

**ORIGINAL**Decision No. 19612.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

UNION PAVING COMPANY,

Complainant,

vs.

SUNSET RAILWAY COMPANY,  
SOUTHERN PACIFIC COMPANY,  
THE ATCHISON, TOPEKA AND SANTA  
FE RAILWAY COMPANY,

Defendants.

Case No. 2449.

John Curry, for complainant.

F. W. Mielke, Berne Levy and J. L. Fielding,  
for defendants.

BY THE COMMISSION:

O P I N I O N

Complainant is a corporation with its principal place of business at San Francisco. By complaint filed November 30, 1927, it alleges that the rates on crushed rock, sand and gravel, carloads, from Friant, Seguro, Oil City and Woodrock to Conner, California, were, are and for the future will be unjust, unreasonable and discriminatory to the extent they exceed 6 cents per 100 pounds from Friant,  $2\frac{1}{2}$  cents per 100 pounds from Seguro and Oil City, and  $5\frac{1}{2}$  cents per 100 pounds from Woodrock.

We are asked to prescribe rates for the future and award reparation on all shipments that moved within the statutory period. Rates are stated in cents per 100 pounds.

A public hearing was held on April 3, 1928, before Examiner Geary at San Francisco, and the case having been duly

submitted is now ready for our opinion and order.

Friant, Seguro and Oil City are located on the Southern Pacific Company, Woodrock on The Atchison, Topeka and Santa Fe Railway and Conner on the Sunset Railway. The shipments moved via the originating lines to Bakersfield, thence Sunset Railway to destination. The rates assessed and collected were 6½ cents from Friant to Conner, 151 miles; 3 cents from Seguro and Oil City to Conner, 26 and 29 miles respectively; and 6 cents from Woodrock to Conner, 139 miles. These rates are the regular two-line mileage scale as published in Pacific Freight Tariff Bureau Tariff 166-C, C.R.C. 401, applicable in Central and Northern California in the territory north of Caliente and Santa Margarita.

Complainant contends that the rates assessed were unreasonable to the extent they exceeded the rates contemporaneously maintained by defendants for a single line haul in this territory on the assumption that the Sunset Railway, being owned jointly by the Southern Pacific and Atchison, Topeka and Santa Fe, should be treated as a part of the latter two lines for rate making purposes. The record indicates the Sunset Railway is a separate corporate entity, is operated as an entirely independent line, and that the traffic is handled at the interchange points with the connecting carriers in the same manner as other rail carriers independently operated.

In Case No. 2312, Decision No. 18484, June 9, 1927, Albers Bros. Milling Company vs. Southern Pacific and Sunset Railway, the same question here involved was raised with respect to the rates on milo maize from Levee Spur on the Sunset Railway to Palo Alto on the Southern Pacific Company. In that proceeding we said:

"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."

There is nothing in this record to change the conclusion that the Sunset Railway as at present operated is an independent corporation.

The principles recognized in permitting an arbitrary for a two-line haul over a one-line haul movement were discussed in Case No. 1645, Piedra Rock Company vs. Southern Pacific and Atchison, Topeka and Santa Fe, 21 C.R.C. 895, and it is therefore unnecessary to repeat the details. It is sufficient to say that this Commission and the Interstate Commerce Commission have generally held that the rate for a two-line haul may properly be higher than the rate for a single line haul.

No evidence was offered by complainant assailing per se the volume of either the single line or the two-line rates. Defendants by the testimony of their witnesses indicated that the rock rates in Central and Northern California were generally depressed, either directly or indirectly, by water competition in this territory. (Case No. 2037, Union Rock Company vs. Atchison, Topeka and Santa Fe Railway et al., 27 C.R.C. 285.) The exhibits and the testimony show that the existing joint rates are not unjust, unreasonable or discriminatory. We conclude and find from this record that the case should be dismissed.

### O R D E R

This case being at issue upon complaint and answers on file, full investigation of the matters 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 Case No. 2449 be and the same is hereby dismissed.

Dated at San Francisco, California, this 13<sup>th</sup> day of April, 1928.

Leon Whitely

C. S. Seamy

David B. Loring

M. A. Linn

Commissioners.