

Decision No. 15119

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the investigation
on the Commission's own motion of the
reasonableness of the rates, service,
rules, regulations and practices of
the Southern Pacific Company.

ORIGINAL

Case No. 2041.

C. W. Durbrow and E. J. Foulds, for the
Southern Pacific Company.

Seth Mann and S. A. Everstine, for the
San Francisco Chamber of Commerce.

C. S. Connolly, for Albers Bros. Milling
Company.

A. E. Loder, for California State Automobile
Association.

George W. Gerhard, for Pacific League of
Improvement Clubs and Associations.

D. J. Hall, City Attorney, for the City
of Richmond.

SHORE and SEAVEY, COMMISSIONERS:

O P I N I O N

This is an investigation instituted on the Commission's own motion to determine the reasonableness of the fares, rates, charges, practices, rules and regulations of the vehicular ferry service of Southern Pacific Company between San Francisco and Oakland.

Public hearings were held in this matter in San Francisco on December 1, 1924, April 21, May 20, 21, 22, 26, and 27, 1925.

The order instituting this proceeding directed this investigation as to those rates and services shown in Southern

Pacific Company's local freight tariff No. 380-K, C.R.C. 2612, and Southern Pacific Company's local passenger tariff B.M. #1, C.R.C. 2979, issued June 22, 1921, effective July 1, 1921.

These tariffs refer to the Company's freight, vehicular and passenger business as handled by the vehicular ferries operating between San Francisco and the foot of Broadway, Oakland, and between San Francisco and the vehicular ferry slips at Oakland Mole, Oakland.

The Company contends that all of their trans-bay facilities, including San Francisco-Oakland auto ferry lines, the San Francisco-Richmond auto ferry line, ^{and} the San Francisco-East Bay passenger ferry and interurban electric lines render a single, separate and unified service. The above named tariffs do not include the San Francisco-Richmond auto ferry service nor the San Francisco-East Bay passenger ferry interurban electric line service and these services are therefore not before the Commission for investigation in this proceeding.

The mere fact, however, that these other rates and services were not included in the order instituting investigation does not make it inappropriate to discuss the merits of the carrier's claim that all of these services should be considered as a single, unified service.

In proof of their contention that the entire trans-bay system is a unified and separate service, Mr. F. L. Burchhalter, Assistant General Manager for Southern Pacific Company, testified in considerable detail regarding the past history of the vehicular traffic between San Francisco and Oakland, claiming that the interchange of facilities had, in the past, been necessary to keep pace with the changes and growth of the various forms of traffic, thus necessitating all of the trans-bay service being considered

as a single or unified service. Counsel for the Company, in his oral argument, referred to Mr. Burckhalter's testimony on the history and development of the ferry business and largely on that testimony based his contention that the whole trans-bay ferry and electric interurban rail operations of the Company constituted a single, separate and unified service.

Examination of the detail of Mr. Burckhalter's testimony in this regard shows that in 1912 the Company added an additional steamer to their vehicular ferry business in order to relieve the Oakland Pier passenger boats of the vehicular traffic which, it was stated, was more or less of a nuisance at any time when handled in conjunction with their passenger and railway service and in 1913 automobiles were entirely barred from the Oakland Pier passenger boats, due to safety reasons. This witness stated: "We have always regarded it as desirable to segregate the automobile traffic from the heavy loads of passenger traffic as a safety measure."

It also appears that the Company's public Time Table, which shows the regular schedule service rendered by the various vehicular ferry routes, carries the following notice:

"Note: This is exclusively a vehicular ferry service and is not connected with any part of any rail service."

The evidence further shows that in 1919, in an action before the Supreme Court of the State of California (Southern Pacific Company, a corporation, vs. Friend W. Richardson as State Treasurer of the State of California, 181 Cal. 280), in which this carrier sought to have its vehicular ferry operations exempted from taxation on a gross revenue basis, as provided in Section 14 of Article XIII of the Constitution, Southern Pacific Company contended that its vehicular ferry system was a distinct and separate service and in no way a part of its trans-bay passenger and rail service.

In its brief before the Court in that proceeding, the Company stated:

"We respectfully submit that the testimony we have briefly outlined clearly shows that from all of the four standpoints from which one may judge the use of this property, namely, Operating, Traffic, Accounting and Historical, the Creek Route Ferry System has never been exclusively or at all used 'in the operation of the Railroad business of the plaintiff', but has been separate and distinct from such railroad business to the same extent as if the Southern Pacific should buy and independently operate as it is now being operated the automobile ferry system at Bonicia, with which those who have motored from Sacramento to Oakland are familiar. This separation of the Creek Route Ferry System from the rail lines could not have been with taxation in view because it far antedates the present tax system. The fact remains that the separation was and has been throughout the life of the Ferry System an accomplished fact, and that the system might be entirely discontinued without in any way disturbing the railroad operations of the plaintiff or in any way impairing the functioning of the plaintiff as a common carrier by railroad."

"The appellant herein refers to the evidence that 'the record discloses that the Creek Route boats are repaired at a yard or shop maintained by the company for the use of all of the ferry boats employed by it in its transportation business.' This is not controlling. It might as well be said that if the Southern Pacific Company operated the Hotel Oakland and sent its pots and pans to the shipyard to be repaired that that would be evidence that the property of the Hotel Oakland was taxable under the gross receipts method." (Pages 18-19).

* * * * *

"It is respectfully submitted that the evidence clearly shows that the physical property of the Creek Route system is not only not exclusively employed in railroad service, but is not employed at all in such service." * * * * * (Page 23).

There was also included in the brief above quoted, a historical sketch of Southern Pacific Company's Creek Route ferry service supporting the contention of the Company in that case that its vehicular ferry service was entirely distinct and separate from its rail operations or other ferry services in connection therewith, and this historical sketch is closely parallel to the history of this service as given in the present proceeding by Mr. Burckhalter.

It does not appear from anything presented in the present proceeding that the relationship between the vehicular ferry service and the other operations of the Southern Pacific Company has changed since 1919, and since the decision of the Supreme Court in the case referred to was in favor of the Company, we see no reason for departing from that theory in this proceeding. The fact that in 1921 an entirely new vehicular ferry route was established to a newly constructed terminal at Oakland Mole does not, in any way, alter the status of the vehicular ferry service as being entirely distinct from the rail operations of the Company.

The evidence in this proceeding, including the testimony of the Company's witnesses goes to show that there is no mutuality of operations between the vehicular ferry service and any other part of the operations of this Company's system, including its trans-bay ferry and electric interurban service, except such minor and incidental relationship as naturally pertains to common ownership.

The same reasoning, however, does not apply to the contention of the Company that the Richmond auto ferry service, which was not in existence at the time this proceeding was instituted, should be included as a part of its unified ferry operations. No strong representations were made by the Company in support of this contention. The Company claims that it was to afford relief to the Oakland Ferries that it undertook the Richmond service. An exhibit was introduced (Southern Pacific Exhibit No. 20), in which it was shown from a three (3) day check that 68.0 per cent of the vehicles formerly handled by the Oakland ferries were destined to Alameda County points in the immediate vicinity of Oakland and that 32.0 per cent were through passengers destined to points more distant; that it was to relieve the Oakland ferry of a portion of these so-called through movements that the new service to Richmond was inaugurated. In view of

the fact that this exhibit shows that only approximately 45 per cent of the through traffic, or 14 per cent of the total traffic as shown by the exhibit, could use a ferry route via Richmond and probably a portion of this amount could be as conveniently served by the Oakland Ferry, it appears that the argument that the Richmond service is in the nature of a relief to the Oakland service, completely fails, as the relief to be so afforded obviously would be relatively small. Moreover, the Commission cannot ignore the fact that this very Richmond ferry service was authorized by this Commission by a certificate issued to an entirely different Company, viz: the San Francisco-Richmond Ferry Company and it appears that the franchise and certificate of that Company was subsequently acquired by the Southern Pacific Company. Very clearly this service, if rendered by the Company originally receiving the certificate, could not in any sense have been considered as a part of the vehicular ferry service being rendered by the Southern Pacific Company to Oakland. The fact that there has been a change of ownership in this route does not in any sense appear to change the distinctiveness of this service.

