

Decision No. 14710

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

San Francisco Chamber of Commerce,
Complainant,

vs.

Southern Pacific Company,
Atchison, Topeka & Santa Fe Railway
Company,
Defendants.

ORIGINAL

CASE NO. 1980

Seth Mann, for Complainant.

Sanborn, Roehl and DeLancey C. Smith, by A.B. Roehl and
R.D. Rynder for South San Francisco Chamber of Commerce,
Interveners; Manufacturers Association of South San
Francisco, Intervener.

E.W. Hollingsworth, R.T. Boyd, and Bishop & Bahler, for
Traffic Department, Oakland Chamber of Commerce,
Berkeley Manufacturers Association, Berkeley Chamber
of Commerce, and Richmond Chamber of Commerce, Interveners.

W.O. Banks and George M. Lown, for Standard Oil Company,
Intervener.

G.J. Bradley, for Merchants and Manufacturers Traffic
Association of Sacramento, Intervener.

J.M. Vizzard, for Draymen's Association of San Francisco, and
California Truck Owners Association, Interveners.

B.E. Bishop, for Montague Pipe and Steel Company, Interveners.

E.W. Camp and B. Levy, for Atchison, Topeka & Santa Fe Railway
Company, Defendant.

Elmer Westlake, H.W. Klein, and V.S. Andrus, for Southern
Pacific Company, Defendant.

BY THE COMMISSION:

O P I N I O N

The complainant, San Francisco Chamber of Commerce, is a
corporation organized under the laws of the State of California, with
offices in San Francisco, having for its object the promotion of the
commercial and industrial interests of the City and County of San

Francisco. Its membership includes merchants, manufacturers and shippers whose principal places of business are in the City and County of San Francisco and in South San Francisco.

By complaint as amended, complainant alleges: That it is in competition with shippers located in the City of Oakland and points adjacent thereto situated on the east side of San Francisco Bay; that defendants publish and maintain tariffs applying in the Oakland territory containing rates, charges, practices, regulations, services and facilities for the transportation of "trap car", or less carload, freight between industry tracks and private sidings on the one hand and the depots of defendants on the other; that for this so-called trap car service defendants make a charge of \$2.70 per car for the less than carload shipments contained therein when incidental to a line haul, regardless of the minimum weight or number of shipments; that notwithstanding complainants have made repeated demands, defendants have refused to establish a similar service within the switching limits of San Francisco; that there is now no trap car service in San Francisco except that established November 17, 1923 by the Western Pacific Railroad Company, as set forth in its Tariff G.F.D.35-J, C.R.C. 245; that said less carload switching service of the Western Pacific is limited to a minimum of 6000 pounds and is rendered without increase over the line haul rates; that the failure of defendants to establish a trap car privilege within their respective San Francisco switching limits creates undue and unreasonable discrimination against San Francisco and South San Francisco, and undue and unreasonable preference and advantage in favor of Oakland and other points, contrary to the provisions of the Constitution of the State of California and Section 19 of the Public Utilities Act. It is also alleged that establishment by the Southern Pacific Company of substations within

industrial plants in the San Francisco switching limits constitutes undue discrimination and unreasonable difference as to rates, charges, service and facilities against all shippers within the same switching limits.

The prayer for relief is that defendants be required to cease and desist violating the Constitution and the Public Utilities Act, and to publish and maintain such rates, charges, practices, regulations, service and facilities within the switching limits of San Francisco as will remove the undue discrimination and unreasonable differences maintained and enforced against San Francisco and South San Francisco.

A public hearing was held before Examiner Geary, and the case having been duly submitted and briefed is now ready for an opinion and order.

The South San Francisco Chamber of Commerce and the Manufacturers Association of South San Francisco intervened in support of the complaint, making substantially the same allegations. Other parties permitted to intervene were the Oakland Chamber of Commerce, Berkeley Manufacturers Association, Berkeley Chamber of Commerce, Richmond Chamber of Commerce, Standard Oil Company, Merchants & Manufacturers Association of Sacramento, Draymen's Association of San Francisco, California Truck Owners Association and Montague Pipe and Steel Company.

California railroads do not employ the term "trap car" in publishing less carload switching privileges, but it is a phrase commonly applied to a car placed at an industry or private track, there to be loaded with less than carload freight by the consignor for different line haul destinations, and is also applied to cars loaded with less than carload line haul freight moved from freight stations to industry or private tracks for unloading by the consignees.

The service rendered by carriers in connection with trap cars consists of switching the cars to and from industry tracks from and to freight stations and includes the necessary handling at stations or transfer platforms. This trap car service is of advantage to its users, eliminating drayage charges on less than carload shipments.

