JLA

Decision No. 23362

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

SOUTHERN CALIFORNIA IRON AND STEEL COMPANY (substituted in place of PACIFIC COAST STEEL COMPANY), Complainant, vs. SOUTHERN PACIFIC COMPANY, THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, Defendants.	Case No. 2870.

E. W. Hollingsworth and Bishop & Bahler, for complainant.

James E. Lyons and A. L. Whittle, by A. L. Whittle, for defendant Southern Pacific Company.

E. C. Pierre and C. E. Duffy, for defendant The Atchison, Topeka and Santa Fe Railway Company.

BY THE COMMISSION:

O P I N I O N

This proceeding was instituted by the Pacific Coast Steel Company, but by stipulation the Southern California Iron and Steel Company was substituted for the original complainant. By complaint filed May 29, 1930, it is alleged that the rate assessed and collected on numerous carloads of steel ingots shipped by the Pacific Coast Steel Company at San Francisco to Southern California Iron and Steel Company at Los Angeles was unjust and unreasonable in violation of Section 13 of the Public Utilities Act. Reparation only is sought. Unless otherwise

noted, rates are stated in cents per 100 pounds.

A public hearing was held before Examiner Geary at San Francisco August 27, 1930, and the case having been submitted and briefs filed is now ready for an opinion and order.

Complainant's shipments consisted of 118 cars of steel ingots; 76 carloads were routed via Southern Pacific and 42 carloads via Atchison, Topeka and Santa Fe. They originated on the industry tracks of the Pacific Coast Steel Company at South San Francisco and were delivered to the Southern California Iron and Steel Company on its industry track at Vernon. The shipments were loaded to an average weight of 109,245 pounds, and had a value of approximately $22.70 per net ton. The legally applicable Class "D" rate of 38½ cents was assessed.

All of the shipments were forwarded during a period extending from May 1929 to October 1929 inclusive, at a time when the Southern California Iron and Steel Company because of an unusual volume of business was unable to meet the demand for ingot steel at its Los Angeles plant. Before they moved, the traffic manager for complainant requested defendants to establish a rate of 21½ cents, minimum weight 40,000 pounds, between the points involved. This request was based upon a rate of the same volume then in effect from South San Francisco to Los Angeles on fabricated articles of iron and steel.

Defendants expressed a willingness to publish a 21½-cent rate but with a minimum of 80,000 pounds, provided they were able to obtain authority from the Commission to make the rate non-intermediate in application, based upon meeting water competition. However the competing steamship lines protested the publication of this rate upon the grounds there was no actual water competition, and in view of their protest the application was denied on the informal docket without prejudice to bringing the matter

before the Commission in a formal proceeding. The formal application was not filed, as defendants were later informed there was little likelihood of the traffic moving via the coastwise steamship lines because of the necessity of keeping the furnace output of each particular material in separate lots, a service not conveniently rendered by the water carriers. Meanwhile the tonnage was moving at the Class "D" rate of 38½ cents under the belief, as stated by a witness for complainant, that it could later obtain a reparation adjustment. The record however does not show that any such promise was made by defendants. Effective May 15, 1930, defendants published a rate of 25 cents, minimum 100,000 pounds, maximum in application. This rate is now in effect.

The rate of 38½ cents based upon the average loading of complainant's shipments (109,245 pounds) produced a revenue of $420.59 per car, 89.87 cents per car mile, and 1.645 cents per ton mile. At the time the shipments moved defendants had in effect a rate on ingots of $5.25 per long ton from Ironton, Utah, to San Francisco and Los Angeles for distances of 864 miles and 748 miles respectively. This rate is equivalent to 23.44 cents per 100 pounds. Based upon the average loading of complainant's shipments, the Ironton Utah rate yielded earnings of $256.07 per car, 29.64 cents per car mile, and .543 cents per ton mile to San Francisco; and $256.07 per car, 34.23 cents per car mile and .627 cents per ton mile to Los Angeles. Complainant is here seeking a rate not in excess of the Ironton Utah rate. Defendants however strenuously object to using the latter rate as a gauge for the reasonableness of the rate here under consideration, as they assert it is depressed below a maximum reasonable basis, having been established for the Columbia Steel Company to enable it to obtain ingots from Utah at a rate

low enough to meet the competition of pig iron coming by vessel through California ports from Eastern and Southeastern manufacturers and from foreign points. Undoubtedly the Ironton Utah rate is depressed to some extent. But it has been in effect for a long period of time and since it was voluntarily established it must be presumed to at least cover the out-of-pocket costs and net some additional revenue to the carriers. Moreover the Ironton Utah rate applies for hauls of 864 miles to San Francisco and 748 miles to Los Angeles, while the 38½-cent rate here at issue was assessed for a haul of only 468 miles.

Defendants also contend that the movement of ingots from South San Francisco to Los Angeles is sporadic, as complainant shipped the ingots only because of a shortage existing at the Los Angeles plant, and since then there has been practically no movement. They also stress the relatively light movement as compared with the Ironton Utah movement of approximately 40,000 tons per year. These facts, defendants assert, clearly demonstrate that complainant is not entitled to a rate lower than Class "D". The record however is convincing that the Class "D" rate of 38½ cents was in excess of a maximum reasonable rate for complainant's shipments. It is true the movement was completed within a relatively short time, but nevertheless it was substantial and defendants were aware that it would take place. Their failure to establish a commodity rate before the shipments moved was not the fault of complainant. While it is apparent that the 21½-cent rate was offered without a great deal of consideration to its intrinsic reasonableness, it is also apparent that the 25-cent rate subsequently established was probably the maximum reasonable rate which in defendants' opinion would hold the traffic

to their lines. The 25-cent rate produced earnings of $273.11 per car, 58.36 cents per car mile and 1.068 cents per ton mile, which are considerably in excess of the earnings obtained from the Ironton, Utah rate.

Upon consideration of all the facts of record we are of the opinion and find that the assailed rate was unjust and unreasonable to the extent it exceeded a rate of 25 cents per 100 pounds, minimum weight 100,000 pounds; that complainant Southern California Iron and Steel Company made the shipments as described, paid and bore the charges thereon and is entitled to reparation with interest at six per cent.

The exact amount of reparation due is not of record. Complainant will submit to defendants for verification a statement of the shipments made and upon the payment of reparation defendants will notify the Commission the amount thereof. Should it not be possible to reach an agreement as to the reparation award the matter may be referred to the Commission for further attention and the entry of a supplemental order should such be necessary.

O R D E R

This case 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 precedes this order,

IT IS HEREBY ORDERED that defendants, Southern Pacific Company and The Atchison, Topeka and Santa Fe Railway Company, according as they participated in the transportation, be and they are hereby authorized and directed to refund to complainant, Southern California Iron and Steel Company, together with

interest at six (6) per cent. per annum, all charges collected in excess of 25 cents per 100 pounds, minimum carload weight 100,000 pounds, for the transportation from San Francisco to Los Angeles of the shipments of steel ingots involved in this proceeding.

Dated at San Francisco, California, this 2nd day of February, 1931.

Commissioners.