

Decision No. 19159.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ALBERS BROS. MILLING CO.,
a corporation,
Complainant,

vs.

SOUTHERN PACIFIC COMPANY,
a corporation,
Defendant.**ORIGINAL**

Case No. 2325.

C.S. Connolly, for complainant.
 F.W. Mielke and E.N. Bradshaw, for defendant.
 E.B. Smith and E.S. Williams, for Sperry Flour
 Company, intervener.
 J.P. McCarthy, for Phillips Milling Company,
 intervener.

BY THE COMMISSION:

O P I N I O N

The complainant, Albers Bros. Milling Company, is a corporation organized under the laws of the State of Oregon, with offices at 332 Pine Street, San Francisco, and is engaged in the business of buying, selling and manufacturing grain and grain products at various points in the states of California, Oregon, Washington and elsewhere. By complaint duly filed and as amended it is alleged that the carload rates on grain and flour between Dorris, Cole, Redding, Durham, Josephine, Williams, Marysville, and numerous other points north of Marysville and Woodland, also Oakland, on the one hand, and Watsonville, Santa Barbara, Los Angeles, San Bernardino, Riverside, Fresno, Bakersfield, El Centro and Calexico and the intermediate points on the other hand, are unjust and unreasonable and

in violation of Section 13 of the Public Utilities Act.

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

The Sperry Flour Company and the Phillips Milling Company intervened in behalf of complainant, but the Phillips Milling Company presented no exhibits or testimony.

Public hearings were held before Examiner Geary, and the matter having been duly submitted is now ready for our opinion and order.

Complainant operates a mill at Oakland, and the intervenor Sperry Flour Company a mill at South Vallejo, for the cleaning, milling and manufacturing of grain into various kinds of flour and grain products, and they also have distributing warehouses located at important points throughout the state. The mills of both companies are located on tidewater, and the grain is transported either all rail, rail and water, or by water carriers from points in California, Idaho, Oregon, Montana, and the Middle Western States. The California grains are secured chiefly from the San Joaquin, Sacramento and Salinas Valleys. The manufactured products are marketed principally at points north of Bakersfield and Santa Barbara, although substantial shipments are made to Los Angeles, Riverside, and other points in Southern California.

Exhibits were introduced showing acreage and yield per acre within California of wheat, oats, barley and corn. These statements cover statistics secured from reports of the California State Board of Agriculture beginning with the year 1868 and including 1925. At one time wheat was of paramount importance and in 1868 the acreage was 1,050,000; in 1894 this had increased to 3,360,000, and in 1925 it had diminished to 603,000. The productive acreage in oats has been fairly constant, being in 1925

151,000 acres. Barley shows a decline from 1910, when 1,500,000 acres were planted, to 1925, with 1,040,000 acres. Corn has never been produced in any great quantity in California and the peak acreage appears to have been in the year 1891, when 161,470 acres were planted, as compared with 83,000 acres in 1925. The total of these four staple grains, wheat, oats, barley and corn for the year 1925 represented 1,879,000 acres. The record contains exhibits and much information comparing the California grain rates with the rates on grain in the southwestern territory and elsewhere, but the exhibits are not of controlling importance for rate-making purposes by reason of the different conditions existing. As illustrative, the State of Kansas had planted to these four grains in 1925 a total of 17,316,000 acres, Iowa 17,815,000, Nebraska 14,708,000, Oklahoma 7,273,000, and Texas 5,130,000 acres, these five states alone having 62,292,000 acres as compared with 1,879,000 acres in the State of California.

Stated in another way, the five principal railroads operating in the southwestern states secure 14.7% of their total carload tonnage from the grains as compared with 3.3% secured by the Southern Pacific. In cars the total number of the Southern Pacific in 1924 was 23,890 and via the five major lines in the southwestern territory, A.T. & S.F., Rock Island, Missouri Pacific, M.K. & T., and St.L. & S.F., a total of 399,717 cars.