It appears, therefore, that the issues of this proceeding should be restricted to an investigation of the vehicular ferry service rendered by Southern Pacific Company between San Francisco and Oakland. This service is rendered over two routes, commonly called the Creek Route and the Oakland Pier Route, respectively. The former and older service is operated from the Ferry Building in San Francisco to the foot of Broadway in Oakland on a 45-minute headway during the week by using two boats, and on an hour and a half headway on Sundays and Holidays, using only one boat. The Oakland Pier Route is operated between the Ferry Building in San Francisco and vehicular ferry slips at Oakland Pier, which are reached by Seventh Street extended along the northerly

side of the Southern Pacific's rail terminal. On week days service is given on this latter route on a 30-minute headway, using two boats. On Saturdays a 20-minute headway is given and on Sundays and Holidays additional service is rendered as traffic requires, usually during peak periods with a maximum of five boats in service. The San Francisco terminals are leased from the Board of State Harbor Commissioners but the Company owns its terminals at the foot of Broadway and at Oakland Pier.

Vehicular ferry transportation between San Francisco and Oakland dates back to 1850. The growth in this service was slow until the advent of the automobile into common use, beginning about 1906. Since that time the traffic has grown rapidly and in 1921 service over the second route to Oakland (Oakland Pier Route) was inaugurated. Since the establishment of the augmented service to Oakland Pier, the total traffic has grown even more rapidly than before, although the Creek Route traffic has decreased.

The Commission's Engineering Department made a comprehensive study of the adequacy of the present service and with the exception of suggesting certain modifications and augmentations to the schedule, to take care of anticipated growth of business, and with the further exception of suggesting the replacements of single apron slips with double apron slips to more rapidly handle traffic at the terminals, the Engineering Department's report commends the service as excellent. The Engineering Department also made certain investigations as to the safety of the service, with the result that it found that during certain peak hours there was a tendency to so congest vehicles on the boats as to create an undue hazard of panic in case of fire or accident. It is recommended that automobiles be spaced 15 inches, both longitudinally and laterally, to permit the free movement of passengers in the event of fire or collision. This suggestion, for addition-

al safety, appears sound and should be put into effect.

The only other issue to be determined in this proceeding is the reasonableness of the rates and these will now be discussed.

The Commission's Engineering Department presented a detailed inventory and appraisal of the properties used by the Southern Pacific Company in their auto ferry service between San Francisco and Oakland (Commission's Exhibit No. 3). The values shown in this report are for a total value of all property, whether exclusively used in this service or jointly used in this and other services. A separate report was presented by the Commission's Engineering Department (Commission's Exhibit No. 7), in which a basis of apportionment of the jointly used properties was given. Four statements of value are presented and these totals, together with the amount apportioned to the auto ferry service, were stated as follows:

| | <u>Total</u> | <u>Apportioned to Auto Ferries</u> |
|--|--------------|--|
| Historical Reproduction Cost | \$7,344,432. | \$3,748,246. |
| Historical Reproduction Cost, Less Depreciation | 6,425,682. | 3,301,791. |
| Reproduction Cost New | 3,652,548. | 4,492,175. |
| Reproduction Cost New, Less Depreciation | 6,961,214. | 3,639,764. |

The Southern Pacific Company presented a statement of value, being upon a Reproduction Cost New basis, unappreciated, (Southern Pacific Company's Exhibit 13), in which the total value of property apportioned to auto ferry service, was stated to be \$13,236,469. All of the above statement of values were as of December 31st, 1924.

During the course of the hearing, Southern Pacific Com-

pany amended its statement of Reproduction Cost New, apportioned to auto ferry service, to \$10,313,036. Inasmuch as the Southern Pacific Company did not present any statement of value on any basis other than Reproduction Cost New, undepreciated, their figures are comparable only with the equivalent figures presented by the Engineering Department and these comparable figures of value are shown as follows:

| | <u>Unapportioned</u> | <u>Apportioned to Auto Ferry</u> |
|---|----------------------|--------------------------------------|
| Southern Pacific Reproduction Cost New | \$10,566,344. | \$10,313,036. |
| Commission's Engineering Dept. Reproduction Cost New | 8,652,548. | 4,492,175. |

The important differences between these figures appear to be made up as follows:

1. Unapportioned Value.

- (A) Differences in Inventory and Values.
 - (a) Southern Pacific includes value of Richmond Terminals.
 - (b) Southern Pacific claims larger value for lands.
 - (c) Southern Pacific includes all of Peralta Street wharf as compared with the used portion of that wharf included by the Engineering Department.
 - (d) Southern Pacific includes numerous items of floating working equipment. The Engineering Department includes only the Fire Tug "Ajax".
 - (e) Southern Pacific includes material and supplies, while the Engineering Department has, in its service report, added a comparable item of working capital to each of the four elements of value, determined by it.
 - (f) Southern Pacific exceeds Engineering Department in prices applied to certain items as follows:
 - (1) Dredging at Shipyard.
 - (2) Shop buildings at Shipyard.
 - (3) Terminals at Oakland Pier.
 - (4) Water Tank at Oakland Pier.
- (B) Southern Pacific exceeds Engineering Department in allowance for certain overhead expenditures incurred during construction as follows:
 - (a) Engineering
 - (b) Interest

2. Apportioned Value.

- (A) Southern Pacific differs from Engineering Department in apportioning certain items as between Oakland Auto Ferry Service and other services as follows:

- (a) Shipyard Property.
- (b) Water facilities at Oakland Pier.
- (c) Oil facilities at Oakland Pier.
- (d) Equipment.

A detailed comparison of the differences indicated above and conclusions as to each follows:

I. Unapportioned Value.

(A) Differences in Inventory and Values.

(a) Richmond.

Southern Pacific claimed value includes an item of \$234,598. for the Richmond Auto Ferry Terminal. Since the Richmond service is not under consideration in this proceeding, this item should be excluded.

(b) Land values.

The land value claimed by the Southern Pacific Company, Exhibit 10-A, with the exception of Oakland Pier, is the so-called "railroad value" which is the carrier's claim for present naked land value plus the cost of acquisition, incidental expenses, taxes and interest.

The value submitted by the Engineering Department of the Commission is the present value based on the market value of similar adjoining or adjacent lands in private ownership, nothing being added to market value to cover cost of acquisition, interest or any of the other items going to make up the so-called "Railroad ratio" or "multiple." By market value is meant the sale price between a willing buyer and a willing seller when neither the one is forced to buy nor the other to sell.

As included in exhibit 10-A, the items of cost of acquisition, incidental expenses, taxes and interest amount to a total of \$4,472,722.90.

It has been the consistent practice of this Commission to allow nothing for land value in excess of the fair average market value of similar lands in the vicinity and we see no reason in this case why the value of fee land should not be based on the average market value of adjacent property of similar character.

It is claimed by the Company that the term "ship channel" as used in the deeds to the water front properties on the north side of the Oakland inner harbor, is the United States Pierhead Line and that at the site of the Broadway slip and pier and the Marine Ways and Shipyards the Company's private ownership extends to the United States Pierhead Line.

