

Decision No. 18323.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of)
THE WESTERN PACIFIC RAILROAD COMPANY)
to amend Item 162, 5th revised page 9)
of its Terminal Tariff 35-J, C.R.C.)
No. 245.)

Application No. 13506.

James S. Moore, Jr., for applicant.

BY THE COMMISSION:

O P I N I O N

This is an application filed by The Western Pacific Railroad Company seeking authority to amend Item 162 of its Terminal Tariff 35-J, C.R.C. No. 245, providing for the absorption of switching charges on shipments of petroleum crude, gas, residuum and fuel oil originating at Valpico and destined to industry tracks or private sidings not reached by the Western Pacific Railroad, to read as follows:

"Upon carload shipments of petroleum crude oil, petroleum gas oil, petroleum oil residuum and fuel oil originating at Valpico, California, and destined industry tracks or private sidings located within switching limits of Southern Pacific Company at San Francisco, Oakland, San Jose, Stockton, Sacramento or Marysville, California, The Western Pacific Railroad Company will absorb Southern Pacific Company's charge for switching not to exceed \$2.70 per car from its interchange track with this company. Subject to Item 150 series."

The present tariff item reads:

"Upon carload shipment of petroleum crude oil, petroleum gas oil, petroleum oil residuum and fuel oil originating at Valpico, California, and destined industry tracks or private sidings not reached by The Western Pacific Railroad Company located within switching limits of connecting

carrier, The Western Pacific Railroad Company will absorb connecting carrier's charge for switching not to exceed \$2.70 per car from its interchange track with The Western Pacific Railroad Company. Subject to Item 150 series."

Under the provisions of the present item The Western Pacific Railroad absorbs the switching charges of all connecting carriers regardless of the destination. The proposed amendment as set forth above would limit this absorption to traffic destined only to the points competitive with the Southern Pacific Company, namely, San Francisco, Oakland, San Jose, Stockton, Sacramento or Marysville.

A public hearing was held before Examiner Geary at San Francisco April 26, 1927, and the application having been duly submitted is now ready for an opinion and order.

Valpico is a station exclusively on the Western Pacific Railroad 5.7 miles west of Lyoth. At Valpico and Lyoth there are storage tanks and shipping facilities for the handling of petroleum and petroleum products, and for a number of years Lyoth and Valpico have been kept on a rate parity in so far as the line haul rates are concerned. Lyoth however is served by both the Southern Pacific and the Western Pacific railroads, and is a competitive point from a transportation standpoint as that term is defined in the terminal tariffs of carriers; hence on shipments originated by The Western Pacific Railroad and destined to industry tracks or private sidings on the Southern Pacific Company, the switching charge of \$2.70 per car is absorbed under the general tariff provision. Valpico is practically the same station as Lyoth, but being served by the Western Pacific only, does not come within the meaning of the term "competitive traffic" as used in a carrier's terminal tariffs. The Western Pacific Railroad, effective September 30, 1925, endeavored to place Valpico on the same basis as Lyoth with respect to the absorption of switching charges of the Southern Pacific Company by the publication of Item 162 quoted above, but through a tariff publication error the item

was inadvertently stated in such a manner as to broaden the absorption of the switching charges to include all points on the lines of connecting carriers; hence at the present time Valpico enjoys a greater privilege in so far as the absorption of switching is concerned than does Lyoth.

The record indicates that shippers at Valpico have notified applicant that under the circumstances they have no objection to the amendment proposed.

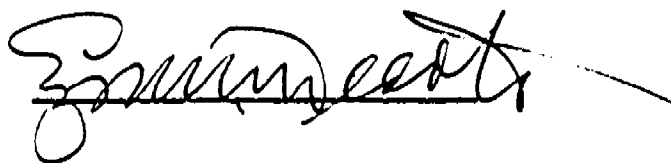
After consideration of all the facts of record we are of the opinion and find that applicant should be authorized to amend Item 162 of its Terminal Tariff 35-J, C.R.C. 245, as set forth in the application, and that the application should be granted.

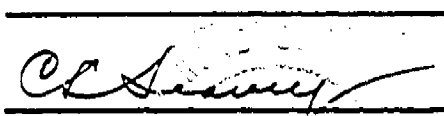
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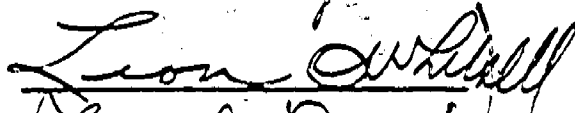
This application having been submitted, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusion contained in the opinion which precedes this order,

IT IS HEREBY ORDERED that applicant, The Western Pacific Railroad Company, be and it is hereby authorized to amend upon not less than 15 days' notice to the Commission and to the public Item 162, 5th revised page 9 of its Terminal Tariff 35-J, C.R.C. 245, as specifically set forth in the application.

Dated at San Francisco, California, this 6th day of May, 1927.








Commissioners.