

Decision No. 17977**ORIGINAL**

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of Southern Pacific Company for )  
an Order Authorizing Amendment to ) APPLICATION NO. 13199  
Item 410-C of Applicant's G.F.D. )  
Circular No.199-E, C.R.C.No.2711. )

James E.Iyons and A.L.Whittle, by A.L.Whittle,  
for Applicant,  
C.S.Connolly, for Albers Bros. Milling Company,  
N.E.Keller, for Pacific Portland Cement Company, Cons.,  
E.W.Hollingsworth, for Oakland Chamber of Commerce,  
J.C.Sommers, for Stockton Chamber of Commerce,  
R.P.McCarthy, for Globe Grain and Milling Company,  
and Phillips Milling Company,  
E.B.Smith and M.J.McCarthy for Sperry Flour Company.

BY THE COMMISSION:

O P I N I O N

This is an application of the Southern Pacific Company under Section 63 of the Public Utilities Act to amend the first block of Item 410-C G.F.D.Routing Circular 199-E, C.R.C.2711, now reading "Sacramento, Cal., and points beyond via Davis or Roseville, Cal., including branches" to read "Sacramento, Cal., and points beyond via Davis and Merritt, or Roseville, Cal., including branches".

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

The following, from exhibits of record, gives a chronological history of the Item in question:

Between	And	: Unless otherwise : specifically pro- : vided in individual : tariffs making ref- : erence hereto, rates : in such tariffs : apply only via:
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Item 410 prior to March 3, 1923.

Sacramento, Cal. and points north and east via Davis or Rose- ville, Cal., including branches.	Brighton, Cal. and points south.	: <u>Elvas, Cal.</u> : Homestead, Cal.
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Item 410-A effective March 3, 1923.

Sacramento, Cal. and points beyond via Davis or Roseville, Cal., including branches.	Brighton, Cal. and points beyond, via Polk and Romona, Cal.	: <u>Elvas, Cal.</u> : Homestead, Cal.
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Item 410-B effective September 23, 1924.

Sacramento, Cal. and points beyond via Davis and Merritt or via Roseville, Cal., including branches.	Brighton, Cal. and points beyond via Polk and Romona, Cal.	: <u>Elvas, Cal.</u> : Homestead, Cal.
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Item 410-C effective March 28, 1925.

Sacramento, Cal. and points beyond via Davis or Roseville, Cal., including branches.	Brighton, Cal. and points beyond via Polk and Romona, Cal.	: <u>Elvas, Cal.</u> : Homestead, Cal.
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Item No. 410-C is now in effect and the only change here proposed is the addition of the words "and Merritt" immediately following the word "Davis". Merritt is the first station north of Davis and the change here sought is to cure

an erroneous routing description.

Prior to March 3, 1923 application of the rates in the Routing Circular was restricted to points north and east of Davis, and the question arising as to what points were included within the description north of Davis, applicant in an effort to clarify the situation amended the item, effective March 3, 1923, by changing the wording, points north of Davis, to read, points beyond Davis. By this change points beyond via Davis included not only points north of Davis, but also west thereof, thus extending rates to points west of Davis, an adjustment never intended. As a further correction, applicant again amended the item, effective September 23, 1924, by addition of the words "and Merritt". This latter change resulted in an unauthorized increase and upon attention being directed to the 63rd section violation the applicant was required to restore the item previously in effect.

Various milling companies intervened and objected to certain increases in the grain rates which will result in movements from points located west of Davis, between Suisun-Fairfield and Dixon, when destined to San Joaquin Valley stations. These grain rates, however, are few in number and applicant stipulated it would adjust the rates following our decision in Case No. 2125, Albers Bros. Milling Company vs. Southern Pacific Company.

Shippers of cement from Tolenas direct attention to the fact that a diversion privilege, under transit rules now available to a limited territory, could not be used under the proposed change in the Routing Circular. The rates on cement, per se, are not affected and a check of traffic made by the intervener showed that during a period of two years only one

car moved securing the diversion privilege.

The object of the Routing Circular is to establish rates via named points and particular routes, and is of special importance when two or more routes are available, as in this situation, where the traffic can move between Brighton and Sacramento via either the west side through Homestead, or the east side through Elvas. It is obvious that routings should not ordinarily apply to back haul territory, which would be the result at points west of Davis and create rates not in any manner involved in the Brighton-Sacramento loop lines. Commissioner Eshleman stated, in the Golden Gate Brick case, No.362, 2 C.R.C.609:

"I am not at all in sympathy with the practice of carriers in putting tortured construction upon a tariff provision so that the same may yield them more revenue, and I certainly am no more in sympathy with the same practice when indulged in by shippers with a view to securing less rates".

The proposed amendment will restore rates and routes in effect prior to the tariff publication errors, and a full consideration of the record in this proceeding clearly indicates that the item should be changed.

We are of the opinion and find that Item 410-C of Southern Pacific G.F.D.Circular 199-E, C.R.C.2711, is unreasonable. An order will be entered authorizing the change as set forth in the application.

O R D E R

This application having been duly heard and submitted, 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 precedes this order, and which said opinion is hereby referred to and made a part hereof,

IT IS HEREBY ORDERED that applicant, Southern Pacific Company, be and it is hereby authorized to amend Item 410-C of its G.F.D. Circular 199-E, C.R.C. 2711, as set forth in the application.

Dated at San Francisco, California, this 25  
~~February~~  
 day of ~~January~~ 1927.

*Ernest Scott*  
*H. B. Brundage*  
*C. Searcy*  
*Leon P. Wall*  
*Thos. O. Russell*

COMMISSIONERS.