It is the position of the Engineering Department of the Commission that private ownership extends to the low tide line of 1852 where same has been fixed by agreement, compromise or judicial action and where the low tide line of 1852 has not been fixed and a case comes up for adjudication at the present time then private ownership extends to the low tide line of 1852 as changed from day to day by such gradual and imperceptible changes as may occur in the location of that line until the date of action, nothing being lost by dredging and nothing being gained by filling.

In the City of Oakland vs. Samuel E. Bateau, 130 Cal., page 83, the Court says:

"It would seem, therefore, that the true interpretation of the term 'ship channel', as used in the act of May 4th, 1852, is the line of low tide as affected by such gradual and imperceptible changes as may, from time to time, take place in the location of that line."

From the evidence in this case it appears that the land at the southern boundary of the Broadway slip and pier and the Shipyards is considerably inside or shoreward of the United States Pierhead Line. For the purpose of this proceeding, however, no deduction is made from the areas as claimed by the Company on account of the location of "ship channel" and the unit values found.

are applied to the area extending to the United States Pierhead Line.

A tabulation showing the naked land values claimed by the Company as compared with the values found by the Engineering Department of the Commission, follows:

| I t e m | Company Exhibit 10-a | | | C.R.C. Exhibit 4 | | | Difference |
|----------------------------|----------------------|-------|-----------------|------------------|-------|--------------|-----------------|
| | Area in: | Unit | Total | Area in: | Unit | Total | |
| Marine Ways & Shipyards | 2312941 | 1.50S | \$ 3469261.50 | 2312341 | 1.00S | \$ 2312341 | \$ 1,564,20.50 |
| Broadway Slip & Pier | 107998 | 6.75S | 728311.50 | 95178 | 4.50S | 428301 | 300010.50 |
| Oakland Pier | 233743 | 1.00S | 233743.00 | 233743 | | 3035* | 230708.00 |
| Total | | | \$ 4,431,316.00 | | | \$ 2,744,177 | \$ 1,687,139.00 |

*Estimated Original Cost.

The area occupied by the Broadway slip and wharf, as submitted by the Company, consists of 2.477 acres of land, mostly submerged, located on the north side of the Oakland inner harbor from the west line of Broadway Street to the center line of Washington Street, and extending to the United States Pierhead line.

The naked or bare land value claimed by the Company for the site of the Broadway slip and wharf is \$728,311.50, based on a unit value of \$6.75 a sq. ft. This value is comparable to a value of \$428,301.00 for this property found by the Engineering Department of the Commission, based on a unit value of \$4.50 a sq. ft.

The difference in value of this property amounts to \$85,860. on account of the exclusion of the area of Washington Street by the Engineering Department of the Commission and \$214,150.50 on account of a difference of \$2.25 in the unit value of the property, or a total of \$300,010.50, by which the Engineer-

ing Department of the Commission is lower than the value submitted by the Company in Exhibit 10-A.

Mr. Boylin, witness for the Company, testified that the easterly half of Washington Street was still owned by the Southern Pacific Company and that they had never parted with title to that piece of land and Mr. Durbrow stated that in the case of City of Oakland vs. Oakland Waterfront Company, 162 Cal. page 675, the Supreme Court "holds that title to these streets did not vest in the City of Oakland."

A portion of the decree signed by the court below in the case of City of Oakland vs. Oakland Waterfront Company, (decided April 7, 1902, Superior Court of the County of Alameda, F. B. Ogden, Judge), is as follows:

"That plaintiff is also the owner of the easement and right of way as and for public streets over and across the following designated strips or parcels of the land described in the complaint to-wit: over and across those parts of Washington Street, Webster Street and Broadway Street in said City extending from the line of ordinary high tide to the line of ordinary low tide on the northern side of the Estuary of San Antonio which said strips or parcels of land or public streets dedicated to public use and that plaintiff's title to said pieces of land so owned by it and its said rights concerning sewers and its said easement and rights of way as and for public streets as aforesaid be and the same all and similar are hereby quieted."

This decree has been affirmed on appeal by the Supreme Court of this State, May 24, 1912, as will more fully appear by reference to the decision of that court, reported in Vol. 162 of Cal. reports, at page 675.

In the City of Oakland vs. S. E. Buteau, Superior Court of Alameda County, No. 37024, Department 2, January 27, 1924, under findings of fact is the following:

"Washington Street is a public highway in said City of Oakland, 80 feet 6 inches wide and extends from First Street to the line of ordinary low tide on the northerly side of Oakland harbor."

In statutes and amendments to the codes of California, 1923 Chapter 174, page 426, an act granting certain lands, tide lands and submerged lands of the State of California to the City of Oakland and regulating the management, use and control thereof,

approved May 18, 1923, the State grants to the City of Oakland all lands from the center line of Adeline Street to the eastern line of Washington Street and from the low tide line of 1852 to the south city limits of Oakland.

It is not incumbent on this Commission to pass on the ownership of the fee to the area included in Washington Street. From the evidence, however, it appears that Washington Street is a public street from First Street to the ordinary low tide line and that the land beyond the low tide line is owned by the City of Oakland. For this reason no part of the area of Washington Street should be included in this proceeding.

The Company's unit value for the Broadway property, \$6.75 a square foot, is based on the testimony of witnesses Sessions, Boylin and Taylor.

Although the record shows that all of these men are familiar in varying degrees with land values in Oakland, Mr. Sessions being particularly familiar with the Oakland water front, very little direct evidence was introduced to support their opinion on the value of this land.

Insofar as sales data was used by the Company's witnesses, the main reliance appears to be on the cost to the City of Oakland of the so-called Taylor purchase, located on the south side of First Street, between Broadway and Washington Streets, which was purchased by the City of Oakland, in 1911, at a cost of approximately \$4.70 a square foot.

In addition testimony was given on the sales of the following properties: An irregular parcel of land on the south side of First Street, between Clay and Washington Streets, acquired by condemnation by the City of Oakland, in 1911; the northwest corner of First and Broadway, sold in 1905, for \$4.75 a square foot; the southwest corner of Second and Broadway, sold

in 1910, at \$4.00 a square foot; two sales on the southeast corner of First and Franklin Streets, one for \$4.47 a square foot and another for \$3.50 a square foot, in 1911.

The testimony of the Commission's Assistant Engineer, Mr. E. P. McAuliffe, shows that the so-called Taylor land, above mentioned, was purchased from an unwilling seller; that condemnation proceedings were actually started and the consideration subsequently settled out of court, indicating that this sale was not made at market value as that term is used by this Commission. The Company witnesses admitted that the price paid by the City for this property was too high.

It will be noted that the most recent of the sales used by the Company's witnesses in support of their valuation were consummated in 1911, extending from 1905 to 1911.

The record shows a number of sales and other evidence of value of much more recent date on similarly situated properties that should certainly be given weight in considering a valuation as of December 31, 1924.

This evidence, introduced by Mr. McAuliffe, in support of a valuation of \$4.50 a square foot for the Broadway property, is as follows: Block 3, between First, Second, Grove and Jefferson Streets, sold in February, 1925, for \$1.825 per square foot; the east half of Block 4, fronting on First, Second, and Clay Streets; and lots 1 to 8, in Block 5, fronting on First, Second, and Clay Streets, sold in February, 1925, for \$2.11 per square foot; 6 lots at the southeast corner of Broadway and Second Streets sold in April, 1921, for \$2.08 per square foot, and the same property resold at a later date for \$2.47^{per}/square foot; 6 lots at the southwest corner of Third and Broadway sold, in November, 1920, for \$2.67 per square foot and an area of approximately 42500 square feet, on the south side of First Street, between Franklin and Webster Streets, was listed for sale, as of date of valuation, for \$2.50 a square foot.

A map (Southern Pacific Exhibit No. 8) was introduced by witness Sessions, purporting to show the areas and unit costs of certain lands purchased by the City of Oakland in 1910 and 1911. The ratio of water front value to upland value, as developed from this exhibit, was 2.81.

