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Decision No. 18152

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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Globe Grain and Milling Company,
Complainant,

vs.

Atchison,Topeka & Santa Fe Railway Company,
Los Angeles Steamship Company.
Los Angeles & Salt Lake Railroad Company,
McCormick Steamship Company,
Nelson Steamship Company,
Pacific Electric Railway Company,
Pacific Steamship Company,
Southern Pacific Company,
White Flyer Line,
E.V.Rideout Company,
Alameda Transportation Company,
Bay Cities Transportation Company,
Berkeley Transportation Company,
California Truck Company,
Los Angeles Junction Railway Company,
Defendants.

CASE NO. 2291

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In the Matter of the Suspension by the Commission on its own motion of Items Nos. 575, 580 and 585, naming Freight Rates for the Transportation of Barley, Cereals and Cereal Products from Sperry Flour Company Docks,South Vallejo, and Albers Bros.Dock, Oakland, to Los Angeles and Los Angeles Harbor points, as published in Supplement No.1 to Pacific Coastwise Freight Tariff Bureau Local,Joint and Proportional Freight Tariff No.1, C.R.C.No.1.

CASE NO. 2294

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E.J.Forman, for Complainant,
E.L.Bissinger, for Atchison,Topeka & Santa Fe Railway Company, Los Angeles & Salt Lake Railroad Company, Los Angeles Steamship Company, Nelson Steamship Company, Pacific Electric Railway Company, Pacific Steamship Company, Southern Pacific Company, White Flyer Line, E.V.Rideout Company, Bay Cities Transportation Company, Berkeley Transportation Company, Los Angeles Junction Railway Company.
Howard Robertson, for California Truck Company.
R.F.Burley, for McCormick Steamship Company,
Glensor,Clewe,Van Dine & Turcotte,by F.W.Turcotte, for Alameda Transportation Company,
C.S.Connolly, for Albers Bros. Milling Company,Intervener.
E.B.Smith, for Sperry Flour Company, Intervener.
C.A.Bland, for Long Beach Chamber of Commerce, Intervener.

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BY THE COMMISSION:

O P I N I O N

These two proceedings, involving the same issue, were, by stipulation heard together and will be disposed of in one opinion and order. The Globe Grain and Milling Company, a corporation, by complaint filed November 18,1926, Case 2291, alleges (a) that defendants are parties and concur in Pacific Coastwise Tariff Bureau Tariff No.1,C.R.C.No.1; (b) that the rates and minimum weights published in Items 280, 285 and 335 of said tariff, applicable on grain, flour and cereal products are unjust, unreasonable and in violation of section 13 of the Public Utilities Act; (c) that the minimum carload weight of 100,000 pounds published in Item 335 is unjust, unreasonable and in violation of section 13 of the Public Utilities Act to the extent it exceeds 60,000 pounds; (d) that Rule 45 governing the carload weights of said tariff is indefinite, ambiguous and unintelligible, therefore is unjust and unreasonable; (e) that the rates published in Items 575, 580 and 585 of Supplement 1 to said tariff, issued October 29, 1926, to become effective December 3,1926, applicable on grain, grain products, flour and cereals from Albers Bros. Dock, Oakland, and Sperry Flour Company Dock, South Vallejo, to Los Angeles and Los Angeles Harbor, are unduly preferential and advantageous to Albers Bros.Milling Company and Sperry Flour Company and subject complainant to undue prejudice and disadvantage and that said rates are in violation of section 19 of the Public Utilities Act to the extent they are less than the rates published in Items 280, 285 and 335 of Tariff No.1,C.R.C.No.1.

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Applicant asked for an order suspending Pacific Coastwise Freight Bureau Tariff No.1, C.R.C.No.1, and Supplement No.1 to said tariff.

Case No.2294 was instituted November 27,1926 on this Commission's own motion in response to the complaint in Case No.2291, and Supplement 1 to Pacific Coastwise Freight Tariff Bureau Tariff No.1,C.R.C.1 was suspended. The rates, rules and regulations shown in Tariff No.1, published October 29,1926, effective December 1,1926, are in compliance with this Commission's order in Application No.13086, Decision No.17506, of October 21,1926, and since complainant herein had notice and ample opportunity to appear and be heard we are of the opinion and conclude that the tariff should not be suspended, but the reasonableness of the rates and rules in Case No.2291 may be given further consideration. By this method shippers and carriers will not be deprived of the many adjustments authorized in Application No.13086.

A public hearing was held before Examiner Geary at Los Angeles January 12,1927 and the proceedings having been duly submitted are now ready for our opinion and order. Rates will be stated in cents per 100 pounds.

The rates in controversy apply between San Francisco, Oakland, Berkeley and Alameda on the one hand and on the other, Los Angeles, San Pedro, Wilmington and San Diego. They are lower to port points than to the city of Los Angeles, but as illustrative of the situation reference will only be made to the Los Angeles rates.

Item 280, rate 26½ cents, applies on whole and cracked grains, also to a long list of feed products. Item 285, rate 30 cents, applies on flour and cereal food products, minimum

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weight 30,000 pounds, and Item 335, rate 19½ cents, applies to a selected list of whole and cracked grains, with a minimum weight of 100,000 pounds.

Complainant made no effort and did not claim that any of the rates covered by these items were, per se, either excessive or unreasonable, its contention being that the minimum weights were not properly adjusted. Objection to the 30,000 pounds was mainly to the point that the practice had been to sell in 40,000 pound lots, but since the present minimum will not disturb the continuation of this trade practice and only permits a buyer to purchase in smaller quantities, we conclude this contention to be without merit.

