

Decision No. 18484.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

**ORIGINAL**

ALBERS BROS. MILLING COMPANY )

vs. )

SOUTHERN PACIFIC COMPANY and )  
SUNSET RAILWAY. )

Case No. 2312.

C. S. Connolly, for complainant.

C. N. Bell, James E. Lyons and F. W. Mielke,  
for defendants.

BY THE COMMISSION:

C O M M I S S I O N

Complainant, Albers Brothers Milling Company, a corporation organized under the laws of Oregon, is engaged in the buying, selling and manufacturing of grain and grain products. By complaint filed April 8, 1927, and as amended at the hearing it is alleged (a) That the rate charged and collected on one carload of milo maize moving from Levee Spur to Palo Alto during the month of October, 1925, was at the time the shipment moved, unjust and unreasonable to the extent it exceeded 23 cents per 100 pounds; (b) That the rate charged and collected on one carload of alfalfa meal moving from Yarmouth to Palo Alto during September, 1926, was at the time the shipment moved, unjust and unreasonable to the extent it exceeded 11 cents per 100 pounds, and (c) That the present rate on milo maize from Levee Spur to San Francisco and Oakland is now and for the future will be unjust and unreasonable to the

extent it exceeds or may exceed 23 cents per 100 pounds.

Reparation and just and reasonable rates for the future are sought. Rates will be stated in cents per 100 pounds.

A public hearing was held before Examiner Geary at San Francisco April 25, 1927, and the case having been submitted is now ready for an opinion and order.

Levee Spur is on the Sunset Railway 26 miles southwest of Bakersfield, the interchange point with the Southern Pacific; Yarmouth is on the Southern Pacific 6 miles south of Tracy, and Palo Alto is on the Coast Division of the Southern Pacific 30 miles south of San Francisco. The distance from Levee Spur to Palo Alto is 333 miles, to San Francisco 327 miles, and to Oakland 322 miles. From Yarmouth to Palo Alto the distance is 69 miles.

The rate assessed and collected on the shipment of milled maize from Levee Spur to Palo Alto was 29 cents, made by a combination of class and commodity rates over Redwood Junction. The factor from Levee Spur to Redwood Junction was a commodity rate of 25 cents, published in Pacific Freight Tariff Bureau Tariff 38-G, C.R.C. 342, using the rate to San Francisco as maximum at Redwood Junction, and from the latter point to Palo Alto the Class "C" rate of 4 cents, published in Southern Pacific Tariff 917-D, C.R.C. 2929. Since the filing of the complaint defendants have reduced the 29-cent rate to 25 cents.

Defendants assessed and collected on the shipment of alfalfa meal from Yarmouth to Palo Alto a rate of 13½ cents, made by a combination of commodity rates over Tracy, the factor from Yarmouth to Tracy being 5½ cents as published in Southern Pacific Tariff 793-B, C.R.C. 2487, and from Tracy to Palo Alto 10 cents as published in the same tariff. The latter factor was the Stockton to Palo Alto rate, held as maximum at Tracy.

The rate of 25 cents on milo maize from Levee Spur to San Francisco and Oakland is published in Pacific Freight Tariff Bureau Tariff 38-H, C.R.C. 377. At the hearing defendants agreed that this rate would be reduced to 23½ cents, only ½ cent higher than the adjustment here sought by complainant. The reduction from the Sunset Railway point is for the purpose of harmonizing the rate with the rates from points on the Southern Pacific in the San Joaquin Valley to San Francisco, Oakland, Port Costa and South Vallejo, prescribed by this Commission in Cases 1463 and 2125, Albers Brothers Milling Company vs. Southern Pacific, 20 C.R.C. 1, 21 C.R.C. 302, and 27 C.R.C. 684. In the proceedings cited, the reasonableness of the rates to San Francisco - Oakland were not in issue. In Case No. 2125 (27 C.R.C. 684-688) we said:

"The grain rates in effect at Oakland, Port Costa and South Vallejo, and the differentials as between those stations, were established by our order in Case No. 1463 and reflect the past and existing competition between water and rail. The rail carriers would handle little, if any, of the grain tonnage produced in the Sacramento and San Joaquin Valleys served by carriers by vessel should they fail to at least in part meet the competition.

"A careful study has been made of the testimony, exhibits and briefs involving discrimination against Oakland as compared with Port Costa and South Vallejo from Sacramento and San Joaquin Valley points, but nothing presented in this proceeding indicates that the basis prescribed in Case No. 1463 was not proper and equitable."

Upon the question of discrimination and prejudice in the cited proceedings we found that from the points in the San Joaquin Valley on the Southern Pacific for distances over 300 miles, using Port Costa as the key point, the rates to San Francisco - Oakland should be the same as the rates to Vallejo and Port Costa. The distance from Levee Spur on the Sunset Railway to Port Costa on the Southern Pacific is 308 miles and the rate for the two-line haul is now 25½ cents. Complainant contends the rate should not exceed 23 cents by reason of the fact that from branch line points on the Southern Pacific in this immediate

territory a rate of 23 cents is maintained for the one-line haul. It is complainant's position that the Sunset Railway, being partly owned by the Southern Pacific, should be treated as a unit of that line for rate making purposes and no consideration given to the two-line services. We do not find sufficient proof in the record to maintain this contention. We find the rate of 23½ cents, Levee Spur to San Francisco - Oakland, not excessive or discriminatory.

