

Decision No. 21380**ORIGINAL**

## BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Suspension by  
the Commission on its own motion of  
reduced rates on crushed rock from  
Oroville to Sacramento and the inter-  
mediate points via The Western Pacific  
Railroad Company and Sacramento Northern  
Railway.

Case No. 2671

L. N. Bradshaw, for Respondents Western Pacific  
Railroad Company and Sacramento Northern Railway  
Company.

Thelen & Marris, for Bechtel-Kaiser Rock Company.

E. W. Hollingsworth and R. T. Boyd, for Pratt  
Building Material Company, Protestant, and Pratt  
Rock & Gravel Company, Protestant.

BY THE COMMISSION:

O P I N I O N

This is an investigation instituted on the Commission's own motion concerning the propriety of a reduced rate of 3 cents per 100 pounds for the transportation of crushed rock, in straight carloads, from Oroville to Sacramento, Del Paso, Bombay, Strauch, Counsman and Sankey as published on second revised page 272-A of Western Pacific Local, Joint and Proportional Tariff No. 36-F, C.R.C. No. 257 and from Oroville to Sacramento as published in Item 330-D of Sacramento Northern Tariff No. 10-C, C.R.C. No. 31.

The proposed tariffs were published to become effective April 10, 1929 but our orders suspended the effective date thereof until July 31, 1929 upon complaints from rock companies located at points adjacent to Sacramento alleging among other things that the reduced rate was lower than the established basis of rates maintained by

respondents and other rail carriers in this territory for the transportation of crushed rock and was unduly preferential of shippers at Oroville and prejudicial to protestants.

Public hearings were held before Examiner Geary at San Francisco, May 28 and June 7, 1929 and the case having been duly submitted is now ready for an opinion and order. Rates are stated in cents per 100 pounds.

The proposed rate is primarily for the movement of crushed rock from the plant of the Bechtel-Kaiser Rock Company at Adelaide, located 2.3 miles west of Oroville. This plant, the record shows, was recently constructed to furnish ballast rock to the Western Pacific Railroad but the deposits are sufficiently large to produce crushed rock in excess of the requirements of the railroad. The principal market for the overflow production is at Sacramento but the Bechtel-Kaiser Rock Company cannot, under the present rate of 4 cents, compete with crushing plants, including those of protestants, located adjacent to Sacramento and which are now enabled to reach this market at rates ranging from  $2\frac{1}{2}$  cents to  $3\frac{1}{2}$  cents.

None of the plants near Sacramento are served by the Western Pacific Railroad or Sacramento Northern Railway hence in order to obtain tonnage from the Adelaide plant respondents established the three cent rate here at issue. This rate is one cent lower than would be applicable by the use of the so-called Northern California mileage scale of rates usually maintained by the rail lines for the transportation of crushed rock, sand and gravel in Northern and Central California in the territory north of Santa Margarita and Caliente. We have heretofore held that the Northern California scale is depressed by reason of water competition on San Francisco Bay, the San Joaquin and Sacramento Rivers and their tributaries. Union Rock Company vs. A.T. & S.F. Ry. et al. 27 C.R.C. 285, County of Los Angeles et al. vs. A.T. & S.F. Ry. et al. 32 C.R.C. 296.

Respondents admit that the Northern California scale is depressed but claim that it is not unusual to occasionally deviate from this basis because of competitive conditions. They cite various instances where rates on crushed rock, sand and gravel in this territory are now lower than the scale. The rates referred to, however, either apply between competitive rail points where the long line carrier is forced to meet the rates of its short line competitor or are water compelled rates to the San Francisco Bay territory, established before the Northern California scale was published in the tariffs.

Respondents also contend that although the proposed 3 cent rate is less than a maximum reasonable rate it will produce something more than the out-of-pocket cost of operation, is not a burden on other traffic and they are therefore justified in establishing a rate that will enable an industry on their line to reach a competitive market.

The average loading of crushed rock is approximately 50 tons, which under the proposed rate of 3 cents will produce a per car revenue of \$30.00. Respondents claim the cost of handling the rock is \$21.96 per car. This amount, however, does not include the State tax of 7 per cent on the gross revenue amounting to \$2.10 per car, nor is any allowance made for other actual expenses such as weighing, station costs and interest on the equipment. The record fails to show what the total approximate actual cost of handling the rock would be as respondents have simply attempted to justify the rate on the theory that this will be "added traffic" to which many actual cost elements usually considered would not be applicable.

Ordinarily, it is the privilege of a carrier to initiate rates that are not fully compensatory subject, however, to the limitation that such rates do not create undue prejudice and preference and are not so low as to place a burden on other traffic. The record, however, leads us to conclude that if all the actual cost

elements were given due consideration the revenue that would be obtained under the proposed rate of 3 cents would be dangerously close to, if not less than, the cost of performing the service. Furthermore, the proposed rate is a deviation from an established basis of rates, which we previously have found is less than a maximum reasonable basis.

Under the circumstances we find that the suspended tariffs have not been justified. An order will be entered requiring their cancellation and discontinuing this proceeding.

C R D E R

It appearing that by order dated April 2, 1929, the Commission entered upon a hearing concerning the lawfulness of a rate of 3 cents per 100 pounds for the transportation of crushed rock, in carloads, from Oroville to Sacramento, Del Paso, Bombay, Strauch, Counsman and Sankey as published on second revised page 272-A of Western Pacific Local, Joint and Proportional Tariff No. 36-F, C.R.C. No. 257, and from Oroville to Sacramento as published in Item 333-D of Sacramento Northern Tariff No. 10-C, C.R.C. No. 31;

It further appearing that full investigation of the matters and things involved having been had, and the Commission having on the date hereof made and filed its opinion containing its findings of fact and the conclusions therein, which said opinion precedes this order,

IT IS HEREBY ORDERED that the respondents be and they are hereby notified and required to cancel on or before July 31, 1929, the rate of 3 cents per 100 pounds for the transportation of crushed rock in carloads from Oroville to Sacramento, Del Paso, Bombay, Strauch, Counsman and Sankey as published on second revised page 272-A

of Western Pacific Local, Joint and Proportional Tariff No. 36-F, C.R.C. No. 257 and from Oroville to Sacramento as published in Item 330-D of Sacramento Northern Tariff No. 10-C, C.R.C. No. 31.

IT IS HEREBY FURTHER ORDERED that the order entered in this proceeding suspending the operation of the schedules referred to in the preceding paragraph be and they are hereby vacated and set aside as of July 31, 1929, and that this proceeding be and the same is hereby discontinued.

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

July 1929.

W. J. Conroy

Leon Whitely

W. J. Conroy  
COMMISSIONERS.