Subsequent testimony, however, developed the fact that the southerly boundary of the City purchases, as shown on Exhibit 8, was the quay wall and not the southerly boundary of the land actually acquired by the City. Company witness Taylor stated that the correct ratio was 1.5 and that he applied this ratio to an upland value of \$4.50 a square foot to obtain his unit value of \$6.75 a square foot for the Broadway land.

It appears from the evidence that \$4.50 a square foot is a reasonable value for the land at the Broadway slip and wharf.

The land at the Marine ways and shipyard consists of a tract of 56.697 acres on the north side of the inner harbor, with a water frontage of approximately 1500 feet and an average depth of over 1600 feet. More than 20 acres, or over 35 per cent, is submerged at low tide, and approximately 32 acres, or 57%, is submerged at high tide. The unit value of this land, as submitted by the Company, in Exhibit 10-A, is \$1.50 a square foot, while the unit value as found by the Engineering Department of the Commission, is \$1.00 a square foot. The unit value of \$1.50 a square foot is based on the testimony of Mr. Boylin, Mr. Sessions testifying that in his opinion the land has a value of \$2.50 a square foot.

As direct evidence of the value of this property, the record contains three sales; first, an irregular parcel of land, consisting of 6.48 acres, between First Street and the inner harbor and between the center line of Linden Street and the center line of Adeline Street, if extended, sold to Moore and Scott

Ship Building Company, in April 1920, for 73 cents a square foot; second, an irregular parcel of land, being a portion of the holdings of the Western Pacific Railway Company, located on the north side of the inner harbor between Adeline and Union Streets, if extended, consisting of 8.076 acres, sold to Moore and Scott Shipbuilding Company, in October, 1919, for 95-1/2 cents a square foot; third, an irregular parcel of water front land on the north side of the inner harbor, between Linden and Filbert Streets, if extended, consisting of 3.6 acres, sold to Moore and Scott, January 22, 1918, for \$1.30 a square foot. The first parcel, above described, is not water front land but is comparable to the rear portion of the shipyard.

The evidence is conflicting as to whether or not the second and third parcels, above described, are actually water front lands. The record shows, however, that in the deeds to each of these parcels the southerly boundary of the property is described as "ship channel" which is the same southerly boundary as contained in the Company's deed to the shipyard land. Therefore if ship channel is the pierhead line, the low tide line of 1852, or the present low tide line, these properties, as described in the deeds are all in the same category in respect to whether or not they are water front lands.

The record shows that one of these purchases by the shipbuilding company was made during the war and that the other two were made in 1919 and 1920, after the war, and during the most extensive shipbuilding era. The activity of the shipbuilding company at this time is indicated by the number of employees, there being but 700 to 750 men employed prior to the war and approximately 10000 men on an average during the war and the years 1919 and 1920. It was admitted that at this period the shipbuilding company was compelled to buy and, considering its necessity, it is fair to conclude that at the least a liberal price was paid for the property.

An attempt was made by Company's witnesses to show a great increase in the value of the lands in this vicinity during the last

few years as evidenced by the growth of shipping, the scarcity of remaining available property for purchase and development and relative assessments on the same properties from 1917 to 1924. Mr. Boylin testified that the Moore and Scott property is now assessed for 36 per cent more than at the date of the above sales and further testified (Southern Pacific Exhibit No. 21) that the percentage of assessed value to the sale price, as calculated by him on 14 water front sales, was 19 per cent.

The record also shows that a non-operative portion of the Western Pacific water front property, immediately adjoining the shipyard on the east, is assessed at approximately \$6000. an acre. Assuming the percentage of assessed value to real value, as testified to by Mr. Boylin, to be correct, this would give a value for this property, based on assessments, of \$31,579. an acre, or 72 cents a square foot. The record also shows that the water front sales under consideration are located east of the shipyard property and that the assessed value of these properties is approximately 100 per cent higher than the assessed value of the non-operative portion of the Western Pacific property adjoining the shipyard, indicating a much lower land value in the vicinity of the shipyard than in the vicinity of the Moore and Scott holdings.

It is concluded that \$1.00 a square foot represents a fair value for the land at the Marine Ways and Shipyard, as of December 31, 1924.

The land devoted to the vehicular ferry service at Oakland Pier consists of 5.366 acres on which is located two ferry slips and the road to same. This land is part of a tract of approximately 263 acres to which the Southern Pacific Company has the exclusive use and is occupied by the Company under a franchise granted by the City of Oakland.

Ordinance No. 3197, dated November 7, 1910, and approved November 23, 1910, grants to the Southern Pacific Company the right and franchise for a term of 50 years to the exclusive

use of a portion of the water front of the City of Oakland. The franchise generally is a settlement of many matters between the Company and the City and provides for the construction of certain water front improvements for the dedication of certain streets and the dismissals of certain suits and claims relevant to title to certain specified properties.

The Company's valuation of the portion of this franchise devoted to vehicular ferry transportation is the estimated fee value of the land so used. The Company's witnesses, Boylin and Sessions, testified that in their opinion the fee to the land at the Pier is owned by the Company.

The Commission must attach greater weight to the fact that the Southern Pacific Company accepted from the City of Oakland a franchise for the use of this property than to a new theory developed by one of its witnesses presuming to claim that the Company holds fee title to the property. It is reiterated that this Commission is not a proper tribunal before which to try title but for the purposes of this proceeding the fact that the Southern Pacific Company has accepted a franchise from the City of Oakland will be taken as prima facie evidence that the land is occupied under franchise and is not owned in fee by the Company.

Section 52, of the Public Utilities Act, provides, and it has been consistently held by this Commission, as expressed in its Decision 2412, dated May 24, 1915 (6 C.R.C. 1023), that no value can be allowed for a franchise other than the actual cost of acquisition.

There was no cash consideration for this franchise other than a nominal rental of \$1500. a year for the first twenty-five years and \$3000. a year for the second twenty-five years. There was, however, a sacrifice incurred by the Company represented principally by the value of the land dedicated for streets elsewhere and the value of the improvements that revert to the City at the end of the term of the franchise, and secondly, by the value of

whatever interest the Railroad Company had in certain properties and rights that were relinquished or quit-claimed to the City of Oakland.

These costs must be charged against all the rights received by the Company under the franchise, including the exclusive use of approximately 263 acres of land as well as the joint use of other large areas. The portion of such costs chargeable to the area devoted to the vehicular ferry service is, therefore, very small. Commission's Exhibit No. 4 includes the value of the land dedicated for public streets as same is described in the franchise, at an estimated value of \$146,760. The amount chargeable to the vehicular ferry service (5,366 acres) is \$3035.

Southern Pacific Company Exhibit No. 11, introduced by Mr. Boylin, "is an indication of the sacrifice that the Southern Pacific Company was put to in its negotiations with the City of Oakland covering that (263 acres at Oakland Pier) property."

Mr. Boylin testified that the so-called costs included in Exhibit No. 11 were not at present carried on the books of the Company. He also testified that he did not establish the values contained in the exhibit and that they were not the result of his own opinion.

It may be that there was some franchise cost, as measured by sacrifice incurred by the Company, other than the cost set forth in Commission's Exhibit 4, but in the absence of adequate evidence showing such cost, it appears that \$3035. is a reasonable amount to allow as the cost of that portion of the franchise devoted to the use of the vehicular ferry service.

In view of the evidence presented, there should be deducted from the claim of the Southern Pacific Company (Exhibit 10-A), for the value of lands, the sum of \$6,159,862.

(c) Peralta Street Wharf.

