

Decision No. 18457.**ORIGINAL**

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

THE WESTERN PACIFIC RAILROAD COMPANY,)
 Complainant,)

vs.

Case No. 2253.

NORTHWESTERN PACIFIC RAILROAD COMPANY,)
 Defendant.)

James S. Moore, Jr., for Complainant.
 R. W. Palmer, for Defendant.
 A. Larsson, for A. Larsson Traffic Service, Intervener
 in favor of complainant.
 F. W. Mielke, for Southern Pacific Company, Intervener
 in behalf of defendant.
 L. F. Brockamp, for California Sugar and White Pine
 Company.
 H. E. Cole and A. F. Wortman, for California Fruit Ex-
 change, Lumber Department.

BY THE COMMISSION:

OPINION ON REHEARING

The Commission on February 24, 1927, rendered its Decision No. 18024 in the above entitled case. Complainant, The Western Pacific Railroad Company (hereinafter referred to as the Western Pacific) alleged errors in the decision and petitioned for oral argument and the presentation of further testimony. This petition was granted, the proceeding reopened May 3, 1927, hearings held before Commissioner Whitsell November 1 and 4, 1927, and orally argued before the Commission en banc December 17, 1927.

The substance of our original decision was this: We

denied complainant's plea for an order establishing a through route and joint rates for the transportation of lumber and its products via San Francisco from the Oroville and Loyalton lumber producing groups on the Western Pacific to main and branch line points on the Northwestern Pacific Railroad Company (hereinafter referred to as the Northwestern). We found that the lumber rates to the Northwestern points made by use of local rates over the various junctions were extremely unsatisfactory, resulting in confusion, delays and uncertainty to both shippers and carriers, and making it difficult for the mills on the Western Pacific to properly market their products at points on the Northwestern in competition with lumber moving on lower joint through rates, principally from Southern Pacific shipping points Oroville, Chico, Weed and Westwood. The opinion recommended the establishment of a through route and joint rates via the Western Pacific to Sacramento, Southern Pacific to Shellville Junction, and Northwestern to destinations, the defendant and intervener Southern Pacific Company having voluntarily offered to join in this route.

The record indicated the actual time required for handling via either route was not materially different and that the shippers on the Western Pacific were not greatly concerned with the route but apparently preferred a movement through San Francisco because of the greater diversion and reconsignment privileges.

The average length of haul from both the Oroville and Loyalton groups to representative destination points north and south of Ignacio is 356.2 miles via San Francisco and 275.8 miles via Shellville Junction; and to points east of Ignacio on the Sonoma Valley Branch the average distance via San Francisco is 327.9 miles and via Shellville Junction 222.4 miles. Thus to

points north and south of Ignacio the San Francisco route is 80.4 miles, or 29%, farther than the Shellville Junction route, and to points east of Ignacio 105.5 miles or 40% farther. In addition to the longer haul via San Francisco, carriers are confronted with two barge movements across the San Francisco Bay, the first via the Western Pacific from their Oakland pier to San Francisco and the second via the Northwestern from San Francisco to Tiburon. They must also absorb two State Harbor tolls of 5 cents per ton each and a State Belt Railroad switching charge of \$3.50 per car, making a total estimated cost of approximately \$11.92 per car. Complainant, while admitting the operation through San Francisco presents certain obstacles, strenuously contends that being the originating carrier it is entitled to the longest possible haul, also that its earnings via the San Francisco gateway would be more than reasonably compensatory. Complainant stipulated that if allowed the Shellville Junction division of earnings on the movement via the San Francisco gateway, it would assume all costs of delivering the cars to the Northwestern at Tiburon. Under this basis the per car revenue accruing to the Western Pacific from Adelaide to Sebastopol as representative of the Oroville group, after deducting the costs of the bay haul, would be \$82.93 for the rail haul of 199.3 miles from Adelaide to Oakland, a per car mile revenue of 41.6 cents. The per car revenue from Cromberg to Sebastopol as representative of the Loyalton group, exclusive of the amount allocated for the bay haul, would be \$89.35 for the rail haul of 296.3 miles, resulting in a per car mile revenue of 30.1 cents. At the rehearing complainant submitted evidence showing that its revenue from all traffic during the year 1926 was approximately 23 cents per car mile and the expenses about 15 cents per car

mile. The average haul on all traffic during 1926 was 177.19 miles and the average loading per car 23.09 tons.