Water-borne grain through the port of Los Angeles is a controlling factor in the volume of the grain rates to Southern California, as is made clear by an exhibit showing the movement of grain, flour and cereals, which for the year 1925 was 90,161 tons, for 1926 93,987 tons, and for 1927 estimated at 79,593 tons.

Complainant proposes as reasonable maximum rates for application in California a distance scale prescribed by the In-

terstate Commerce Commission in Corporation Commission of Oklahoma et al. vs. Abilene and Southern Railway Company et al., 101 I.C.C. 116, commonly referred to as the Southwestern scale. It also proposes on flour 110 per cent. of the rates contemporaneously proposed on grain, to be held as maximum, permitting any lower rates to continue in effect. The basis for the flour rates was arrived at from a study of the transcontinental and certain flour tariffs. However, there are many rate schedules not referred to by complainant where the flour rates fail to reflect any uniform percentage relationship to the grain rates, thus demonstrating that flour rates are responsive to the needs and the circumstances and conditions existing in the territory where applicable.

Exhibits were offered by complainant showing various distance scales applicable on grain and flour in and between various states, which in some instances are lower and in others higher than the rates in California for comparable distances.

The California grown wheat is desirable for the manufacture of certain kinds of flour and cereals, and is freely used by the parties to this proceeding. The production for the year 1927 is estimated to be greatly in excess of that during the year 1926, and the California millers propose to use as much of this wheat in their operations as conditions will permit. It is alleged the through published rates on grain and flour frequently influence the point of purchase of the grain, and where no through published rates are in effect the California millers are required to pay the local rates into the milling points and the rates on the manufactured product from such point to the place of consumption, and such combinations result in rates relatively higher, distances considered, than rates available to complainant's competitors located outside of California who market their prod-

ucts within this state and secure the benefit of transit privileges under through published rates.

Exhibits were submitted to show a large movement of grain and its products by water carriers from points in the Northwest, principally Oregon, Washington and Idaho, to San Francisco Bay points and Los Angeles territory. There is also a heavy tonnage of grain into Oakland and South Vallejo by boats operating on San Francisco Bay and its tributaries. This water-borne tonnage, it is claimed by the defendant, has had a depressing effect on the rates, resulting in subnormal adjustments and creating situations which could not be avoided by reason of this competition.

The average per car loading of all grains on the Southern Pacific for the year 1926 was 77,300 pounds, and on grain products including flour, 56,200 pounds; or on a percentage basis the per car loading of grain was approximately 38.4 per cent. greater than on grain products. The flour rates in California are not constructed with any definite relationship to the rates on grain, and if any relationship were established some consideration could properly be given to the average loadings of the commodities.

Wheat and flour in California move almost entirely on commodity rates, which bear no fixed relationship to each other, neither do they represent any given percentage of the class rates.

The record shows that grain and flour rates via the Southern Pacific between points in the State of California are blanketed over long distances in order to permit the commodities to reach the consuming markets. As illustrative, the rate on whole grain of 21½ cents applying from Stockton to Los Angeles is blanketed in the intermediate territory for a distance of

273 miles, Stockton south to and including Cable. The same is true of flour, where there is a rate of 35 cents from Marysville to Los Angeles, which rate applies in the blanket to and including Cable, a distance of 367.5 miles. If grain and flour rates were measured responsive to the actual distance of haul, the producer furthest from the consuming markets of San Francisco and Los Angeles would operate to a severe disadvantage and might in some situations be practically eliminated because of the water-borne grains.

Defendant's traffic witness testified with reference to the operating conditions prevailing in the California territory and also placed great stress on the contention that the harbors in operation along the expanse of ocean, as well as the competition met by reason of the water-borne grain tonnage between local points particularly in Northern California where much of the grain produced is adjacent to the Sacramento River, the San Francisco Bay and its tributaries, have governed grain rates. The many exhibits introduced by the defendant, the complainant, and the intervener have been given our careful consideration.

