

Decision No. 13783.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of)
 F. W. GOMPH, Agent, to make certain)
 changes in rates for transportation)
 of sand, rock and gravel, in con-)
 nection with tariff C.R.C. No. 335.)

Application No. 13834.

In the Matter of the Application of)
 SOUTHERN PACIFIC COMPANY, for an)
 order authorizing publication of)
 certain restrictions in rates in)
 Southern Pacific Company's Tariff)
 330-F, applying on sand, rock and)
 gravel.)

Application No. 13835.

J. E. Lyons, J. L. Fielding, F. W. Mielke and
 H. W. Klein, for the applicants.

Glensor, Clewe & Van Dine, for Blake Brothers
 Company, a corporation, intervener.

BY THE COMMISSION:

OPINION

These are applications filed by F. W. Gomph, Agent Pacific Freight Tariff Bureau and by the Southern Pacific Company under Section 63 of the Public Utilities Act, seeking authority to amend Pacific Freight Tariff Bureau Tariff 166-B, C.R.C. 335, and reissues thereof, and Southern Pacific Tariff 330-F, C.R.C. 3112, so as to provide that the provisions of Southern Pacific Circular 198-L, C.R.C. 3100, will not apply in connection with rates named in these tariffs.

A public hearing was held before Examiner Geary at San Francisco September 1, 1927, and the matters submitted at that

time. Upon request of certain interested shippers the proceedings were reopened, a final hearing being held April 17, 1928, and having been duly submitted are now ready for our opinion and order. The applications were by stipulation heard upon a common record and will be disposed of in one report.

Rates will be stated in cents per ton of 2000 pounds.

Pacific Freight Tariff Bureau Tariff 166-B, C.R.C. 335 and reissues thereof name the joint rates on crushed rock, sand and gravel, and the rates on the same commodities to points on the rails of the Southern Pacific are published in its Tariff 330-R, C.R.C. 3112. These tariffs also contain distance commodity rates, which are generally observed in determining the charges on crushed rock, sand and gravel, the rates being governed by Southern Pacific Circular 198-L, C.R.C. 3100, which circular provides that the rates in effect from and to Oakland will also apply from and to Richmond. The distance between Oakland and Richmond is approximately 11 miles, therefore at points south and west of Oakland the Oakland rates applicable at Richmond are less than would apply by use of the actual distance rates to and from Richmond. This deviation from the scale, applicants allege, results in unjustifiable preferences to certain shippers, and the instant application is intended to remove this preference by amending the line haul tariffs cancelling the provision now authorizing the use of Southern Pacific Circular 198-L in making the Richmond rates. Applicants further contend that the publication of these line haul rock rates was a tariff error, and refers to various commodity rates not subject to such circular, representative of which are the distance rates on live stock in Southern Pacific tariff 645-D, C.R.C. 3118, and the distance scale of class rates in Southern Pacific Tariff 917-D, C.R.C. 2929.

Blake Brothers Company, the protesting intervener, operates a crushed rock plant at Richmond, having shipping facilities

on the San Francisco Bay and the services of the Richmond Belt railway and the Key System Transit Company, and therefore can move the tonnage output either by rail or water. Their operations were commenced at Richmond about the year 1905 and the plant represents an investment of approximately \$750,000. These protestants offered no serious objection to the proposed adjustment except to points on the peninsula, San Francisco and south thereof. They contend these rates should not be disturbed because the economic distribution of crushed rock, due to water and quarries competition, is limited in this territory to a radius of approximately 50 miles, based on the distance scale of rates. The distances from Oakland to the peninsular territory being less than from Richmond, results in rates 10 cents below the scale to certain points. The water-compelled rates to San Francisco from Eliot, Livermore, Coyote and Logan are routed through Redwood and are held as maximum at the intermediate points, many of them being 10 cents lower than the scale. Intervener contends the adjustments sought will prevent competition because applicant does not also propose to adjust the peninsular rates from the other rock shipping points.

When distance scales of rates are established the deviations from such scales should be consistent and without discrimination.

Upon this record and after consideration of all the matters and things involved we are of the opinion and so find that these applications to amend Pacific Freight Tariff Bureau Tariff 166-B, C.R.C. 335 and reissues thereof, and Southern Pacific Tariff 330-F, C.R.C. 3112, so as to provide that the provisions of Southern Pacific Circular 198-L, C.R.C. 3100, will not apply in connection with certain rates on crushed rock, sand and gravel named in such tariffs, are justified and reasonable except from Richmond to points on the Coast Division of the Southern Pacific Company - San Francisco and south thereof.

O R D E R

These applications 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 is hereby referred to and made a part hereof,

IT IS HEREBY ORDERED that the applications of F. W. Gompf, Agent Pacific Freight Tariff Bureau, and Southern Pacific Company to amend Pacific Freight Tariff Bureau Tariff 165-B, C.R.C. 335 and reissues thereof, and Southern Pacific Tariff 330-F, C.R.C. 3112, so as to provide that the provisions of Southern Pacific Circular 198-L, C.R.C. 3100, will not apply in connection with rates named in such tariffs, be and the same are hereby granted in so far as same do not increase rates from Richmond to Coast Division points of the Southern Pacific Company, San Francisco and south thereof.

Dated at San Francisco, California, this 9th day of May, 1928.

Leon Whitely
C. S. Seaver

Thos. J. Lantieri

W. J. Lantieri
Commissioners.