The Southern Pacific Company publishes Item 250-A in its Terminal Tariff No. 230-I, C.R.C. No.2826, reading as follows:

"Station-

Oakland, Cal.

Between Depot at Kirkham St., and

Industry Tracks and Private Sidings within the following

Switching Limits:

From 16th St. on the Port Costa Line, via Oakland Wharf and West Oakland, to west end of trestle west of Alice St. on the Niles Line.

Commodity

Freight Less Carload

Originating at or destined points on or via the lines of the Southern Pacific Company beyond Oakland, Cal.

Rate per car \$2.70"

Other items are published throughout the tariff providing similar service at all stations within the Oakland switching limits-Alameda, Berkeley, Emeryville, Fruitvale, also at Stege and Richmond. The tariffs of the Santa Fe and the Western Pacific provide like items in the same general territory. This so-called trap car service was first established in Oakland in 1906, immediately following the San Francisco earthquake and fire, to relieve the congestion created by that disaster, but the charges for the service performed were not properly published in tariff form until the year 1909, when the Southern Pacific made provisions in its Terminal Tariff. The priv-

ilege has been gradually extended to practically all stations within the Oakland switching limits and also to Stege and Richmond, points outside the Oakland limits.

Effective February 1, 1923 items were published in Southern Pacific Terminal Tariff providing that the industry tracks located at Chevrolet and at Durant would take the less than carload rates applying to Fruitvale when movement was from Chevrolet, and from Elmhurst when from Durant. This had the effect of making substations of the private tracks at these two industries and relieving the Chevrolet and Durant shippers from payment of the trap car charge of \$2.70; in other words, giving these two industries station rates.

At other stations within the Oakland switching limits, where less carload freight is handled from the private industry tracks, the charge of \$2.70 per car prevails.

The record indicates that out of a total of approximately 334 industries located in the Oakland territory 55 industries served by track connections are using the present trap car service. The largest user, the Standard Oil Company, with refineries and shipping agencies at Richmond, forwarded during the twelve months of 1923 via the Southern Pacific, outbound, 392 cars, having a total weight of 12,973,243 pounds, an average of 33,011 pounds per car, and via the Santa Fe 124 cars, total weight 2,069,243 pounds, an average of 16,823 pounds; inbound via the Southern Pacific 540 cars, total weight 8,746,074 pounds, average 16,249 pounds; via Santa Fe 159 cars, total weight 2,178,870 pounds, average 13,783 pounds, or a total via the rails of these two defendants, outbound and inbound, of 1205 cars, having a total weight of 25,967,420 pounds, approximately 100 cars per month. The heavier loading via Southern Pacific than via Santa

Fe is due to the larger territory served by the Southern Pacific and in this Richmond situation the inbound trap cars are in excess of the outbound, thus avoiding empty car mileage.

These figures clearly illustrate the magnitude of this trap car service, which has been of continual growth for a number of years.

The less carload trap car service within California is not confined to the East Bay territory, but is authorized at many stations throughout the State, as evidenced by the following table, made up from Southern Pacific Terminal Tariff 230-I, C.R.C. No.2826:

Item No.	Station	Commodity	Rate
1220-C	Stations in Arizona, California, Nevada, New Mexico, Utah and Oregon.	Freight Less Carload. (Containing one or (more pieces weighing (ing 5000 lbs.or (more, each)).	\$2.70
1230-B	Stations in Arizona, California, Nevada, New Mexico and Oregon.	Fruit, Dried Less Carload. 5000 lbs.or over.	\$2.70
1240-A	Stations in Arizona, California, Nevada, New Mexico and Oregon	Fruit, Fresh In partial carloads, for completion of load.	\$2.70
1290-A	Stations in Arizona, California, Nevada, New Mexico and Oregon	Fruit and Vegetables, Fresh, Less Carload.	\$2.70
1310	Stations south of Ashland, Ore.; Ogden, Utah and West. Rio Grande, N.M. and West.	Wool in sacks, in lots of 10,000 lbs. or over.	\$2.70
1580	Crockett, California	Freight, Less Carload.	29¢ per ton. Minimum charge; \$5.85 per car.
2320	Rocklin, California	Freight, Less Carload	29¢ per Minimum, \$5.85 per car
2340	Sacramento, California	Freight, Less Carload	29¢ per ton min. \$5.85 per car.

Item	Station	Commodity	Rate
2790	Santa Cruz, California	Freight, Less Carload	29¢ per ton min. \$2.70 per car
2810	South Vallejo, Calif.	Freight, Less Carload	\$2.70 per car

It will be noted from the above that in addition to the named stations, Crockett, Rocklin, Sacramento, Santa Cruz and South Vallejo, defendants now give less-carload trap car service at all stations in California, including San Francisco, in connection with articles weighing 5000 pounds or over - dried fruits, fresh fruits, fresh vegetables and wool.