Defendant contends the Western Pacific earnings to Sacramento when delivered at that point to the Southern Pacific for movement via Shellville Junction, would be materially greater per car mile than via San Francisco, and that for performing the additional haul from Sacramento to Oakland the per car mile earnings would be too low to be compensatory. Computed on this basis the per car mile revenue accruing to complainant for a haul from Adelaide to Sacramento would be 74.1 cents and for the additional haul from Sacramento to Oakland 26.3 cents. From Cronberg to Sacramento the per car mile revenue would be 41.9 cents and for the additional haul from Sacramento to Oakland 14.94 cents. Manifestly the per car mile earnings for the short haul to Sacramento would be greater than via San Francisco, but this is of little probative value as we are here concerned only with the adequacy and sufficiency of the revenue accruing to the Western Pacific from the point of origin via San Francisco to Tiburon, the point of delivery to the Northwestern, which, as heretofore stated, is materially in excess of the average per car mile earnings received by complainant for all traffic during 1926. Viewed in this light the Western Pacific earnings will be sufficiently high to preclude any possibility of burdening other traffic.

The principal reason for the Commission's original decision was upon a comparison of the two movements, the long one via the Western Pacific's own line to San Francisco, the other a partial movement by the Western Pacific to Sacramento for delivery to the Southern Pacific for movement by that carrier to Shellville Junction for delivery to the Northwestern. The longer haul to San Francisco is balanced to some extent by

only a two line haul as contrasted with a three line haul through Shellville Junction.

From either a revenue or an operating standpoint the record indicates no controlling reason why defendant should not have voluntarily joined with complainant in establishing the joint rates via the San Francisco gateway, particularly in view of the fact that complainant offered to absorb the actual cost of barging to Tiburon. The rail haul from Tiburon is no more difficult than from Shellville Junction, with the possible exception of a slight grade beyond San Rafael, an incident not of controlling importance.

Complainant being the originator of the traffic is entitled to the longest reasonable haul and could not under ordinary circumstances be asked to short haul itself because of the desire of a third carrier to interject itself as a participating carrier.

The Southern Pacific and The Atchison, Topeka and Santa Fe jointly control the Northwestern through stock ownership, and defendant's refusal to concur in joint rates via San Francisco is apparently actuated by the desire of the Southern Pacific to participate as a third carrier in the movement of this lumber tonnage.

After reconsideration of the entire proceeding in the light of the issues here framed, the record as now made, the cases cited, and the oral argument, we are of the opinion and find that the establishment of a through route and joint rates on lumber and its products from the points on the Western Pacific to points on the Northwestern here involved via San Francisco is desirable in the public interest and that defendant's failure and refusal to join in such a route is discriminatory and prejudicial to complainant. Defendant will be requir-

ed to join with complainant and establish joint rates from the Oroville group no higher than the joint rates concurrently effective from Oroville on the Southern Pacific, and from the Loy-alton group rates no higher than the joint rates concurrently in effect from Weed on the Southern Pacific.

No order will be entered at this time fixing the div-isions, but complainant and defendant will be expected to ar-rive at an equitable basis. If this is not possible the matter may be brought to our further attention.

ORDER

This case having been duly reheard 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 defendant, Northwestern Pacific Railroad Company, be and it is hereby authorized and directed to establish, in conjunction with complainant, The Western Pacific Railroad Company, within forty-five (45) days from the date of this order upon not less than five (5) days' notice to the Commission and to the public, a through route and joint rates via San Francisco for the transportation of lumber and its products from Oroville and Adelaide to Shell-ville Junction, Ignacio, Sausalito, San Rafael, Tiburon, Sebas-topol, Forestville, Santa Rosa, Dos Rios and all main and branch line points intermediate thereto, no higher than the joint rates concurrently effective from Oroville on the South-ern Pacific Company; and from Spanish Peak, Grays Flat, Quincy Junction, Massack, Spring Garden, Sloat, Cromberg, Penman, Blairsden, Delliker, Portola, Calpine and Loyalty to Shell-

