

Decision No. 14870

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA
- - - - -

ORIGINAL

Albers Bros. Milling Co.,
a corporation,
Complainant,

vs.

Southern Pacific Company,
a corporation,

Defendant.

CASE NO. 2063

C.S.Connolly, for Complainant.
H.W.Klein, L.B.Young and F.W.Kielke, for Defendant.

BY THE COMMISSION:

O P I N I O N

Complainant is a corporation engaged in buying and selling grain and manufactured grain products.

By complaint filed November 3, 1924 it is alleged that the rates charged on cereal foods and flour, from Oakland to Los Angeles and Riverside, which had been milled in transit at Oakland out of wheat shipped to that point from Seymour and Subaco stations, on the Sutter Branch of the Southern Pacific Company, were unjust, unreasonable and in violation of Sections 13 and 19 of the Public Utilities Act. The rates assessed were 48 cents per 100 pounds on nine carloads moved to Los Angeles, and 59 cents per 100 pounds on one carload moved to

Riverside during the period August 1, 1923 to May 1, 1924.

It is alleged that the through rate to Los Angeles, including milling in transit at Oakland, from Seymour and Subaco, should not have been in excess of $5\frac{1}{2}$ cents per 100 pounds, and from Seymour to Riverside $6\frac{1}{2}$ cents per 100 pounds over and above the rate of 35 cents per 100 pounds applying from Grace to Los Angeles, and 46 cents per 100 pounds from Grace to Riverside. Grace station is the junction point with the Sutter Basin Branch.

It is further alleged that the subsequently established rate of 42 cents from Seymour and Subaco to Los Angeles is also unjust, unreasonable and in violation of section 13 of the Public Utilities Act.

We are asked to establish just, reasonable and non-discriminatory rates for the future and to award reparation.

Rates will be stated in cents per 100 pounds.

A public hearing was held February 26, 1925 before Examiner Geary, and the matters having been duly submitted the case is now ready for an opinion and order.

The shipments here in question consisted of grain, originating at Seymour and Subaco, milled in transit at Oakland, destined Los Angeles and Riverside. The flour rates from point of origin to destination, and out of line haul for milling in transit at Oakland, were assessed and collected in accordance with the milling in transit rules and regulations as set forth in Southern Pacific Tariff 230-I, C.R.C. 2826 and, therefore, are not involved in this proceeding.

Seymour and Subaco are located in the Sacramento Valley Basin on the Sutter/Branch of the Southern Pacific, 6 and 10 miles respectively from the main-line junction, Grace. Seymour is

486 and Subaco 489 miles from Los Angeles. Seymour is 550 miles from Riverside. The rates collected were the Grace combination - 13 cents from Seymour and Subaco to Grace, plus 35 cents from Grace to Los Angeles, and 46 cents from Grace to Riverside. The 13 cent factor was the applicable Class A, and the factors from Grace, commodity rates.

The 35 cent rate from Grace to Los Angeles is a blanket rate and applies from Tajiguas on the Coast Line, Cable in the San Joaquin Valley on the south and Marysville on the north, but does not apply from Branch Line points within that territory. The following data, taken from exhibits submitted, is representative of the Branch Line differential existing in the Sacramento Valley and of rates in effect from Branch Line points in that territory for distances comparable with those here in question:

<u>DISTANCE</u>			<u>RATE</u>		
From	To	To	To	To	To
		Main Line		Main Line	Branch Line
		Los Angeles		Junction	Service
Seymour	486	6	* .48	* .35	* .13
			# .42	.35	# .07
Subaco	489	9	* .48	* .35	* .13
			# .42	.35	# .07
Hartley	484	9	.40 $\frac{1}{2}$	.35	.05 $\frac{1}{2}$
Allendale	486	11	.41 $\frac{1}{2}$	.35	.06 $\frac{1}{2}$
Wolfskill	490	15	.43 $\frac{1}{2}$	.35	.08 $\frac{1}{2}$
Fruto	551	17	.48 $\frac{1}{2}$	.40	.08 $\frac{1}{2}$
Millsholm	544	10	.45 $\frac{1}{2}$	.40	.05 $\frac{1}{2}$
Athens	548	14	.46 $\frac{1}{2}$	.40	.06 $\frac{1}{2}$
Colusa	517	25	.45 $\frac{1}{2}$	.40	.05 $\frac{1}{2}$
Hamilton	555	9	.45 $\frac{1}{2}$	.40	.05 $\frac{1}{2}$

* Effective at time shipments moved.

Subsequently established, effective Aug. 1, 1924.

The Sutter Basin Branch is served by side trips made by regular trains operating between Marysville and Woodland. These

side trips are made normally three times a week, except during the busy grain shipping season when trips are made every day.

