

OPINION

Decision No. 23571.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

GLOBE GRAIN AND MILLING COMPANY,
Complainant,

vs.

THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY,
SOUTHERN PACIFIC COMPANY,
Defendants.

Case No. 2894.

PACIFIC COTTONSEED PRODUCTS
CORPORATION,
Complainant,

vs.

THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY,
SAN DIEGO AND ARIZONA RAILWAY COMPANY,
SOUTHERN PACIFIC COMPANY,
Defendants.

Case No. 2898.

- E. J. Forman and G. A. Whitney, for complainant in Case 2894.
- L. E. Stewart, for complainant in Case 2898.
- L. E. Stewart, for J. C. Boswell Company, intervenor on behalf of complainants.
- J. L. Fielding and A. Burton Mason, for Southern Pacific Company, defendant.
- F. B. Dorsey, for San Diego and Arizona Railway Company, defendant in Case 2898.
- Berne Levy and G. E. Duffy, for The Atchison, Topeka and Santa Fe Railway Company, defendant.

BY THE COMMISSION:

OPINION

Complainants are corporations engaged in the buying, selling, shipping and manufacturing of cottonseed and cottonseed

products with their principal places of business at Los Angeles.

In Case No. 2894 the complaint filed July 22, 1930, as amended, alleges that the rates assessed for the transportation of cottonseed in carloads from points in California, principally in the San Joaquin and Imperial Valleys, to Los Angeles were and are unreasonable in violation of Section 13 of the Public Utilities Act. Reasonable rates for the future and reparation on shipments moving subsequent to August 1, 1929, and during the pendency of this proceeding, are sought.

By complaint filed August 2, 1930, in Case No. 2898 it is alleged that the rates charged for the transportation of cottonseed in carloads from origin points in the San Joaquin Valley to Los Angeles and Potash and from Los Angeles to Potash were and are unjust, unreasonable, unduly prejudicial to complainants, and unduly preferential of shippers of whole grains and their products, hay and other animal feeds in violation of Sections 13 and 19 of the Public Utilities Act. We are asked to prescribe reasonable and nonprejudicial rates for the future and to award reparation on shipments moving to Los Angeles subsequent to September 15, 1929, and to Potash since January 18, 1930.

J. G. Boswell Company, Limited, intervened in behalf of complainants in both cases. The Fresno Traffic Association filed petitions in intervention in these cases but was not represented at the hearing.

Public hearings were held before Examiner Geary at Los Angeles, and the cases having been submitted and briefs filed are now ready for our opinion and order. By stipulation these proceedings were heard on a common record and will be disposed of in one decision. Case No. 2915, involving similar issues, was assigned for hearing with the above entitled cases and partially heard, but later dismissed at the request of complainants. Rates are stated in cents per 100 pounds.

The origin territory here involved may roughly be described as the cotton-producing section of the San Joaquin Valley, extending from Oakdale, Merced and Los Banos and south thereof, and the Imperial Valley on the line of the Southern Pacific extending from Indio to Calexico. Complainants in the operation of their mills at Los Angeles and Potash obtain cottonseed from either or both of these sections. At the present time the mill at Potash is not in operation due to the competition of other mills. This mill originally obtained seed from the Imperial Valley in California and Mexicali, Mexico, and from the Yuma Valley in Arizona, but with the location of mills adjacent to the source of supply, the Potash plant has been unable to obtain a sufficient quantity of seed to continue operating. Complainants believe that if they were given what they consider a satisfactory rate adjustment to Potash they could obtain sufficient seed from the San Joaquin Valley to supply the markets in and around San Diego.

Originally the major cotton-producing section of California was the Imperial Valley, but of late years the San Joaquin Valley has produced the bulk of the crop. The industry has grown rapidly in the past few years. In 1929 there were produced 254,126 five-hundred-pound bales as contrasted with a total production of 21,093 bales in 1922. Of the 1929 production of cottonseed 108,180 tons originated in the six counties of Fresno, Kern, Kings, Madera, Merced and Tulare. The principal product of cottonseed is oil. The by-products are hulls, cake and meal. The latter are used principally for livestock feeds or fertilizer. As a feed they are marketed in competition with barley and various other stock feeds. A ton of cottonseed produces approximately 320 pounds of oil, 890 pounds of meal and 550 pounds of hulls.

At the time of hearing the value of the crude oil was \$125 per ton, while that of the by-products was \$34 per ton. These prices fluctuate. Complainants' shipments move in box cars in bulk and load to an average weight of about 66,000 pounds. In 1929 they shipped approximately 800 cars to Los Angeles.

