

Decision No. 24588.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

OUTSEN BROS., a copartnership
consisting of A. C. and J. B.
Outsen,

Complainant,

vs.

SOUTHERN PACIFIC COMPANY,
a corporation,

Defendant.

ORIGINAL

Case No. 2919.

Carl R. Schulz, for complainant.

A. L. Whittle, for defendant.

WEITSELL, Commissioner:

OPINION ON PETITION FOR REHEARING

By Decision No. 23792 of June 15, 1931, the Commission found that the assessing and collecting of charges on shipments milled in transit at San Francisco and subsequently forwarded to South San Francisco, greater than those contemporaneously applicable to like shipments moving over the same route to Redwood City, was in violation of Article XIII Section 21 of the Constitution of the State of California and of Section 24(a) of the Public Utilities Act.

A petition for rehearing was filed by defendant and the proceeding reopened for oral argument thereon. It was argued September 24, 1931, submitted on briefs, and is now ready for an

opinion and order.

The circumstances surrounding this proceeding are set forth in the original opinion. Briefly, they are as follows:

Complainant tendered to defendant at San Francisco for transportation to South San Francisco a carload of rolled barley which it had milled at its San Francisco plant. The car was offered on a uniform local bill of lading reading from San Francisco to South San Francisco, accompanied by an appropriate inbound tonnage slip. The car was refused by defendant and was thereupon tendered to the Western Pacific Railroad and transported via this line and the Southern Pacific Company to South San Francisco at a charge of \$19.05 in addition to the line haul charge collected on the inbound shipment from Ordbend. Under the applicable tariffs milling in transit is not permitted at San Francisco on shipments destined to a point within the San Francisco switching limits. (San Francisco Milling Co. Ltd. vs. Southern Pacific Co. et al., 28 C.R.C. 870.) Milling in transit is permitted however in connection with a movement to Redwood City, a point beyond San Francisco on the same direct line. The rate from Ordbend to Redwood City is the same as that to San Francisco. Thus complainant's shipment originating at Ordbend, milled at San Francisco and subsequently forwarded to South San Francisco, could have been transported to the more distant station of Redwood City at a lesser charge than was assessed on the movement to South San Francisco.

The Commission's original decision in this proceeding holding that there was a long and short haul violation was based upon the assumption the shipment moved to a point in South San Francisco on the rails of the Southern Pacific Company. However, a review of the record discloses that the shipment was actually destined to the South San Francisco Union Stock Yards located on

the South San Francisco Belt Railroad. This railroad would not participate in a movement to Redwood City. Thus, since the route over which complainant's shipment moved is not included in the longer route to Redwood City, there is no violation of the long and short haul provisions. (Globe Grain and Milling Company vs. A.T. & S.F. Ry. Co. et al., 56 C.R.C. 80; Albers Bros. Milling Co. et al. vs. W.P.R.R. Co., 56 C.R.C. 647.) Decision No. 23792 of June 15, 1931, should be annulled and set aside and the complaint dismissed.

I recommend the following form of order:

O R D E R

Oral argument on defendant's petition for rehearing of this matter having been had, and the Commission now being fully advised, 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 Decision No. 23792 of June 15, 1931, be and it is hereby vacated and set aside and the proceeding discontinued.

IT IS HEREBY FURTHER ORDERED that Case 2919 be and it is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 23rd day of February, 1932.

C. J. Severy
Leon A. Whittell
W. B. Harris
Fred G. Stewart
Commissioners.