Defendant testified that the serving of this branch line by main line trains is expensive, but other branch lines of the defendant's are also served by main-line trains where the branch line differential for such service is less than that existing on the Sutter Basin Branch.

Complainant had been negotiating with the defendant, for some time prior to the filing of this proceeding, in an endeavor to secure through published rates from Seymour and Subaco lower than the available combination, but it is stated that because the expected traffic of 55,000 tons per annum from points on the Sutter Basin Branch, the forecast of annual tonnage made in 1920 upon which the construction of the line was based, did not materialize until the latter part of 1924, defendant did not feel justified in reducing the rates until August 1, 1924. In an exhibit submitted it was shown that 45743 tons, or 83 per cent, of the expected tonnage had developed during the year 1923 and that during the year 1924 that branch produced 87436 tons, or more than was estimated when construction of the line was under consideration. While the volume of traffic is an element to be considered in determining the reasonableness of a rate, it is not the only controlling factor, being but one of the many elements to be considered. The realization or non-realization of the forecast of tonnage which caused the construction of the Sutter Basin Branch is not the governing measure by which reasonable rates should be judged.

Defendant submitted exhibits naming rates from branch

line points in the San Joaquin Valley; these exhibits indicate a maximum rate of $40\frac{1}{2}$ cents to Los Angeles, which is $5\frac{1}{2}$ cents over the main-line rates. The $5\frac{1}{2}$ cents differential is, in many instances, for distances in excess of those existing on the Sutter Basin Branch.

A rate of 41 cents from Seymour and Subaco to Los Angeles would yield a per ton mile revenue of .016 cents, and rate of 52 cents from Seymour to Riverside would yield a per ton mile revenue of .018 cents per ton mile. The per ton mile revenue for the longer haul, to Riverside, is greater than for the shorter, to Los Angeles, but this is because of the prevailing water-compelled adjustments to the Los Angeles territory. Based upon the average loading of 65,600 pounds, for the year 1923, of flour and commodities taking flour rates, between Northern and Southern California, the 41 cent rate would yield 55 cents per car mile and \$268.96 per car; the 52 cent rate yields 62 cents per car mile and \$341.12 per car.

No evidence of undue discrimination was submitted, and there will be no finding on that allegation.

Under the circumstances, we find that the rates assessed and collected on complainant's shipments were unjust and unreasonable to the extent they exceeded 41 cents per 100 pounds, minimum weight 40000 pounds, from Seymour and Subaco to Los Angeles, and 52 cents per 100 pounds, minimum weight 40000 pounds, from Seymour to Riverside, which rates we find just and reasonable for the future.

Complainant made the shipments as described, paid and bore the charges thereon upon the basis herein found unreasonable, and has been damaged in the amount of the difference between the charges paid and those that would have accrued upon the basis herein

found just and reasonable and is entitled to reparation with interest. The complainant should submit statement to the defendant of shipments for check. Should it not be possible to reach an agreement the matter may be referred to this Commission for further consideration and the entry of a supplementary order should such be necessary. Details of the shipments made subsequent to the hearing may be included in the reparation statement filed hereunder if accompanied by appropriate proof, in the form of an affidavit, that the shipments were made and the freight charges thereon were paid and borne by the complainant.

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, and basing this order on the findings of fact and the conclusions contained in the opinion, which opinion is hereby referred to and made a part hereof.

IT IS HEREBY ORDERED that Southern Pacific Company be and it is hereby notified and required to establish on or before June 1, 1925, upon notice to this Commission and to the general public by not less than five (5) days' filing and posting in the manner prescribed in Section 14 of the Public Utilities Act, and thereafter to maintain and apply to the transportation of flour and articles taking the same rates, as shown in Southern Pacific

Tariff 659-C, C.R.C.2500, carloads, minimum weight 40,000 pounds, 41 cents per 100 pounds from Seymour and Subaco to Los Angeles, and 52 cents per 100 pounds from Seymour to Riverside.

IT IS HEREBY FURTHER ORDERED that Southern Pacific Company refund with interest to Albers Bros. Milling Company all charges on shipments involved in this proceeding that may have been collected in excess of 41 cents per 100 pounds from Seymour and Subaco to Los Angeles, and 52 cents from Seymour to Riverside, rates found to be reasonable for the transportation of flour and articles taking the same rate, as shown in Southern Pacific Tariff 659-C, C.R.C. 2500.

Dated at San Francisco, California, this 30th
day of April, 1925.

H. H. Brundage

O. S. Brown

E. J. Shaw

Emmuel Scott
Commissioners.