Southern Pacific includes all of the value of the Peralta Street slip and wharf, whereas the Engineering Department only includes a portion of that facility. It appears that a portion of this facility is not used in any manner, that it is fenced off because of unsafe condition and that there has been tied up in the slip itself for two years a condemned boat on which no work is performed. Under these circumstances it does not appear proper to include that portion of a facility which is not only not used but useless.

Witness for Southern Pacific stated that it had plans for the replacement of this entire facility with a more adequate facility, at a cost of approximately \$100,000. The Peralta Street slip and wharf were built for use as a rail freight terminal, and the fact that it was not designed as a shipyard facility and is only partly so used, appears to be conclusive evidence that it should not be included as a part of the value of the shipyard property to any greater extent than it is actually used at the present time. The value of that portion of this facility, which the Southern Pacific claims should be included, and which has not been allowed by the Engineering Department, based on Southern Pacific values amounts to \$65,417.

(d) Floating Work Equipment.

Southern Pacific's unapportioned value includes \$651,392. for a number of items of floating work equipment, whereas the Engineering Department excludes all such items except the fire tug "Ajax". The Southern Pacific Company's unapportioned value for the fire tug "Ajax" amounts to \$149,349. The Commission's Transportation Engineer, A. G. Mott, testified that work equipment was not included in the Engineering Department's valuation but that an allowance for rental of work equipment was included in the prices of the quantities entering in the valuation itself and recommended a yearly allowance in operating expenses of \$10,000,

for the use of certain facilities only incidentally used, such as floating work equipment, oil pipe lines and general shops, and which were not included in the Engineering Department's valuation. With such an allowance made in operating expenses, it does not appear proper to include the value of facilities only remotely or incidentally used in this service in the rate base. This would result in a deduction of \$502,043. from the Southern Pacific figure.

(e) Material and Supplies.

Southern Pacific Company includes \$284,996. for material and supplies and fuel oil. No allowance was directly made by the Engineering Department for this item, but the Engineering Department, in its service report, adds to its total apportioned valuation figures an amount which it states is largely to cover a reasonable allowance for a stock of materials and supplies and such expenses which are incurred somewhat in advance of the rendering of the service. When this is considered with the fact that the Company's allowance for material and supplies is based upon 43 per cent of all shipyard supplies, it appears that the allowance of the Engineering Department for working capital, including stock of material and supplies, is adequate.

The working capital, as included by the Engineering Department, amounts to \$83,400. This amount should be added to any figure of value found, in order to arrive at a proper rate base. Using this method of determining the rate base, and in view of the evidence, it appears proper to deduct these items of material and supplies from the Southern Pacific Company's claim of value.

(f)-1. Dredging at Shipyard.

The Southern Pacific claimed a value of \$70,000. for the dredging at the Marine Ways. The Engineering Department gave a value of \$19,604. for this work. The Company testified that its claim as to this item was based on the allowance of \$40,000. made by the Interstate Commerce Commission in its valuation of 1916. This amount was raised by a ratio of \$70,000. as shown in Southern

Pacific Company's Exhibit No. 13. As a further basis for its claim, it was stated that in the original work order, dated April 29, 1904, an amount of \$19,385. was estimated as necessary for excavation and dredging and that this estimate for the work was exceeded.

It was pointed out by Mr. Mott that the Interstate Commerce Commission's value for the Marine Ways, including dredging and hoisting apparatus was \$111,510. and that the Engineering Department's value for the same facilities was \$143,173. Mr. Baker, a Valuation Engineer for the Company, testified that while the \$40,000. was included in the \$111,510., which would indicate that the Engineering Department's value was high, the Interstate Commerce Commission had admitted an error of \$50,000. in this item and that a like addition would be made in the revised report. This would increase the Interstate Commerce Commission's value to \$161,510.

Both the Southern Pacific and the Engineering Department used the Interstate Commerce Commission's report in support for this item and it is concluded that \$161,510. as established in that report, should be used. This would result in an increase in the Engineering Department's figure of \$33,834. and a decrease in the Southern Pacific's figure of \$7,320.

(f)-2. Shop buildings at Shipyard.

The Engineering Department value of shop buildings at the shipyards amounts to \$134,939. The Southern Pacific claim is \$192,343. These values were in both instances obtained by applying ratios to the value determined under historical conditions. The historical values were not far apart, the difference in the final results being accounted for by the different ratios used. The Southern Pacific Company used a ratio of 2.10 and the Engineering Department used a ratio of 1.75. Witness for the Southern Pacific testified that its ratio was similar to the general index number established by the Engineering News-Record for structural price levels and that no attempt was made to establish a ratio applying to these

particular facilities. The Engineering Department's ratio was compiled from a study of costs as applied to inventory of these shops, these costs being determined by the materials and labor involved in that inventory.

It is concluded that the values given by the Engineering Department are more reasonable and should be used, which would result in a deduction from the Southern Pacific figure amounting to \$57,404.

(2)-3. Terminals at Oakland Pier.

The Southern Pacific valuation includes \$215,848. for wharves and slips at Oakland Pier. The Engineering Department includes \$186,076. The Southern Pacific value for wharves was taken from the record of cost as shown in the completion reports. No attempt was made by the Southern Pacific Valuation Department for the purpose of its report in this matter to check these completion reports either as to inventory or price. An examination of the detail of these reports shows that they are inconsistently compiled and cannot be taken unquestioned to represent the actual cost of investment. The Engineering Department value was compiled from a detailed field inventory and appraisal and the value so determined should be used. This results in a deduction of \$29,772. from the value as found by the Southern Pacific.

(2)-4. Water tank at Oakland Pier.

The Southern Pacific includes in its valuation \$11,008. as the value of the water tank at Oakland Pier. The Engineering Department includes \$4,907. The Company presented certain testimony in support of its value and pointed out that the water tank was similar in size to the oil tank in the same location, both of which are of 65,000 gallons capacity. The water tank is supported at the top of a 74 foot steel tower resting on a concrete mat and pile foundation. The oil tank rests on a low tower and should be a cheaper structure. In the Southern Pacific Company's valuation it is so shown, the value of the water tank being \$11,008., and

that of the oil tank being \$6,554. In the Engineering Department's valuation, a value of \$4,907. is given for the water tank and a value of \$5,636. for the oil tank. It would appear from the evidence that the Southern Pacific Company's value for the water tank is more reasonable and consequently should be used. This would result in a \$6,102. addition to the Engineering Department's value.

(B) Allowance for Engineering and Interest.

(a) Engineering.

The Southern Pacific applied 6 per cent to Accounts 3 to 44 inclusive for Engineering. The Engineering Department applied 4 per cent to the same Accounts. The Southern Pacific based its claim for Engineering on studies of eleven construction jobs of the Company amounting in money to \$39,392,781. A percentage of 5.98 per cent was developed and 6 per cent was used. None of the construction work within the scope of these auto ferry properties was involved in the above studies and no actual study of the engineering expended on any portion of the property included in auto ferry service was made. The percentage used by the Engineering Department was developed for these particular properties and that percentage should be used.

(b) Interest during construction.

The Southern Pacific Company applied 10 per cent to Accounts 1 and 3 to 47 inclusive for interest during construction, and 5 per cent to Account 56 (Floating Equipment) and 57 (Work Equipment), which amounted in money to \$413,064. The Engineering Department applied the following percentages to Accounts 1 and 3 to 44 inclusive, these accounts being segregated for different locations:

| | | | |
|---|-----------------|-----|------|
| Marine Ways | 4 $\frac{1}{2}$ | per | cent |
| Oakland Pier | 3 | " | " |
| Broadway | 3 | " | " |
| Equipment (including Accounts 56 and 57) | 3 | " | " |

The percentage as used by the Southern Pacific Company

was developed on the basis of a three year construction period for those facilities at the Pier and the Oakland yards; these facilities being considered as a part of a relatively large unit of its rail system, extending from Oakland to Tracy via Niles.

