

Decision No. 21255.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

J. E. JOHNSTON, doing business as  
Johnston Rock Company,

Complainant,

vs.

SOUTHERN PACIFIC COMPANY,  
THE WESTERN PACIFIC RAILROAD COMPANY,  
SACRAMENTO NORTHERN RAILWAY,  
INDIAN VALLEY RAILROAD COMPANY,

Defendants.

Case No. 2547.

ORIGINAL

E. W. Hollingsworth, R. T. Boyd, and Bishop &  
Bahler, for complainant.

James E. Lyons, A. L. Little and C. N. Bell,  
for Southern Pacific Company.

L. N. Bradshaw and J. F. Bon, for The Western  
Pacific Railroad Company, Sacramento  
Northern Railway, and Indian Valley  
Railroad Company.

BY THE COMMISSION:

O P I N I O N

Complainant, J. E. Johnston, is an individual engaged in the crushed rock business under the fictitious name of Johnston Rock Company. By complaint filed January 16, 1929, and amended at the hearing to eliminate the Indian Valley Railroad Company as a defendant, it is alleged that while defendants maintain a through route for the transportation of sand, rock and gravel moving from Butte Creek on the Southern Pacific Company to Chico, thence Sacramento Northern to Oroville, destined to

points on the Western Pacific Railroad situated between Tambo and Calneva inclusive, they have refused and now refuse to establish reasonable through joint rates on crushed rock, sand and gravel for the movements here involved; and that the aggregate of the separately established factors is unjust, unreasonable and excessive. We are asked to prescribe just and reasonable joint rates via this route for the future. Rates will be stated in cents per 100 pounds except as shown.

A public hearing was held before Examiner Geary at San Francisco March 27, 1929, and the case having been submitted is now ready for an opinion and order.

Butte Creek is 4 miles north of Chico on the Southern Pacific Company; Tambo and Calneva are 19 miles south of and 173 miles east of Oroville respectively on the Western Pacific Railroad Company. The distances from Butte Creek to the destination points here at issue via the Sacramento Northern Railway range from 29 to 201 miles. The present rates via this route are made combination of commodity rates over Chico or Oroville, the factors being published in Southern Pacific Tariff 330-F, C.R.C. 3112, Western Pacific Tariff 36-F, C.R.C. 257, and Pacific Freight Tariff Bureau Tariff 166-D, C.R.C. 442.

In addition to the route here involved the traffic can move via the Southern Pacific direct to Marysville, thence Western Pacific Railroad, thus eliminating the Sacramento Northern as a participating carrier in the traffic. The route via the Marysville gateway is substantially longer than the route via Chico and Oroville. Complainant's shipments are now moving via the former route, as effective February 25, 1929 the Southern Pacific Company and Western Pacific Railroad Company published through rates from Butte Creek to the destinations here involved, based on the so-called Northern California mileage rock scale,

using the actual mileage via Marysville and 150% of the actual mileage for that portion of the haul east of Oroville.

Complainant contends that this basis should also be used to establish reasonable rates via the shorter route through Chico and Oroville, but there was no attempt made to show the Northern California scale is reasonable per se. In County of Los Angeles et al. vs. A.T. & S.F. Ry. et al., 32 C.R.C. 296, we found that the Northern California rock rates were subnormal, originally established to meet active water competition between points situated on the bay and rivers, and was gradually extended to inland points where no such competition existed to enable producers located in the same general territory to reach the consuming markets on an equal basis with shippers enjoying the water-influenced rates. Complainant takes the position that regardless of the fact that the Northern California rates are depressed, it is entitled to this basis, as defendants voluntarily establish rates predicated on the scale throughout the Northern California territory when the occasion arises. Whatever merit there is in this contention goes to the question of unlawful discrimination, preference or prejudice, which the pleadings in this complaint do not bring in- to issue. The Northern California scale does not afford a measure for the reasonableness of the rates here at issue.

The record shows however that the existing combination rates via Chico and Oroville are higher than the rates in Southern California, which were before the Commission in County of Los Angeles vs. A.T. & S.F. Ry. et al., supra. Under the Southern California scale the rates for a single line haul are 3 cents for 25 miles or less,  $3\frac{1}{2}$  cents for 26 to 35 miles, 4 cents for 36 to 55 miles,  $4\frac{1}{2}$  cents for 56 to 75 miles, and for distances over 75 miles  $\frac{1}{2}$  cent for each additional 25 miles traversed. For joint line hauls 20 cents per ton is added. The record does not justify

rates higher than those applicable in Southern California for comparable distances based upon the short line mileage via Chico and Oroville and giving due consideration to the operating conditions on the Western Pacific Railroad east of Oroville.

Upon consideration of all the facts of record we are of the opinion and so find that the rates assailed for the transportation of crushed rock, sand and gravel from Butte Creek on the Southern Pacific to points on the Western Pacific Railroad, Tambo to Calneva inclusive, when routed via Chico and the Sacramento Northern Railway, are unjust and unreasonable to the extent that they exceed the following:

<u>TO</u>	<u>RATE</u>	<u>TO</u>	<u>RATE</u>
Tambo	5	Massack	7½
Greybros	5	Sloat	7½
Craig	5	Cromberg	8
Vista Robles	4½	Grægle	8
Palermo	4½	Clio	8
Adelaide	4½	Mabie	8
Bidwell	5	Gulling	8½
Bloomer	5	Calpine	9
Las Plumas	5	Hawley	8½
Berry Creek	5½	Beckwith	8½
Poe	5½	Loyalton	9
Fulga	6	Hindoo	8½
Merlin	6	Reno Jct.	9
Tobin	6½	Scotts	9
Eowells	6½	Constantia	9½
Mill Creek	6½	Omira	9½
Twain	7	Doyle	9½
Paxton	7	Hackstaff	10
		Calneva	10

#### O R D E R

This case being at issue upon complaint and answers on file, 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 defendants, Southern Pacific Company, The Western Pacific Railroad Company and Sacramento

Northern Railway, be and they are hereby directed to establish on or before twenty (20) days from the effective date of this order, upon not less than five (5) days' notice to the Commission and to the public and thereafter to maintain for the transportation of crushed rock, sand and gravel, in carloads, from Butte Creek to points on the Western Pacific Railroad, Tambo to Calneva inclusive, rates not to exceed those herein found reasonable.

Dated at San Francisco, California, this 18<sup>th</sup> day of June, 1929.

W. D. Lacey

C. Lacey

Leon Whitely

W. P. Linn  
Commissioners.