The first cottonseed rates in California were established by the Southern Pacific in 1909 from Imperial and El Centro to Los Angeles. Subsequently additional rates were published from adjacent points where there was a movement. The rates were originally on a parity with the grain rates, but since then the grain rates have been reduced to a lower level. At the present time the Imperial Valley rates to Los Angeles vary from 17½ cents to 25 cents. They are approximately the same as those prescribed by the Interstate Commerce Commission in Oklahoma Corporation Commission vs. A. & S. Ry. Co., 98 I.C.C. 183, for comparable distances in the so-called common point territory of the Southwest. These rates will hereafter be referred to as the common point rates.

The present rates from the San Joaquin Valley to Los Angeles are on a higher basis. They were published effective January 8, 1926, as a compromise adjustment following the filing of complaints in California Cotton Oil Co. vs. A. T. & S. F. Ry. et al., Case 2131; California Cotton Oil Co. et al. vs. Southern Pacific, Case 2159; and California Cotton Oil Co. vs. Southern Pacific, Case 2160, and with few exceptions are the same as the rates established by the Interstate Commerce Commission in Oklahoma Corporation Commission vs. A. & S. Ry. Co., supra, for like distances in the differential territory in the State of Texas. These rates will herein be referred to as the differential rates. The differential rates are approximately 20 per cent. higher than

the common point rates. Complainants in Cases 2131, 2159 and 2160, some of which are before us in these proceedings, were apparently satisfied with the differential rates from the San Joaquin Valley to Los Angeles, and upon so notifying the Commission the cases were dismissed. (California Cotton Oil Co. vs. A.T.& S.F.Ry., 27 C.R.C. 899.)

They are now asking us to condemn the existing rates both from the San Joaquin and Imperial Valleys to Los Angeles and Potash, and from Los Angeles to Potash, upon the grounds that they are unreasonable when compared with the rates on (a) cottonseed prescribed by the Interstate Commerce Commission in southwest common point territory, (b) cottonseed between points in California, (c) cottonseed between points in Arizona, (d) hay between points in California, (e) grain and grain products now in effect from the San Joaquin Valley to Los Angeles, and (f) the grain and grain products rates between the same points prescribed by the Interstate Commerce Commission in Docket 17000, Part 7, for interstate traffic. Under the Commission's order in Docket 17000, Part 7, the grain rates are to become effective June 1, 1931. The interstate proceeding was heard jointly with California Case No. 2323, but the latter has been reopened for further hearing and until decided it will not be known what the future level of the intrastate rates in California on grain and grain products will be. In reaching our conclusion herein consideration will be given only to the present rates on grain and its products.

While complainants have attacked the rates as being unreasonable as compared with the rates on hay, cottonseed and other commodities, they are mainly seeking the rates concurrently in effect on whole grain or grain products.. They contend that

in marketing their cottonseed cake, meal and hulls in competition with grain feeds they are at a distinct disadvantage inasmuch as the manufacturer of grain is enabled to obtain his raw material at rates materially less than complainants pay on cottonseed. This they attribute entirely to the inbound rates on cottonseed as the outbound rates on their manufactured feeds are the same as those on grain products.

The whole grain rate from the San Joaquin Valley to Los Angeles is $21\frac{1}{2}$ cents. This is the Stockton to Los Angeles rate originally established to meet water competition but held as maximum at the intermediate points in the San Joaquin Valley. The Imperial Valley has been accorded the same grain rate for competitive reasons. The record does not warrant using this rate as the measure of a reasonable rate on cottonseed.

The rates on grain products reflect a more normal level. The present rates to Los Angeles vary from 28 cents at Oakdale to $22\frac{1}{2}$ cents at Bakersfield. These apply on some 60 commodities, including many not the direct products of grain. They also apply on a few commodities such as flaxseed, melilotus seed, broom-corn seed and vetch seed, which may bear some analogy to cottonseed. Defendants contend that the commodities which could be considered analogous to cottonseed were included in the grain products description because they are directly marketed in competition with grain products. They further contend that while some of these commodities, such as flaxseed, should properly be given higher rates, as they have been in other territories, they have made no attempt to increase the rates because of the negligible movement in California. Cottonseed is not directly marketed in competition with grain products. Its principal product is oil, and whatever competition there is with other

feeds comes after the residue has been converted into cake, meal and hulls. The last three named commodities are now included in the grain products description.