The Engineering Department's allowance is based on 6 per cent per annum for one half of an estimated construction period plus 3 months.

The Southern Pacific Company testified that in their opinion it would not require three years to build the auto ferry facilities and that no attempt had been made in their estimate to establish any construction period for those particular facilities other than that used for the entire valuation section.

It, therefore, appears that the percentages as developed by the Engineering Department should be used and, substituting the Engineering Department's allowances for these overhead expenditures for those used by the Southern Pacific Company, the Company's statement of value would be reduced by \$195,168.

The unapportioned reproduction costs of these properties, after being corrected as above discussed, compare as follows:

| | |
|--------------------------|--------------|
| Southern Pacific Company | \$8,912,776. |
| Engineering Department | 8,697,392. |

It is seen from the above comparison that a reconciliation of the differences as enumerated above, results in very similar values, the difference yet remaining being due to certain small and unimportant differences in individual items not included in the analysis.

2. Apportioned Value.

With the above adjustments made to inventory and value on Reproduction New basis unapportioned, a further analysis of the proper apportionment of certain items of property jointly used in conjunction with other operations of the Company is necessary.

(a) Marine Ways and Shipyards.

The most important of these jointly used properties is the Marine Ways and Shipyards.

The Engineering Department, in Commission's Exhibit No. 7, pointed out the inefficiency, in their opinion, of this facility, both as to investment and operation. In this exhibit no properties were segregated as between operative and non-operative property, but all properties included in the valuation were considered as operative with the exception of the unused portion of the land at the shipyards. The Engineering Department presented, in the same exhibit, the results of their detailed field inspection from which it determined, that only 47.84 per cent of the land should be classified as operative, and that even this operative portion could have been much more efficiently developed had it not been used as a combined freight terminal and shipyard.

The Company made no segregation of this land, the total area being included in their valuation as operative property. Mr. Burckhalter stated, however, that, in his opinion, that portion of those lands used for a pile boom should not have been included. This boom, he estimated, occupied 21.4 per cent of the total land area. The Company also testified that certain tracks, within the shipyards leading to the old Peralto Street freight slip, were not included in the valuation. No deduction was made, however, from land for the area occupied by these tracks. In regard to the remaining unused portions of land, the Company stated that while these lands were not used at this time, they had been used and probably would be used again.

It is concluded that inasmuch as both the Company and the Engineering Department find certain land at the shipyard to be non-operative as regards this investigation, and inasmuch as the percentage stated by the Company obviously does not include all the land that should in fact be so considered, that the percentage as

determined by the Engineering Department should be used and that portion of the land value deducted before any apportionment to auto ferries is made. The difference in money involved, based upon the Southern Pacific value due to the difference in these percentages amounts to \$711,430.

In regard to this apportionment to auto ferries, the Company assigns 43 per cent and the Engineering Department assigns 28.18 per cent, subject, however, to the question of whether any portion of value of these facilities should be considered as a part of a rate base for the auto ferry service, as is subsequently discussed.

The Southern Pacific's apportionment of 43 per cent of the shipyard property is based upon the number of boats assignable to this service, stated by Mr. Adams, Assistant Auditor of the Company, to be $9\frac{1}{2}$ boats out of a total of 22. The Engineering Department assigns to this service 6.91 boats out of a total of 24. The difference in the number of boats is explained by the fact that the Southern Pacific includes the Richmond boats but does not include all the Sacramento River boats. The $2\frac{1}{2}$ units included by the Southern Pacific for the river boats was based upon an attempt to give these craft a lesser weight in shipyard apportionment, because of their lesser size. This appears to be a recognition of the principle that the factor of tonnage should be included in the building up of an apportionment.

The Engineering Department's apportionment gives consideration not only to the units used but also to the tonnage, the hours of service and the mileage of service of the various units. The consideration given by the Commission's Engineers to those other items affecting maintenance at the shipyards, leads to the conclusion that the basis of apportionment adopted by them is more equitable. The apportionment to the Richmond service should be excluded, for the reasons given above. The difference in money based upon the Southern Pacific's value, due to these different apportionments, amounts to \$399,952.

(b) Water Facilities at Oakland Pier.

No evidence was introduced to support the Southern Pacific Company's apportionment of 50 per cent of the value of the Water Station at Oakland Pier to the vehicular ferries, whereas the Engineering Department's apportionment of 34 per cent was based on rational assumptions. That apportionment therefore appears more equitable and is used.

(c) Oil Facilities at Oakland Pier.

Similar reasoning applies to the apportionment of jointly used fuel facilities at Oakland Pier and the Engineering Department's apportionment of 42½ per cent to auto ferries is used.

(d) Floating Equipment.

Southern Pacific Company has included in its assignment to vehicular ferry service, the six new steel boats, and the wooden boats, Garden City, Melrose, Thoroughfare and 1/2 of the Encinal. No set up was made as between the Richmond service and the Oakland service, except that Mr. Burckhalter testified at the first hearing that when the Richmond Service was inaugurated, two boats would be assigned to it, and that very probably boats of the "Yosemite" type would be used. The assignment by the Engineering Department is the same, the "Yosemite" and "Shasta" being so assigned. This reduces to a consideration of the boats assigned the Oakland ferry service, Southern Pacific assigning 7.5 and Engineering Department 6.91. The two assignments are comparable in that the "San Mateo", "El Paso", "New Orleans", "Klamath", "Thoroughfare", and "Melrose" are assigned 100 per cent to the service. Southern Pacific Company assigns 50 per cent of Str. Encinal to the service, while Engineering Department assigns 18 per cent; and remainder to Alameda Pier Service. Southern Pacific Company assigns 100 per cent of the Garden City compared with Engineering Department's 77 per cent, remaining assigned to Vallejo service. Inasmuch as the Engineering Department assignment was based on a thorough analysis of actual

operation during the year 1924 it is concluded that its assignment of the "Encinal" and "Garden City" should be used.

The Fire Tug "Ajax" was apportioned by the Southern Pacific 50 per cent to "regular" ferry service, apparently with the intention of later applying a further ratio of 43 per cent of the half assigned to regular ferry service as the proportion due auto ferries. Had the latter step been carried through in Southern Pacific Exhibit 13, it would have resulted in assigning 21.5 per cent to the Auto Ferry Service.

Engineering Department apportioned 28.18 per cent of the value of the "Ajax" to Oakland Auto ferry service, being the same ratio that was applied in apportioning the ship yards. This assignment appears reasonable and will be used.

Applying the percentages of apportionment determined above to the unapportioned valuations previously developed, results in the following values for the properties used in the Oakland Auto Ferry Service.

| | |
|------------------------|--------------|
| Southern Pacific | \$ 4,615,318 |
| Engineering Department | 4,505,206 |

The above figures are entirely comparable. Both figures are on the Reproduction Cost New basis and do not include any allowance for material and supplies and fuel oil. They closely approximate each other in amount.

In view of the respective methods apparently used by the Company and by the Commission's Engineers as to inventory, appraisal and apportionment, it appears proper to conclude that the Reproduction Cost New of these properties apportioned to the Oakland Ferry Service may be reasonably stated to be \$4,505,206.

Making the same corrections to the other statements of value determined by the Engineering Department results in the following statements of apportioned value:

| | |
|---|-------------|
| Historical Reproduction Cost | \$3,755,336 |
| Historical Reproduction Cost, Less Depreciation, | 3,303,553 |
| Reproduction Cost New, | 4,505,206 |
| Reproduction Cost New, Less Depreciation, | 3,642,991 |

The above figures include the apportioned value of the shipyard and marine ways and the testimony regarding the impropriety of including any value of the shipyards in a rate base for the auto ferry service will now be considered.