With respect to the rate of 25 cents to Palo Alto, complainant relies entirely upon a comparison with the rates applying to Oakland, San Francisco, Miles, Newark, Redwood City, San Mateo, Santa Clara, San Jose and Luther, the latter points being included within a single destination group and accorded, because of the competitive influences, common rates.

Complainant contends there is no justification for withholding from Palo Alto and points between Redwood Junction and Santa Clara the contemporaneously effective rates to the group points, proceeding on the assumption that the latter rates are reasonable per se.

The rate of 29 cents, Levee Spur to Palo Alto, assessed on complainant's shipment yielded a ton-mile revenue of 17.4 mills for a haul of 353 miles, and the present 25-cent rate from and to the same points yields a ton-mile revenue of 15.0 mills. These rates and ton-mile earnings are compared with those in effect between various points in California.

The following statement compiled from exhibits is illustrative of the situation:

<u>FROM</u>	<u>TO</u>	<u>MILES</u>	<u>RATE</u>	<u>REVENUE PER TON MILE (mills)</u>
Levee Spur	Palo Alto	353	25 (present)	15.0
Levee Spur	San Pedro	219	27½	25.1
Maricopa	San Pedro	235	30	25.5
Durham	Salinas	263	35½	27.0
Durham	Paso Robles	361	38	21.1
Live Oak	Paso Robles	334	38	22.8
Live Oak	Hanford	274	26	19.0
Chico	Hanford	307	27½	17.9
Whittier	Bakersfield	190	26	27.4
Pasadena	Holtville	228	30	26.3
Westmorland	Pasadena	205	28	27.3
Westmorland	Redlands	141	30½	43.3

Palo Alto is not intermediate between San Joaquin Valley points and San Francisco, neither do the Palo Alto rates reflect water competition which in the past has had such a controlling influence at San Francisco, Oakland, Port Costa, South Vallejo, Stockton, Sacramento and San Jose.

It is not unusual to carry rates to Palo Alto higher than the concurrently effective rates to San Francisco, and attention is called to the fact that the rate on hay and straw from Stockton to San Francisco is 10 cents and to Palo Alto 15 cents; on flour from Fresno to San Francisco 25½ cents and to Palo Alto 31 cents, and on lumber from Stockton to San Francisco 8½ cents, and 13 cents to Palo Alto. Also the movement of grain and grain products from points in the San Joaquin Valley to Palo Alto is extremely light, inasmuch as only two cars moved during the year 1926 from points south to Tracy, Lathrop or Stockton, one of which was complainant's shipment from Yarmouth to Palo Alto and the other a car of corn.

As heretofore stated, the rates from the San Joaquin Valley, west side points, to San Francisco, Oakland, South Vallejo, Port Costa and Sacramento (Cases 1463 and 2125 supra) were established to remove discrimination and prejudice found to exist between the milling industries due to water competitive rates. Port Costa was the key point in this adjustment with distance disregarded in the group rates, and the rates ordered into effect were not declared to be reasonable. Palo Alto is not affected by the same conditions and not entitled to the same adjustment. The reductions made, since this proceeding was filed, of from 29 cents to 25 cents, Levee Spur to Palo Alto, and the proposed reduction from 25 cents to 23½ cents, Levee Spur to San Francisco - Oakland have not been found to be either unjust or unreasonable.

The assailed rate of 13½ cents from Yarmouth to Palo Alto for 69 miles produces a ton-mile revenue of 39.1 mills, and

if the San Francisco - Oakland group rate of 9½ cents was extended to Palo Alto the per ton-mile earnings would be 28.9 mills. These rates are compared with those concurrently in effect between various points in the Sacramento and Salinas Valleys and in Southern California for comparable distances. The following rates and ton-mile earnings taken from exhibits show the grain rate adjustment between these points.

<u>FROM</u>	<u>TO</u>	<u>MILES</u>	<u>RATE</u>	<u>REVENUE PER TON MILE (mills)</u>
Yarmouth	Palo Alto	69	13½	39.1
Colusa	Sacramento	71	14	39.4
San Fernando	San Pedro	43	15	60.5
Los Angeles	Pomona	35	13	78.8
Ontario	Los Angeles	38	14½	76.3
Colton	Los Angeles	57	17	59.6
Colton	San Pedro	81	17½	43.2
Riverside	Los Angeles	65	17	52.3
Greenspot	Los Angeles	71	17½	49.3
Auburn	Dixon	56	14½	51.8
Auburn	Woodland	58	14½	50.0
Colusa	Woodland	48	14	58.3
Bakersfield	Mojave	68	21½	63.2
San Fernando	Santa Paula	45	16	71.1
Gonzales	Monterey	39	14½	74.4
King City	Monterey	69	17½	50.7

This record does not show the Yarmouth to Palo Alto rate of 13½ cents to be either unjust or unreasonable.

We do not find that the rates when assessed and collected were unreasonable, and reparation is denied.

After careful consideration of all the facts we are of the opinion and find that complainant has failed to show that the assailed rates were unjust or unreasonable.

The complaint will be dismissed.

### O R D E R

This case 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,

IT IS HEREBY ORDERED that the complaint in the above entitled proceeding be and it is hereby dismissed.

Dated at San Francisco, California, this 9<sup>th</sup> day of June, 1927.

Ernest C. ...

Oliver ...  
Leon Whitell

Commissioners.