The evidence is persuasive that the common point rates prescribed by the Interstate Commerce Commission in Oklahoma Corporation Commission vs. A. & S. Ry. Co., supra, more nearly approach a reasonable basis for cottonseed rates in California than any of the other rates here of record. Defendants now maintain substantially the common point rates from the Imperial Valley to Los Angeles, and the differential basis of rates from the San Joaquin Valley to Los Angeles. To Potash the rates are substantially higher than either the common point or the differential scale, in some cases being made combination over Los Angeles. In J. G. Boswell Co. et al. vs. A. T. & S. F. Ry. et al., 33 C.R.C. 308, we established rates on cottonseed oil, cake, meal and hulls approximately 10 per cent. higher than the common point rates, due principally to the materially lighter movement in California than in the Southwest. While the movement of cottonseed throughout common point territory is greater than in this state, the fact remains that during 1929 there were some 800 cars moved from comparatively few points in the San Joaquin Valley to Los Angeles. This is a substantial movement and no doubt would be comparable to the movement between the same number of points in common point territory. We believe the record will support the common point rates from the San Joaquin Valley to Los Angeles and Potash, and from Los Angeles to Potash. No revision in the rates from the Imperial Valley to Los Angeles is necessary.

Defendants contend that in computing mileage from the San Joaquin Valley points there should be allowed constructive mileage for the haul over the Tehachapis as was done when the

class rates were established from and to points in the San Joaquin Valley (Traffic Bureau of the Merchants Exchange vs. Southern Pacific et al., 1 C.R.C. 95). However the rates here found reasonable will be sufficiently high to compensate defendants for any adverse operating conditions encountered.

Our finding will remove some of the causes for the allegation of undue preference and prejudice. Complainants contend that they will still be at a disadvantage unless they obtain the whole grain rates. The evidence however does not show that there is any competition between whole grain and cottonseed, nor that from a transportation standpoint they are entirely analogous. Whatever competition there may be is with the manufactured articles moving outbound from the mills. Complainants are not dissatisfied with these latter rates, nor are they here involved. The evidence does not sustain the allegation of undue prejudice and preference.

Complainants ask for reparation, but there is little here to support their plea. Where an industry such as the one here under consideration is rapidly growing the standard for the reasonableness of the rates may change as conditions change. But where it is shown that a revision of the rates is necessary it is difficult to ascertain the precise time when the adjustment should be made. A comparatively short time ago defendants and some of the complainants were able to agree upon a basis of rates which under the conditions then existing were presumably reasonable. As to these complainants there is little equity in their reparation plea. However, we are not bound by any understanding or agreement between defendants and complainants, and if as complainants contend the rates in the past were unreasonable, it is our duty to award reparation. Complainants have not sustained

the burden of proof by showing conclusively that the rates in the past were unreasonable. Reparation will therefore be denied.

Upon consideration of all the facts of record we are of the opinion and so find that the rates on cottonseed in carloads from points in the San Joaquin Valley here involved to Los Angeles and Potash and from Los Angeles to Potash for the future will be unjust and unreasonable to the extent they exceed the rates shown in the following schedule. Rates from origin points here involved where there is a movement but not specifically shown below should be adjusted to the same relative basis.

COTTONSEED, CARLOADS

Rates are in cents per 100 pounds

From	: To : Los Angeles	To Potash
Dos Palos	30	36
Firebaugh	29	35
Cromie	29	35
Mendota	29	35
Chowchilla	29	35
Oakdale	31½	37½
Madera	28	35
Fresno	27	34
Tulare	25	32½
Visalia	26	33
Delano	24	31
Earlimart	24	32
Bakersfield	21½	30
Magunden	21½	29½
Lamont	21½	30
Giffen	21½	30
Irvin	23	30
Corcoran	25	32½
Porterville	25	32
Los Angeles	--	20½

ORDER

These proceedings having been duly heard and submitted and briefs filed, 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, The Atchison, Topeka and Santa Fe Railway Company, San Diego and Arizona Railway Company and Southern Pacific Company, according as they participated in the transportation, be and they are hereby ordered to establish on or before forty-five (45) days from the effective date of this order, upon not less than five (5) days' notice to the Commission and the public, rates on cottonseed in carloads from points in the San Joaquin Valley involved in this proceeding, to Los Angeles and Potash, and from Los Angeles to Potash, which shall not exceed the rates found reasonable in the opinion which precedes this order.

IT IS HEREBY FURTHER ORDERED that in all other respects the complaints be and they are hereby dismissed.

Dated at San Francisco, California, this 6th day of April, 1931.

Cl. Seaman
Leon A. Bell
W. A. Lee
W. B. Harris
Fred G. Stewart
Commissioners.