The Engineering Department estimates a total of \$80,490. of direct charges of labor and material for the maintenance of the auto ferry boats, of which amount approximately \$52,000. is for minor items of expense which do not require the placing of the boats in a shipyard, leaving approximately \$48,000. of work required to be done at a shipyard. An analysis of the overhead expense of the shipyard indicated that nearly \$20,000. including depreciation, is incurred annually, chargeable to the Oakland auto ferry service, an amount representing an overhead expense of 41 per cent in addition to the direct charges.

The Engineering Department estimates that if the Company owned no shipyard facilities, that it would be possible for the Company to have its boat maintenance performed at a cost approximately equal to that now incurred by making use of ordinary commercial rates of outside shipyards. The Engineering Department also pointed out that if interest at 6 per cent of the apportioned value of the shipyards were added to the cost of maintenance of the auto ferry boats, that a further overhead charge of 34 per cent of direct charges of labor and material for repairs would be required, and that if 6 per cent interest were allowed on the Southern Pacific's original claim for the apportioned value of the shipyards, there would be added an interest charge which in itself would constitute an overhead of 420 per cent of direct cost of labor and material for boat repairs necessary to be incurred by use of shipyard facilities.

Mr. Mott stated that, in his opinion, these figures did not necessarily lead to the conclusion that the shipyard investment, when incurred, was improper. He pointed out that the yards were built and designed essentially for the construction of wooden

hull ferry boats at a time when wooden hulls were the accepted standard construction and at a time when other shipbuilding facilities on the Pacific Coast were limited, but that at the present time this Company has itself accepted the higher standard of steel hull ferry boat construction and that the shipyards of the Company are not properly designed for the construction of such steel boats, and also that there has now been developed on the Pacific Coast numerous other ship building facilities, particularly fitted for this work. This conclusion appears reasonable, in view of the fact that all of the recent boats acquired by the Southern Pacific Company for auto ferry services have been steel boats constructed in outside yards.

The Company through Mr. Burckhalter, offered testimony as to the usefulness of the shipyards, by attempting to show that the Company saved \$201,000. per year by the operation of its shipyard.

This estimate of saving of \$201,000., however, applies to all of the shipyard work of the Company and on the assumption that all of that shipyard work would be performed in commercial shipyards, in the face of an admission that a good deal of the work does not require dockage. Based upon the Engineering Department's estimate of 60 per cent as being the maximum necessary to perform in shipyards, this saving would be reduced to \$139,800.

To measure the Company's claim of the amount of this saving that should be applied to the auto ferry service, it will be noted that the Engineering Department has estimated that not more than \$48,000. worth of work will be required to be done in a shipyard, and assuming that all of this cost was labor and subject to the 32 9/10 per cent increase estimated by Mr. Burckhalter, the total saving, due to the use of the Company's shipyards for auto ferry purposes, could not be considered as exceeding \$15,800., plus the Company's estimate of \$3,100. per year for dockage fees

for each of the 6.91 boats assigned to this service, amounting to \$21,421., less the cost of maintenance of facilities at the shipyards amounting to \$19,994., leaving a net saving, due to the company's owning a shipyard of not more than \$17,227.

Both Mr. Burckhalter's testimony and other testimony in this case indicates that the shipyards are, at most, only incidentally used for the benefit of the auto ferry service and that large portion of their usefulness if any is because of other operations of the Company.

The Company also contends that aside from the economy of the shipyard, it was essential that they have the immediate ownership of the facilities to meet the requirements of their service, so that emergency repairs may be made at any time, whether on nights, Sunday or Holidays or not. There are two factors that detract from the force of this argument; first, the Company has a very comfortable margin of spare equipment available for just such emergencies and, second, the Company has only facilities for dry-docking one boat at a time and this facility is usually occupied.

In view of this evidence it might be appropriate to exclude the value of the shipyard from a rate base and to increase the allowance for maintenance expenses to the amount which it appears might possibly be necessary were the Company to rely entirely upon outside shipyard facilities.

Whether or not the value of the shipyards is included in the rate base in this case, however, is not important from the standpoint of rates, since its inclusion could not possibly affect the rate to be established for the transportation of vehicles by more than a very few cents, and, accordingly, for the purposes of this proceeding, the apportioned value of the shipyard and marine ways will be included in the rate base.

Based upon all of the evidence presented, the sum of \$3,838,735. will be used as a rate base in this proceeding and it

should be noted that this figure is greater than that found by the Commission for the Reproduction Cost New value depreciated, amounting to \$3,642,991.

The Commission's Engineering Department made a forecast of revenue and traffic, based upon existing rates and traffic conditions and modified only by normal growth, in which it was forecasted that there would be a 10 per cent increase in the total volume of traffic and an 8.72 per cent increase in revenue for the combined Oakland Pier and Broadway Routes.

Based upon this growth, the estimated revenue for the Oakland Auto Ferry Routes for the year 1925 was estimated at \$2,300,770. This estimate was not contested by the Southern Pacific Company.

The Engineering Department also prepared a forecast of operating expenses, which is shown in Table No. 8 of Commission's Exhibit No. 7. A summary of this forecast of operating expenses, together with a comparison with the actual expenses incurred in or apportioned to the auto ferry service by the Company for the year 1924 as shown in Southern Pacific Company's Exhibit No. 17 is as follows:

| | <u>Commission Exhibit No. 7</u> | <u>Southern Pacific Exhibit No. 17</u> |
|-----------------------------------|-------------------------------------|--|
| Total maintenance Expense | \$137,710. | \$162,339. |
| Total Transportation Expense | 689,904. | 626,728. |
| Restaurant, Wages, Food & Expense | 118,000. | 107,214. |
| Traffic Expense | 7,500. | 26,212. |
| General Expense | 47,700. | 45,849. |
| Depreciation | <u>56,445.</u> | <u>52,697.</u> |
| Total Operating Expense | \$1,057,259. | \$1,021,039. |

The Company pointed out that in their statement of expense no item is included for casualty insurance and Mr. Adams, Assistant Auditor of the Company, stated that in his opinion there should be included full insurance on the floating equipment which he estimated would cost between \$150,000. and \$162,000. a year.

This estimate was based, in all cases, upon the cost of insurance from outside companies and upon full coverage on the reproduction value undepreciated of the 9 1/2 ferry boats which the Company has assigned to all of its auto ferry service.

It appears that the Southern Pacific Company has adopted the policy of carrying its own insurance. This is a policy which has been adopted by many large companies and when a company has a sufficiently large financial reserve or a sufficiently large distribution of risk, the policy is unquestionably sound, as the costs in that event are limited to the actual cost of the losses incurred. The selling cost, overhead expense and profit on the insurance are in this manner largely eliminated and the cost of insurance on a particular unit of property is exactly proportional to the risk, no insurance cost accruing, except for fire risk, when the unit of property is out of service.

The Company's witness admitted that transportation should not be burdened with insurance beyond its actual cost and with the company carrying its own insurance this cost is proportional to the average number of boats actually in service, rather than to the number of boats owned.

The Engineering Department's estimate includes an item for insurance of \$18,400. In view of the testimony offered, it appears that this sum is a reasonable sum to take care of the actual and ordinary insurable risks incurred in this service. Unusual hazards of the business is another matter that should be and will be taken into consideration in determining the reasonableness of the rates. Although the estimate of operating expenses presented by the Engineering Department was not contested by the Company, the Commission's Transportation Engineer, A. G. Mott, stated that, in his opinion, the estimate should be increased by a sum of approximately \$10,000., to take care of reasonable rental for certain faci-

ilities incidentally used for the benefit of the auto ferry service, but not included in the valuation, such as pipe lines for delivery of fuel oil, certain floating work equipment and general shop facilities of the Company at Sacramento. With this item added to the estimate presented by the Engineering Department, the figure of \$1,067,259. is arrived at as a reasonable estimate of operating expenses for the year 1925.