Referring to the 100,000 pounds minimum, Item 335, complainant maintains the tonnage cannot be loaded into one car and rates cannot be applied under the provisions of Rule 45 of the Tariff. This rule reads:

> "Except where a minimum carload weight is specifically provided for herein, carload rates named herein are subject to the minimum carload weight provided in the current Western Classification, except that the minimum carload weight on a movement under joint through rates in connection with rail carriers, will be based on the size of car required for the rail haul."

Witness for complainant testified that the prevailing minimum weight for carloads of grain published in tariffs of rail carriers was 60,000 pounds and that 80 per cent of the cars furnished were physically impossible for the loading of 100,000 pounds.

We find that Rule 45 as now constructed is unreasonable and ambiguous and should be clarified or entirely eliminated. If cancelled from the tariff the cars furnished in

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connection with the steamer hauls should be governed by Rule 34 of Consolidated Freight Classification, which protects the minimum carload weights when two cars are furnished in lieu of one car ordered.

The rates from South Vallejo and Oakland shown in Items 575, 580 and 585 of Supplement 1, apply:

1- Barley and Oats;
2- Flour and cereal food preparations;
3- Grain and cereal feed products;

and are respectively 16, 19 and 20 cents to Los Angeles, and 11, 13 and 15 cents to Los Angeles Harbor points. They are subject to a note reading:

> "Rates named in Items 575, 580 and 585 above will apply only from Sperry Flour Co.dock, South Vallejo, when the aggregate weight of shipment or shipments under one or more of the items named from South Vallejo is 200 tons or more and from Albers Bros.dock, Oakland, when the aggregate weight is 100 tons or more. Rates will not include wharfage or handling at South Vallejo or Oakland."

From South Vallejo they apply via direct vessel of McCormick Steamship Company or via Nelson Steamship Company or E.V.Rideout Company via San Francisco and Pacific Steamship Company.

Defendants' witness testified that the rates published in Supplement 1 did not include wharfage and handling at the points of origin and that this service furnished by the shippers resulted in a saving of approximately 95 cents per ton to the steamship lines; that they were established to meet competition; that the rates correspond in a great many respects to milling in transit rates, inasmuch as all grain and grain products into Albers Bros. dock,Oakland, and Sperry Flour Company's

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dock, South Vallejo, are from California points via rail and river vessels and also from the Pacific Northwest via coastwise steamers.

Numerous comparisons with rates on grain and grain products from interior California points via all rail against the rail and water rate to Los Angeles, also rates on other heavy loading commodities via steamer to Los Angeles were offered by interveners to show that the rates under suspension were not unduly low.

Prior to the effective date of Pacific Coastwise Freight Bureau Tariff No.1 the defendants maintained a rate on grain of 15 cents, minimum weight 40,000 pounds, from San Francisco and Oakland to Los Angeles, and the evidence disclosed that complainant made only two carload shipments under this rate during the year 1926. The interveners forwarded large quantities of grain and flour from South Vallejo and Oakland to Southern California via steamers. An exhibit was presented showing that Sperry Flour Company shipped 7935 tons during the period December 1,1925 to November 12,1926, and Albers Bros.Milling Company 6270 tons during the period July 1,1925 to December 1,1926.

The testimony of witnesses for defendant steamer lines and the intervening milling companies was to the effect that the rates applying to minimums of 100 tons from Oakland and 200 tons from South Vallejo were reasonably compensatory, not prejudicial and as high as the traffic could afford to pay. The difference in minimums as between Oakland and South Vallejo was due to the extra expense in negotiating the longer trip to

South Vallejo. It was shown there was heavy tonnage of grain from North Pacific points via steamer and that the tonnage moving from San Francisco Bay points to Los Angeles was loaded into vessels at the same time the northern grain was unloaded and that the shippers delivered the tonnage to ship's tackle, thus avoiding heavy stevedoring expenses to the steamer companies. The unit of tonnage via steamer lines is, in general practice, much greater than via rail carriers and tariffs on file show many grain rates between California points based on lots of 100 tons and over.

Upon all the facts of record we find that the rates and minimum weights for the transportation of grain and grain products brought into issue in these proceedings are not unreasonable or unlawful. We further find that Rule No.45 of Tariff C.R.C.No.1 is ambiguous and should be clarified, as outlined in this opinion, also that the rates published in Items Nos. 575, 580 and 585 of Supplement No.1 to C.R.C.No.1, discriminate against San Francisco and defendant carriers will be required to publish the joint rates from San Francisco, also to eliminate the restrictions making the rates applicable only from the named docks at South Vallejo and Oakland. The investigation in Case No.2294 will be discontinued.

O R D E R

These cases being at issue upon complaint and answers on file, having been duly heard and submitted by the parties, full investigation of the matters and things involved having

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been had and the Commission having on the date hereof made and filed its opinion containing its findings of fact and conclusions thereon, which said opinion is hereby referred to and made a part hereof,

IT IS ORDERED that within twenty (20) days from the date hereof the defendant carriers publish in tariffs changes in Rule No.45 and Items 575, 580 and 585 in accordance with the suggestions made in the opinion hereto.

IT IS FURTHER ORDERED that Case No.2294 be and it is hereby discontinued.

Dated at San Francisco, California, this 29 day of March, 1927.

E. M. Gaddis

C. L. Seavey

Leon O. Whitsell

Thos. S. Lowell

Commissioners.

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