

ORIGINAL

Decision No. 17983

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

Albers Bros. Milling Co.,
 a corporation,
 Complainant,
 vs.
 Southern Pacific Company,
 a corporation,
 Defendant.

CASE NO. 2125

C.S.Connolly, for Complainant,
 James E.Lyons and A.L.Whittel, by A.L.Whittle, for
 Defendant,
 R.P.McCarthy, for Globe Grain & Milling Company and
 Phillips Milling Company,
 E.W.Hollingsworth, for the Traffic Department of
 Oakland Chamber of Commerce,
 E.B.Smith and M.J.McCarthy, for Sperry Flour Company,
 F.A.Somers, for Grangers Business Association,
 A.Cohn, for Port Costa Warehouse Company,
 J.C.Sommers, for Stockton Chamber of Commerce.

BY THE COMMISSION:

SUPPLEMENTAL OPINION AND ORDER

Our original opinion, decided March 3, 1926, appears in 27 C.R.C.684. The complaint, filed April 29, 1925, attacks the commodity rates charged by defendant for the transportation of grain and grain products to and from Oakland, alleging they subjected complainant to undue prejudice and disadvantage, and extended undue preference and advantage to competitors at South

Vallejo, Port Costa, Stockton and Sacramento.

We found that certain specific changes should be made in the rates to Oakland from points on the Napa Branch and from Vanden, Cannon and Elmira, stations on the main line west of Davis, and also that the rates to Oakland from stations on the west side of the San Joaquin Valley, Lyoth and south, should not exceed the rates to Sacramento from the same points.

The case was reopened in response to petitions from both complainant and defendant. Complainant's principal contention, as outlined in the petition for rehearing, is that the rates to Oakland from both the east and west side in the San Joaquin Valley should be on a parity.

Defendant likewise objects to the San Joaquin Valley adjustment upon the plea there is practically no tonnage of grain moved to Sacramento from west side San Joaquin Valley points, therefore no discrimination against Oakland. Attention also is directed to the fact that because of a tariff publication error embraced in the provisions of Item 410 of Southern Pacific Company G.F.D.Circular 199-E, C.R.C.2711, South Vallejo rates are made to apply through Sacramento, thus reducing specific rates from points between Suisun and Sacramento to points south of Tracy.

The rates affected by the tariff errors in Item 410 are before the Commission in an independent proceeding, Application No.13199, and are disposed of in our opinion in that matter.

Rehearing was had and the case is now before us on the whole record.

In effect, this proceeding is a supplement to Case No. 1463, June 1, 1921 (20 E.R.C.1 and 21 C.R.C.302), wherein the

grain rates were adjusted by removing discriminations found to exist at that time as between Oakland and South Vallejo-Port Costa from points in the Sacramento, San Joaquin and Salinas Valleys. However, rates to Oakland as compared with Sacramento were not involved in that proceeding.

The rates established in Case No. 1463 to Oakland from all San Joaquin Valley points were made 1 cent higher than to South Vallejo and Port Costa for distances not over 200 miles from Port Costa; $\frac{1}{2}$ cent for distances over 200 miles and not over 300, and a parity of rates for distances over 300 miles. The distance from Port Costa, the basing point, to Oakland, is 14.6 miles. The San Joaquin Valley west side to Port Costa rates were extended to Sacramento by the Southern Pacific Company, thus placing South Vallejo, Port Costa and Sacramento on a rate parity, leaving Oakland with rates higher than the three competing points, South Vallejo, Port Costa and Sacramento, although the distance from west side stations San Joaquin Valley to Oakland is three miles shorter than to Sacramento from the same points.

In our original decision in the instant proceeding, and discussing the Sacramento rates (27 C.R.C.689) we said:

"These rates are not on a positive mileage grade. On the west side, where the distance favors Oakland by 3 miles, the rates at some points are on a parity, but at many stations the Sacramento rates are lower than the Oakland rates by from $\frac{1}{2}$ to 3 cents. As compared with this adjustment we find that the rates to Port Costa, South Vallejo and Sacramento from San Joaquin Valley east side points, Manteca and south, are on a parity at all points and in this situation Port Costa, which is the basing point for the rates, is approximately 4 miles greater than to Sacramento.