It thus appears that the financial results of operation of the Oakland Auto Ferry Service for the year 1925, may be stated as follows:

| | |
|-------------------------------------|-------------------|
| Operating Revenue | \$2,300,770. |
| Operating Expense | <u>1,067,259.</u> |
| Operating Income | 1,233,511. |
| Taxes | <u>154,189.</u> |
| Net Income, available for return | \$1,079,322. |

This net income is equivalent to a rate of return of 28.1 per cent upon a rate base of \$5,838,735. This return is excessive and rates charged for transportation that produce such a high return are unjust and unreasonable. The Commission recognizes however, that the rate of return is not the sole test of the reasonableness of rates. If the rate of return were the sole test in the case of such a highly stabilized operation as that of the Southern Pacific Company's auto ferry service, rates might properly be applied which would yield but the normal return allowed in railroad transportation. But there are certain other factors that should be taken into consideration in determining reasonable rates for auto ferry service. There are certain hazards inherent in the operation of ferry boats on San Francisco Bay some of which can be adequately protected against by insurance or the setting up of insurance funds, but there are certain unusual risks or hazards which cannot be met in this way. This condition appears to justify

the allowance of somewhat higher rates than would be sufficient to yield a normal rate of return.

Another consideration is that of recognition of unusually good service as expressed in the disposition of the Company to expand its facilities with the expanding needs of traffic. The Southern Pacific Company, in recent years, has shown such a disposition to expand its facilities, to acquire additional equipment and to offer a service commensurate with the traffic needs. This fact should be taken into consideration in determining the reasonableness of rates. There is, moreover, the possibility, although remote, of competitive conditions arising, which may interfere with the future prosperity of this form of transportation, such as the possibility of bridges or other traffic routes being developed. In this regard it should be noted that the particular service under consideration is one of the oldest public utility services in the State. During the past seventy years it has shown a fairly consistent and considerable growth. It must therefore be considered as an unusually well established and stable business. The Commission has taken all of these facts and factors into consideration and after giving due consideration to all of them and all of the evidence in this case, it appears that rates should be established materially lower than the existing rates, but which will provide a rate of return substantially in excess of the return usually allowed to stabilized public utilities in this State.

Certain evidence was offered during the hearing of this proceeding by Albers Brothers Milling Company for the purpose of showing that the freight rates, in effect on the Southern Pacific Vehicular Ferries between San Francisco and Oakland, were unreasonable. The existing freight rates by this route were compared with the other rates charged by the Southern Pacific Company in its auto ferry service, particularly the charges for the transportation of passenger automobiles. No extensive or conclusive evidence

was presented to show that these freight rates, as compared with other freight rates in effect between points in the same general territory or in effect for other territory under substantially the same conditions, were unreasonable. The mere comparison of a freight rate with a vehicle rate does not, in itself, measure the reasonableness or unreasonableness of either rate and in the absence of evidence as to other controlling circumstances and conditions surrounding the traffic, it does not appear that the Commission is justified in making a finding as to this particular rate.

Based upon the various items set forth in the foregoing discussions of cost of operation, revenues and rate base, the results of operation for the ensuing year that may be reasonably expected if rates are established as set forth in Exhibit "A," attached hereto, may be assumed as follows:

| | |
|-------------------|-------------------|
| Operating Revenue | \$1,556,775. |
| Operating Expense | <u>1,067,259.</u> |
| Operating Income | 489,516. |
| Taxes | <u>61,189.</u> |
| Net Income | \$428,327. |

These figures are predicated upon the assumption that the reduced rates would have no effect on the total amount of traffic moving, but it is believed that the reduction of rates herein provided will afford such a substantial relief to the travelling public that the result will be an acceleration of traffic, beneficial to both the public and the Company.

The following form of order is recommended:

O R D E R

The Commission having on its own motion instituted an investigation into the reasonableness of rates, service, rules and regulations and practices of the Oakland Vehicular Ferry Service of Southern Pacific Company, public hearings having been held, the Commission being fully apprised of the facts, the

matter being under submission and ready for decision.

IT IS HEREBY FOUND AS A FACT that the rates charged by Southern Pacific Company, as set forth in its local freight traffic 380-K-C.R.C. 2612 and in its local passenger traffic 2K-1-C.R.C. 2279, issued June 28th, 1921, effective July 1st, 1921, are unjust and unreasonable rates for the service rendered to the extent that they differ from the rates and fares set forth in Exhibit "A", attached hereto.

IT IS HEREBY FURTHER FOUND AS A FACT that the rates and fares set forth in Exhibit "A", attached hereto, are just and reasonable rates for the service rendered.

Basing its order upon the foregoing findings of fact and other findings of fact as contained in the opinion which precedes this order,

IT IS HEREBY ORDERED that the Southern Pacific Company be, and it is hereby, ordered and required to desist on or before July 15th, 1925, and thereafter to abstain from publishing, maintaining and applying rates and fares not in accordance with the rates and fares set forth in Exhibit "A", attached hereto and made a part of this order.

IT IS HEREBY FURTHER ORDERED that the Southern Pacific Company be, and it is hereby, ordered and required to establish on or before July 15th, 1925, upon notice to this Commission and to the general public, by not less than three (3) days filing and posting of Tariffs in the manner prescribed in Section 14 of the Public Utilities Act, and thereafter to maintain and apply the rates and fares prescribed in Exhibit "A" attached hereto and made a part of this order.

For all other purposes the effective date of this order shall be twenty (20) days from and after the date hereof.

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 29th day of June, 1925.

H. B. Burdick
C. Seaver
Ernest Shurt
George D. Squires
Emmuel

Commissioners.

EXHIBIT "A"

SPECIAL RATES FOR VEHICLES (Self Propelled)
Between
SAN FRANCISCO, CAL. (Oakland Vehicle Ferry)
And
OAKLAND, CAL. (Oakland Pier and Broadway Wharf)

| <u>COMMODITY</u> | <u>Rate in Cents each</u> <u>Except as Noted</u> |
|--|---|
| Ambulances | 75 |
| Automobiles | 60 |
| Automobiles with Trailers Attached | Automobile and Trailer 110 |
| Auto Trucks, weighing under 4,000 lbs. | 75 |
| Auto Trucks with Trailers attached weighing under 4,000 lbs. each | Truck and Trailer 150 |
| Barge, self propelling, with or without casket | 75 |
| Motorcycles, accompanied by party in charge (does not include attendant's fare) | 20 |
| Tri-Cars, accompanied by party in charge (does not include attendant's fare). | 40 |

PASSENGER FARES
Between
SAN FRANCISCO, CAL. (Oakland Vehicle Ferry)
And
OAKLAND, CAL. (Oakland Pier and Broadway Wharf)

First-class (Continuous Trip) between San Francisco, Cal. (Oakland Vehicle Ferry) and Oakland, Cal. (Oakland Pier and Broadway Wharf) for passenger (without baggage) (foot passengers not handled from or to Oakland Pier) \$0.05 (See Exception)

PASSENGER FARES WITH AUTOMOBILE
Between
SAN FRANCISCO, CAL. (Oakland Vehicle Ferry)
And
OAKLAND, CAL. (Oakland Pier and Broadway Wharf)

Book ticket between San Francisco (Oakland Vehicle Ferry) and Oakland, Cal. (Oakland Pier and Broadway Wharf) covering six one-way trips of automobile and accompanying attendant and twenty-four additional one-way trips for passengers accompanying same automobile \$5.10

EXCEPTION: No charge for children under five (5) years of age, when accompanied by parent or guardian.