.J. Bradley, For Merchants & Mfgs Traffic Association of
Sacramento, et al.,
G.E. Baker, H.M. Wade and F.M. Hill for Fresno Traffic Association.
W.O. Bank, For Standard Oil Company,
J.C. Stone, For Sacramento Northern Railroad.

BRUNDIGE, SEORE AND SEAVEY, COMMISSIONERS:

O P I N I O N

This is an application by the Southern Pacific Company, under Section 63 of the Public Utilities Act, for authority to make certain changes in class freight rates carried in Southern Pacific Tariffs 711-B, C.R.C. 2527; 917-C, C.R.C. 2780 and 360-K, C.R.C. 2559, and in Pacific Freight Tariff Bureau Tariff 148, C.R.C. 224, to and between points in Northern California, as per exhibits attached to and made part of the application.

The Commission is requested to authorize changes in intra-state rates, creating both increases and decreases, claimed to be necessary to prevent violations of that part of Section 21, Article XII of the State Constitution and of Section 24(a) of the Public

Utilities Act whereby it is unlawful, without the permission of this Commission, to charge more for a short than for a long haul, or more as a through rate than the aggregate of the intermediate rates. The changes are made necessary to meet the conditions of a schedule of mileage freight class rates imposed by the Interstate Commerce Commission by its order of November 6, 1922 in Docket No. 12830, Klamath County Chamber of Commerce vs. Southern Pacific Company, et al., Dockets 9294, 9408 and 9434, Portland Traffic & Transportation Association vs. Southern Pacific Company, and No. 9472, Medford Commercial Club vs. Southern Pacific Company (74 I.C.C. 207).

In the proceedings before the Interstate Commerce Commission the Oregon complainants alleged that the class rates from Portland, Medford and other Oregon points to Northern California territory as compared with the class rates from San Francisco, Oakland, Sacramento, Stockton and Marysville to the same destinations were unreasonable and excessive and unfairly stimulated the movement of traffic from California shipping points to the points of destination.

The Interstate Commerce Commission in its decision, Docket No. 12830, etc., supra, said:

"We find that there are no differences in circumstances and conditions which would justify such disparities and that the class rates from Portland, Medford and other Oregon points south of Portland to points in Northern California and southern Oregon, located in the destination territory outlined herein, as compared with the class rates from San Francisco, Sacramento, Oakland, Stockton and Marysville to the same destinations are unduly prejudicial to the Oregon points and unduly preferential of the central California jobbing centers named, and unjustly discriminatory against interstate commerce."

The order requires the carriers to put into effect, on or before February 24, 1923, from the California points, intrastate, rates as set forth in the mileage scale, which scale to the points in question is materially higher than the present mileage scale of the

California Commission-made rates.

The testimony of applicant's witnesses in the instant proceeding was to the effect that only certain rates at points north of Chico and Corning would be affected by the adjustment herein applied for and, further, that there was but little intrastate traffic moved under rates not directly controlled by the order of the Interstate Commerce Commission.

The class rates within the State of California to Northern California points were established July 10, 1917 in conformity with this Commission's decision in Cases 485, 580 and 686, (11, C.R.C. 867) and, with the war time adjustments, are still in effect. These rates were approved after a most exhaustive investigation and very careful consideration of all the elements entering into the adjustment and we are of the opinion that, per se, they are no less than just and reasonable.

In ordering the advances in the California rates the Interstate Commerce Commission no doubt relied upon the provisions of Section 13(4) of the Interstate Commerce Act.

"Whenever in any such investigation the Commission, after full hearing, finds that any such rate, fare, charge, classification, regulation, or practice causes any undue or unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce on the one hand and interstate or foreign commerce on the other hand, or any undue, unreasonable, or unjust discrimination against interstate or foreign commerce, which is hereby forbidden and declared to be unlawful, it shall prescribe the rate, fare, or charge, or the maximum or minimum, or maximum and minimum, thereafter to be charged, and the classification, regulation, or practice thereafter to be observed, in such manner as, in its judgment, will remove such advantage, preference, prejudice, or discrimination. Such rates, fares, charges, classifications, regulations, and practices shall be observed while in effect by the carriers parties to such proceeding affected thereby, the law of any State or the decision or order of any State authority to the contrary notwithstanding".

The Southern Pacific Company is seeking authority not only to increase the rates from San Francisco and the other California points to the northern destinations, but also to publish the same schedule of rates on southbound traffic. Their action, therefore, is in excess of the direct order of the Interstate Commerce Commission. Inasmuch, as heretofore stated, we are of the opinion that California intrastate rates are just and reasonable, it appears unnecessary and improper that the rates should be increased southbound. The plea of the carriers is that to have higher rates northbound than southbound would result in confusion and mistakes on the part of their agents and the shipping public. This reason does not present sufficient justification for increases southbound.

As heretofore stated, the Interstate Commerce Commission ordered the increased schedule of mileage rates put into effect within the State of California on or before February 24, 1923. The effective date of the order was, on January 17, 1923, upon request of the California Commission, modified to become effective on April 24, 1923.

Subsequent to modification of the order, petitions for rehearing were forwarded to the Interstate Commerce Commission by the McCloud River Railroad Company, Oakland Chamber of Commerce and the Railroad Commission of the State of California, all of which petitions have been denied.

Under all of the circumstances and after giving very careful consideration to the instant application, we believe the same should be granted, but only to the extent that the rates be increased in the northbound direction. This conclusion is reached

and the authorization is granted in order that there will be no confusion or interference in the establishment of the rates fixed by the Interstate Commerce Commission under authority of Transportation Act 1920.

Our conclusion is to meet an emergency situation and is not to be construed as an approval of the increased rates, and the authorization to increase the rates is without prejudice to the rights of this Commission or to any other party in interest as to further proceedings deemed necessary and advisable in the premises.

ORDER

Application having been made by the Southern Pacific Company for an order authorizing the increasing of certain intrastate class rates to and between points within Northern California in harmony with the increases ordered into effect by the Interstate Commerce Commission in its Docket No. 12830, etc., decided November 6, 1922, all of which is set forth in application and the exhibits on file with this Commission, a public hearing having been held on the said application, and the Commission being duly advised in the premises hereby finds as a fact that the application should be granted, but to cover the adjustment in the northbound rates only, and without prejudice to any further proceeding involving the same rates.

Basing our order on this finding of fact and the further findings contained in the opinion which precedes this order.

IT IS HEREBY ORDERED that the application insofar as it applies to northbound rates should be and the same is hereby granted, and the Southern Pacific Company is hereby authorized to establish the increased rates on or before April 24, 1923.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 16th day of March 1923.

C. L. Seavey

H. R. Brundage

Egerton Shore

J. L. Whittelsey
Commissioners.