There is now pending before the Interstate Commerce Commission Docket No. 17000, Part 7, an investigation into the rates applying to grain and grain products, and also Case No. 2323, an investigation on this Commission's own motion. These proceedings involve the general level of all rates on grain and grain products between all points in California, and are correlated, and therefore the rates established by the order made herein are not prejudicial in any manner to the findings arrived at in the proceedings referred to.

After consideration of all the facts of record we are of the opinion and find that the rates assailed are unreasonable and in violation of Section 13 of the Public Utilities Act to the extent that they exceed the rates set forth below.

Rates in Cents per 100 Pounds

From

To	: Cole :		: Redding :		: Durham :		: Williams :		: Josephine :		: Marys- :		: Oakland :	
	: Dorris :		: Redding :		: Durham :		: Williams :		: Josephine :		: Marys- :		: Oakland :	
	: Column :		: Column :		: Column :		: Column :		: Column :		: Column :		: Column :	
	A :	B :	A :	B :	A :	B :	A :	B :	A :	B :	A :	B :	A :	B :
Fresno	41	46	33½	42	--	34½	26	34½	26	34½	--	30½	--	--
Bakersfield	45	50	37½	46	30	38½	30	38½	30	38½	--	--	--	--
Los Angeles	46	51	--	--	--	--	--	--	--	40	--	--	--	--
Watsonville	41	46	33	41½	32	37½	--	--	--	35½	--	--	--	--
Sta. Barbara	46	51	--	48½	--	40	--	40	--	40	--	--	--	--
San Bernar- dino	50	55	44	52½	--	47	--	46	--	46	--	--	--	---
Calxico	56½	63½	50½	57½	48½	55½	44½	51½	44½	51½	44½	51½	41	48

Column A rates are applicable to grain and articles taking same rates as described in Southern Pacific Company Tariff 793-B, C.R.C. 2487.

Column B rates are applicable to flour and articles taking same rates as described in Southern Pacific Company Tariff 659-C, C.R.C. 2500.

We shall not prescribe rates from or to intermediate points, as the record shows they are of small importance, but defendant will readjust these rates in harmony with those herein set forth, giving proper consideration to the groupings and the differences between the grain and the flour rates.

There remains for consideration complainant's prayer for reparation, but since the rates here in issue to a greater or less extent represent a general readjustment over a large territory, we adhere to previous decisions of this Commission and the Interstate Commerce Commission, and accordingly find that reparation should be denied.

O R D E R

This case being at issue upon complaint and answers on file, and having been duly heard and submitted by the parties and full investigation of the matters and things involved having been had, and basing this order upon the findings of fact and the conclusions contained in the opinion which precedes this order,

IT IS HEREBY ORDERED that defendant, Southern Pacific Company, be and it is hereby directed to cease and desist on or before forty-five (45) days from the date of this order and thereafter to abstain from publishing, demanding or collecting for the transportation of grain and flour and articles taking the same rates, in carloads, as described in Southern Pacific Tariffs 793-B, C.R.C. 2487, and 659-C, C.R.C. 2500, rates which exceed those prescribed in the opinion which precedes this order.

IT IS HEREBY FURTHER ORDERED that defendant, Southern Pacific Company, be and it is hereby directed to establish on or before forty-five (45) days from the date of this order and upon notice to this Commission and the general public by not less than five (5) days' filing and posting in the manner required by law and thereafter to maintain and apply for the transportation of grain and flour and articles taking the same rates, in carloads, as described in Southern Pacific Company Tariffs 793-B, C.R.C. 2487, and 659-C, C.R.C. 2500, rates which shall not exceed those prescribed in the opinion which precedes this order.

Dated at San Francisco, California, this 23rd day of December, 1927.

Edward C. [Signature]
[Signature]
Leon Whitehall
[Signature]
[Signature]
8. Commissioners.