The record shows the Santa Fe has trap car service in the States of Colorado, Kansas, Oklahoma and New Mexico, and also that the carriers throughout the United States east of Montana, Idaho, Utah and Arizona furnish the service at practically all important points, especially in the large industrial centers - Kansas City, St. Louis, St. Paul, Chicago, Omaha.

That the East Bay business associations take advantage of the trap car privilege is evidenced by extracts from publications distributed by their commercial organizations. In the record appears the following, taken from pamphlets distributed by the Oakland and Richmond Chambers of Commerce:

Oakland--"Less than Carload Shipments:

Oakland has a less-than-carload switching service which provides the shipping or receiving of less-than-carload shipments, any number to the car, for a charge of \$2.70 per car to the nearest depot. The service eliminates drayage service and charges and delivers less-than-carload shipments to the carriers at a very low charge. No other city on the Pacific Coast has such an arrangement."

Richmond -- "Trap Car Service:

Richmond enjoys a trap-car or L.C.L. service which in itself is enough to justify the location here of any factory having considerable L.C.L. or local shipments.

This service costs \$2.70 per car. For this fee the Southern Pacific or Santa Fe will pick up carload lots of L.C.L. shipments at the plant and transfer them to the freight warehouse, or handle incoming L.C.L. shipments from freight station to plant.

This service could not possibly be duplicated by truck for anything approximating the rate charged by the railroads.

Neither Los Angeles, San Francisco, Seattle, Portland, nor any other city on the Pacific Coast except the Eastbay cities, enjoys such a service."

There was evidence by witnesses for complainant and interveners to the effect that manufacturing and jobbing organizations have located in Oakland, and some have moved from San Francisco to Oakland because of the trap car privilege.

Witnesses for San Francisco and South San Francisco testified that trap cars would be freely used in those communities, especially by shippers of heavy articles and such use would be of benefit to defendants, relieving congestion at freight depots and platforms during the peak hours.

The defendants presented seven exhibits, the purport of the same being to estimate the number of trap cars which might be used if the service were put into effect at San Francisco, and as a consequence of such adjustment were to be established in the other large industrial communities throughout the State - Los Angeles, San Jose, Sacramento, Stockton and Fresno.

A check at San Francisco by the Southern Pacific of its less-carload freight for a period of six days, May 14 to 19 inclusive, 1923, showed 340 consignors and 79 consignees; of these only

124 consignors and 26 consignees have industry tracks. The exhibit further showed that of the total less car tonnage at San Francisco during those six days only 33 per cent originated at industries having private tracks; at Los Angeles for a like period 38 per cent was shown originating at industry tracks. Similar figures were prepared to illustrate the situation existing on the Santa Fe at San Francisco, Los Angeles, Stockton, Fresno and San Diego.

It will not be profitable to enter into any extensive analysis of all of the figures presented; they represent a check, in most instances, for only six days and the conclusions arrived at are based upon this test period, which appears insufficient to be of probative value.

In another exhibit the Southern Pacific estimates an average delay per trap car of 1.98 days and that based on an average of 84 cars required per day, at the seven industrial centers, San Francisco, Oakland, Los Angeles, San Jose, Sacramento, Stockton and Fresno, by shippers with industry tracks handling 6000 pounds and over per day would result in a loss of 167 car days per day or, based on 306 working days per year, of 51102 car days per annum. It is further estimated that the loss in defendant's earnings from these car detentions would total \$722,150.00 per year. These figures, however, are purely speculative, based upon a possible daily car movement of 35 miles at an average earning per net ton mile, and assessed against the trap cars include the full time required between carriers yards and the industry tracks, making no allowance for the time equipment would consume in regular service moving from the same yards to the depots or team-loading platforms. If this element were taken into consideration the car day losses of 1.98 per day would be materially reduced.

Defendant's Exhibit No.5 gives the average number of cars used per working day in the entire East Bay district, including Stege and Richmond, as 7.12. In that territory, according to Exhibit No.1, there are 135 shippers having private tracks, thus indicating that during the period of time covered by Exhibit No.5 one trap car per day was sufficient to meet the requirements of nineteen shippers. These figures would indicate that carriers would not be required to furnish the great number of trap cars estimated in their other exhibit.

The record is voluminous and defendants have gone into many phases of the situation. The main contentions are that operating conditions are dissimilar at San Francisco; that the Santa Fe has no direct rails into San Francisco, but must ferry all of its cars across the bay; that the San Francisco switching tracks have many sharp curves and severe grades, thus making the costs greater than at other comparable points, especially Oakland; that the present San Francisco freight houses and loading platforms are now used to the limit of capacity; that a trap car service would make necessary the expenditure of large sums of money to meet the situation; that less-carload freight is made up into trains at 5 P.M., resulting in 24 hours delay to trap car freight unless switched from private tracks early in the day; that the rehandling of trap car freight involves greater cost than moving the same freight over the station platforms. All of these contentions have been given our careful consideration and it will serve no good purpose to analyze the points in detail.