"We find as a fact that the rates from the west side stations in the San Joaquin Valley, Lyoth and south, to Oakland, discriminate against Oakland. An order will enter requiring defendant to remove the discrimination by publishing rates from this territory to Oakland not in excess of those now in effect to Sacramento from the same points".

A considerable part of the testimony taken on rehearing was directed to the circumstances and conditions of the transportation from the San Joaquin Valley, but this additional testimony does not differ to any material extent except to show in an exhibit, filed by defendant, that there is practically no grain tonnage movement from San Joaquin Valley west side stations to Sacramento and that there is a substantial flow of traffic from these points to Oakland. With the distance from San Joaquin Valley, west side, to Oakland 3 miles shorter than to Sacramento and the operating conditions and water competition very similar, there are no reasons why the rates should be higher to Oakland than to Sacramento. We find no reason to change our conclusions as to South Vallejo, which has a longer rail mileage but is on the Port Costa rate basis because of the water competition, these two important grain points being on opposite sides of the bay.

We have carefully examined the petitions for rehearing and the complete record, and find no reason for materially changing our conclusions that South Vallejo, Port Costa, Oakland and Sacramento should have a parity of rates from San Joaquin Valley west side points. The order herein will fix the positive rates to establish this adjustment and remove the discrimination found to exist.

There is no reason upon this record for deviating from our conclusions with reference to the Napa Branch rates, nor is there any reason for changing the rate to Oakland from east side San Joaquin Valley points, Manteca and south, where the distance is approximately 19 miles greater than to

Sacramento. These Oakland rates are now 1 cent and $\frac{1}{2}$ cent higher than Sacramento, dependent upon distance of haul, and these differentials should not be disturbed.

Upon further consideration of all the matters and things of record in this proceeding, we are of the opinion and so find that the rates herein assailed are unduly preferential and discriminatory to the extent they exceed or for the future may exceed the rates hereinafter set forth in the order immediately following this opinion.

The rates herein prescribed are to supersede those prescribed in our original opinion and order and covered by our decision number 16077. They will also supersede any conflicting rates prescribed by order in Albers Bros. Milling Co., vs. Southern Pacific Company, Case No.1463, Decision No.10153 (21 C.R.C.302).

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 the Commission having filed its opinion and supplemental opinion containing its findings of fact and conclusions thereon, which said opinions are hereby referred to and made a part hereof,

IT IS HEREBY ORDERED that the Southern Pacific Company be and it is hereby ordered and required to desist on or before twenty (20) days from the date of this order and thereafter to abstain from publishing, maintaining and applying rates not in accordance with those hereinafter set forth.

IT IS HEREBY FURTHER ORDERED that the Southern Pacific Company be and it is hereby ordered and required to establish on or before twenty (20) days from the date of this order, 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 for the transportation of grain and articles taking the same rates as shown in Southern Pacific Tariff 793-B, C.R.C.2487, the following rates:

