JLA

Decision No. 24578.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

CALIFORNIA MILLING CORPORATION, Complainant, vs. THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, LOS ANGELES JUNCTION RAILWAY COMPANY, LOS ANGELES & SALT LAKE RAILROAD COMPANY, PACIFIC ELECTRIC RAILWAY COMPANY, SOUTHERN PACIFIC COMPANY, Defendants.	Case No. 2621.
DAIRYMEN'S FEED & SUPPLY COMPANY, INC., Complainant, vs. THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, LOS ANGELES JUNCTION RAILWAY COMPANY, LOS ANGELES & SALT LAKE RAILROAD COMPANY, PACIFIC ELECTRIC RAILWAY COMPANY, SOUTHERN PACIFIC COMPANY, Defendants.	Case No. 2865.
LOS ANGELES CHEMICAL COMPANY, INC., Complainant, vs. THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, LOS ANGELES JUNCTION RAILWAY COMPANY, LOS ANGELES & SALT LAKE RAILROAD COMPANY, SOUTHERN PACIFIC COMPANY, PACIFIC ELECTRIC RAILWAY COMPANY, Defendants.	Case No. 2866.
CALIFORNIA SANITARY CANNING COMPANY, Complainant, vs. THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, LOS ANGELES JUNCTION RAILWAY COMPANY, LOS ANGELES & SALT LAKE RAILROAD COMPANY, SOUTHERN PACIFIC COMPANY, PACIFIC ELECTRIC RAILWAY COMPANY, Defendants.	Case No. 2876.

ORIGINAL

J. G. Beaver, for complainants.

H. H. McElroy, for Southern Pacific Company, defendant.

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

Gibson, Dunn & Crutcher, by Woodward M. Taylor, for Los Angeles Junction Railway Company, defendant.

E. E. Bennett and E. C. Renwick, for Los Angeles & Salt Lake Railroad Company, defendant.

R. E. Wedekind, for Pacific Electric Railway Company, defendant.

BY THE COMMISSION:

O P I N I O N

By complaints filed October 29, 1928, May 16, 1930 and June 16, 1930, complainants allege that the charges assessed and collected on numerous carload shipments of various commodities received at or forwarded from their plants at Los Angeles were and are unjust, unreasonable, unjustly discriminatory, unduly prejudicial and preferential in violation of Sections 13, 17 and 19 of the Public Utilities Act and in violation of the long and short haul provisions of Section 24 of the Act. Reparation and rates for the future are sought. The proceedings were heard upon a common record and will be disposed of in one decision.

A public hearing was held before Examiner Geary at Los Angeles and the cases submitted on briefs.

The complaints filed in these proceedings are substantially identical. Illustrative is that of the California Milling Corporation (Case 2621). This complainant maintains a grain mill within the corporate limits of Los Angeles, served exclusively by

the rails of the Southern Pacific Company, and it handles numerous carload shipments of grain and grain products to and from various points in California on the lines of The Atchison, Topeka and Santa Fe Railway Company, Los Angeles & Salt Lake Railroad Company and Pacific Electric Railway Company. On noncompetitive carload traffic a switching charge of $2.70 per car is assessed by the Southern Pacific Company which is not absorbed by the line haul carrier. On like shipments to or from industry tracks in the Central Manufacturing District of Los Angeles served by the Los Angeles Junction Railway Company the line haul carriers absorb the Junction Railway switching charges. Complainant contends that the absorption of the Los Angeles Junction Railway switching charge and the non-absorption of the Southern Pacific Company's charge result in the violations of the Act heretofore referred to.

Complainants largely rested their contentions in these proceedings upon our decision in Case No. 2537, Globe Grain and Milling Company vs. A.T.& S.F.Ry. et al., 36 C.R.C. 80. On the record made in Case 2537 we held in part that the action of the line haul carriers in absorbing the switching charges of the Los Angeles Junction Railway on noncompetitive carload shipments of grain, grain products, hay, and animal, poultry and stock feeds, while not absorbing the switching charges of the connecting line-haul carriers on like traffic, was unduly prejudicial and preferential in violation of Section 19 of the Act. Complainants in Cases 2621 and 2865 are shippers of grain commodities and therefore their allegations as to the rates for the future have been satisfied by the publication of proper tariffs effective June 29, 1931.

The mere fact that the aggregate charges from and to points on the Los Angeles Junction Railway are lower than complainants pay on like shipments from or to their industries

located on the rails of the line haul carriers, does not create undue preference and prejudice unless it be conclusively shown that the difference in charges results in an undue disadvantage to complainants and is a source of advantage to their competitors. The record in the instant proceedings, standing alone, utterly fails to support a legal finding of undue preference and prejudice.

Complainants also allege that violations of the long and short haul provisions of Section 24(a) of the Act exist on the theory that their industries are intermediate to those located on the Los Angeles Junction Railway where lower charges are applicable. For example, the rate on salt in carloads from Leslie to Los Angeles, line-hauled by the Southern Pacific to Los Angeles, and delivered to the Atchison, Topeka and Santa Fe Railway for switching to complainant's plant, is 21½ cents per 100 pounds plus $2.70 per car. Had this car been delivered to an industry on the Los Angeles Junction Railway, only 21½ cents per 100 pounds would have been assessed. However, the Atchison, Topeka and Santa Fe Railway would not participate in the movement to a point on the Los Angeles Junction Railway. Therefore as the route over which the shipment would have moved is not included in the route to a point on the Los Angeles Junction Railway, there is no violation of the long and short haul provisions of the Act. (Globe Grain and Milling Company vs. A.T.& S.F.Ry., supra. Albers Bros. Milling Co. vs. Western Pacific, 36 C.R.C.647.)

There was no evidence offered to show that the rates under attack were unreasonable in violation of Section 13 of the Act.

Upon consideration of all the facts of record we are of the opinion and so find that the complaints should be dismissed.

O R D E R

These cases 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 preceding opinion,

IT IS HEREBY ORDERED that these proceedings be and they are hereby dismissed.

Dated at San Francisco, California, this 14th day of March, 1932.

Commissioners.