We are of the opinion and find that failure of defendants to establish within San Francisco switching limits trap car privileges and service and to maintain such service within the Oakland, Stege and Richmond switching limits is unduly prejudicial to San Francisco and

shippers thereat, and unduly preferential to the latter's competitors within Oakland, Stege and Richmond switching limits.

There remains for consideration the separate allegation against defendant Southern Pacific Company that by Supplement No.26 to C.R.C.No.2475, Southern Pacific Tariff G.F.D.Circular 263-D, it established substations at Grocers Terminal (Grocers Terminal Building) San Francisco, and at Ford (21st and Harrison Sts.) San Francisco, giving to these two points the less-carload rates applying to the San Francisco agency, and that this arrangement is preferential to shippers at these points and prejudicial to all other less-carload shippers within San Francisco switching limits. Both Grocers Terminal and Ford are under the jurisdiction of the San Francisco Freight Agency. The record makes it clear, however, that at these two points only the tenants occupying the Grocers Terminal Building and the Ford Automobile Buildings are permitted to forward or receive less-carload freight within the grounds, although the Southern Pacific Company furnishes its employees to check and assist in handling the freight. The general public has no access to the industry tracks or shipping facilities of these two substations and defendant makes no real effort to secure traffic and does not in good faith offer to serve the public at these points.

Complainant also made an effort to show that the handling of less-carload freight at Drumm Street Station within the San Francisco switching limits, but located on the State Belt Railroad, is a discrimination against other shippers. The evidence in the instant proceeding and the records of this Commission clearly show that for many years Drumm Street Station has been an agency station open and available to all shippers alike for receipt and delivery of carload and less-carload freight within certain defined territories.

We conclude and find as to the Drumm Street Station no discrimination, prejudice or preference has been shown to exist.

We conclude and find that maintenance by the Southern Pacific Company of the less-carload privileges and service at San Francisco in connection with private industry tracks within the properties of Grocers Terminal and Ford, privileges not extended to other shippers similarly located on private industry tracks within San Francisco switching limits, is the granting of preference and advantage, in violation of the provisions of the Constitution of the State of California and of Section 19 of the Public Utilities Act and, therefore, unlawful. A rate cannot be limited in its application to individual shippers. Defendant should remove the unlawful preference and advantage found to exist within the San Francisco switching limits, which includes South San Francisco.

The Southern Pacific Company has a comparable situation in Oakland in the less-carload service rendered for the Chevrolet and Durant private industry tracks, and while not directly in issue in this proceeding should be given consideration by defendant when making the San Francisco adjustment.

Carriers rendering less-carload service at line-haul rates from private industry tracks apparently are holding out a privilege of special character for which they are entitled to fair compensation, otherwise this less-carload service performed for one group of shippers without charge, or at only a nominal charge, becomes a burden upon other traffic. The instant record does not supply any cost figures upon which the Commission could base a reasonable charge for the service. It would appear, however, that for many years where the service has been performed, as outlined in the exhibits set forth in this opinion, the charge in most instances

has been \$2.70 per car regardless of the weight of the shipments or the number of packages.

Defendants should submit to the Commission within ninety (90) days from the date of this order its plan for removing the discrimination, and in this connection we would suggest that conferences be held with the interested shippers in both the San Francisco and Oakland territories in an effort to arrive at an arrangement satisfactory to both communities, non-preferential and in compliance with the State Constitution and the Public Utilities Act.

O R D E R

This case being at issue upon complaint and answer on file, having been duly heard and submitted by the parties, full investigation of the matters and things involved having been had, the Commission on the date hereof having made and filed its opinion containing its findings of fact and conclusions thereon, which said opinion is hereby referred to and made a part hereof, and the Commission having found in said opinion that the refusal of the defendants to establish less-carload switching privileges at San Francisco to the extent they are granted in Oakland, is unduly prejudicial to San Francisco; also that the granting of less-carload switching privileges to Grocers Terminal and Ford within

San Francisco switching limits is prejudicial to other shippers within the same switching limits.

IT IS HEREBY ORDERED that said defendants according as they participate in the transportation be and they are hereby notified and required to present to the Commission for its consideration, on or before ninety (90) days from the date of this order, tariffs removing the discrimination, preference and advantage found to exist.

Dated at San Francisco, California, this 27th
day of March, 1925:

H. B. Brundage
C. Beaumont
Egerton Shore

George D. Squires
G. M. Brundage