BETWEEN	OAKLAND	PORT COSTA SOUTH VALLEJO	SACRAMENTO
Yarmouth <u>AND</u>	9 $\frac{1}{2}$	9 $\frac{1}{2}$	9 $\frac{1}{2}$
Vernalis	9 $\frac{1}{2}$	9 $\frac{1}{2}$	9 $\frac{1}{2}$
Ohm	10 $\frac{1}{2}$	10 $\frac{1}{2}$	10 $\frac{1}{2}$
Westley	10 $\frac{1}{2}$	10 $\frac{1}{2}$	10 $\frac{1}{2}$
Vanormer	12	12	12
Patterson	12	12	12
Crows Landing	13 $\frac{1}{2}$	13 $\frac{1}{2}$	13 $\frac{1}{2}$
Newman	13 $\frac{1}{2}$	13 $\frac{1}{2}$	13 $\frac{1}{2}$
Gustine	14	14	14
Linora	14 $\frac{1}{2}$	14 $\frac{1}{2}$	14 $\frac{1}{2}$
Ingomar	14 $\frac{1}{2}$	14 $\frac{1}{2}$	14 $\frac{1}{2}$
Los Banos	14 $\frac{1}{2}$	14 $\frac{1}{2}$	14 $\frac{1}{2}$
Abatto	16 $\frac{1}{2}$	16 $\frac{1}{2}$	16 $\frac{1}{2}$
Dos Palos	16 $\frac{1}{2}$	16 $\frac{1}{2}$	16 $\frac{1}{2}$
Oxalis	17 $\frac{1}{2}$	17 $\frac{1}{2}$	17 $\frac{1}{2}$
Silaxo	18 $\frac{1}{2}$	18 $\frac{1}{2}$	18 $\frac{1}{2}$
Ingle	18 $\frac{1}{2}$	18 $\frac{1}{2}$	18 $\frac{1}{2}$
Tranquility	20 $\frac{1}{2}$	20 $\frac{1}{2}$	20 $\frac{1}{2}$
Hassett	20 $\frac{1}{2}$	20 $\frac{1}{2}$	20 $\frac{1}{2}$
Jamesan	18 $\frac{1}{2}$	18 $\frac{1}{2}$	18 $\frac{1}{2}$
Floyd	18 $\frac{1}{2}$	18 $\frac{1}{2}$	18 $\frac{1}{2}$
Rolinda	18 $\frac{1}{2}$	18 $\frac{1}{2}$	18 $\frac{1}{2}$
McMullin	19 $\frac{1}{2}$	19 $\frac{1}{2}$	19 $\frac{1}{2}$
Cando	19 $\frac{1}{2}$	19 $\frac{1}{2}$	19 $\frac{1}{2}$
Lillis	20 $\frac{1}{2}$	20 $\frac{1}{2}$	20 $\frac{1}{2}$
Kimble	20 $\frac{1}{2}$	20 $\frac{1}{2}$	20 $\frac{1}{2}$
Armona	21	20 $\frac{1}{2}$	20 $\frac{1}{2}$
Orion	21	21	21
Heinlen	21	21	21
Rossi	21	21	21
Cuneo	21	21	21
Stratford	21	21	21
Iethent	21	21	21
Westhaven	21 $\frac{1}{2}$	21 $\frac{1}{2}$	21 $\frac{1}{2}$
Turk	21 $\frac{1}{2}$	21 $\frac{1}{2}$	21 $\frac{1}{2}$
Alcalde	22	22	22
Edison	23 $\frac{1}{2}$	23 $\frac{1}{2}$	23 $\frac{1}{2}$
Bena	23 $\frac{1}{2}$	23 $\frac{1}{2}$	23 $\frac{1}{2}$
Caliente	25 $\frac{1}{2}$	25 $\frac{1}{2}$	25 $\frac{1}{2}$
Bealville	26 $\frac{1}{2}$	26 $\frac{1}{2}$	26 $\frac{1}{2}$
Rowen	27	27	27
Marcel	27	27	27
Cable	27 $\frac{1}{2}$	27 $\frac{1}{2}$	27 $\frac{1}{2}$
Warren	27 $\frac{1}{2}$	27 $\frac{1}{2}$	27 $\frac{1}{2}$
Mojave	28	28	28
Gloster	28	28	28
Rosamond	28 $\frac{1}{2}$	28 $\frac{1}{2}$	28 $\frac{1}{2}$

BETWEEN AND	OAKLAND	PORT COSTA SOUTH VALLEJO	SACRAMENTO
Palmdale	28½	28½	28½
Harold	29½	29½	29½
Vincent	29½	29½	29½
Acton	30	30	30
Lang	30	30	30
Humphreys	30½	30½	30½
San Fernando	30½	30½	30½
Pacoma	31	31	31
Burbank	31	31	31
Sepulveda	31½	31½	31½
Glendale	31½	31½	31½

IT IS HEREBY FURTHER ORDERED that as to other respects the complaint in the above entitled proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this 15th day of February, 1927.

Emmert
W. B. Bessinger
Chasey
Leon Whitell
Thos. S. Rowland
 Commissioners.