

ORIGINAL

Decision No. 10153.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

Albers Bros. Milling Company.)
Complainant.

vs

CASE NO. 1463.

Southern Pacific Company.)
Defendant.

Sullivan, Sullivan & Roche, by George D. Squires, for
Albers Bros. Milling Company,
Elmer Westlake and J.T. Saunders, for Southern Pacific
Company,
B. Levy, for The Atchison, Topeka & Santa Fe Railway Co.,
E.W. Hollingsworth, R.T. Boyd, and Bishop & Bahler, for
Traffic Bureau Oakland Chamber of Commerce,
C.L. Neumiller, for Sperry Flour Company.

LOVELL, COMMISSIONER:

SUPPLEMENTAL OPINION

Albers Bros. Milling Company, a corporation, which operates a mill at Oakland, Cal., alleges that the rates charged for transportation of grain and grain products by the defendant Southern Pacific Company to and from Oakland from points of origin and to destinations within the State of California are, insofar as they exceed rates on like traffic to and from South Vallejo, Cal. unjust, unreasonable, unjustly discriminatory and unduly prejudicial and, therefore, contrary to section 21 of Article XII of the Constitution of the State of California and the provisions of the

Public Utilities Act, particularly section 19 thereof. The complaint further alleges that by reason of having been compelled to pay said unjust, unreasonable, unjustly discriminatory and unduly prejudicial rates, complainant has been damaged and seeks reparation therefor.

Hearings were held on the original complaint and in the Commission's Decision No. 9034, rendered June 1, 1921, it was found that discrimination existed in the rates on grain and grain products applying at Oakland as compared with rates on the same commodities applying at South Vallejo, and ordered said discrimination removed.

In compliance with the Commission's order referred to above, the defendant submitted a rate adjustment which in its opinion would eliminate the discrimination existing in the current rates, but the proffered adjustment contained many increases in the rates to both Oakland and South Vallejo.

In the proposed adjustment between points in the Sacramento Valley, and Oakland and South Vallejo the carrier applied the same rates to South Vallejo and Port Costa on account of the difference in the distance being less than three miles, and sought to establish a differential at Oakland of 2 cents higher than South Vallejo-Port Costa rates, Port Costa to be the basing point.

From the San Joaquin Valley it was proposed to adjust by increasing the rates to and from South Vallejo to a basis of 2 cents per 100 pounds over the Port Costa rates, where less differential is maintained at the present time. The carrier gave as its justification for so doing that it performs 35.5 miles greater haul, including ferry service and branch line, to South Vallejo than to Port Costa, and approximately 22 miles less

haul to Oakland then to South Vallejo. Attention was called to the proportional rate of 2 cents, published in Item No. 80, page 80, Southern Pacific Tariff No. 793-B, C.R.C.No.2487, applying from Port Costa to South Vallejo on shipments originating beyond Port Costa and, therefore, that the differential between the South Vallejo and Port Costa rates could not exceed the proportional rate of 2 cents. The adjustment also included San Joaquin Valley points to Oakland, a differential of $1\frac{1}{2}$ cents per 100 pounds over Port Costa, reducing the Oakland rates where the differential exceeded $1\frac{1}{2}$ cents per 100 pounds, the distance from San Joaquin Valley points to Oakland being 14.8 miles greater than to Port Costa. From points south of Bakersfield, the adjustment proposed to increase South Vallejo rates to a basis of 2 cents over Port Costa, the same as San Joaquin Valley rates, and to reduce Oakland rates to a basis of 1 cent per 100 pounds over Port Costa, grading down until Oakland. Port Costa and South Vallejo are placed on a parity at Sepulveda, Cal. and beyond, a distance of 445 miles south of Port Costa.

On the Coast Division the adjustment proposed for points south of San Jose to Santa Margarita, inclusive, using Oakland as the basing point, makes Port Costa 2 cents, $1\frac{1}{2}$ cents and 1 cent per 100 pounds over Oakland, the differential decreasing as the distance increases, and makes South Vallejo 2 cents per 100 pounds over Port Costa, justifying such on account of the greater haul of 26.2 miles to Port Costa over Oakland, and 35.5 miles beyond Port Costa to South Vallejo. Such adjustment would result in rates to South Vallejo being 3 to 4 cents per 100 pounds more than Oakland and would result in no uniform relationship either as to distance or anything else.

The Commission gave very careful consideration to the carrier's proposed adjustment and held conferences with the interested parties, but was unable through such efforts to bring about an informal agreement, whereupon the case was re-opened for the purpose of permitting the shippers to present objections to the proposed adjustment and to permit the carrier to submit full and complete justification of the rates they offered in satisfaction of the complaint.

A hearing was held on December 7, 1921, the matter was submitted on briefs to be filed within 20 days; the protestant filed brief on January 9, 1922, and defendant has not filed a brief.

An analysis of the rates in effect at the time the complaint in this proceeding was filed showed a great variance in relationship of the rates to Oakland and South Vallejo in the various territories, and no uniformity of differentials whatsoever even in the same territory. Obviously, this condition was caused by the rates having been adjusted from time to time as competitive and other forces required.

From the Sacramento Valley generally, the rates to South Vallejo and Port Costa are the same, these two points being within three miles of the same distance to and from Sacramento Valley points. However, to Oakland differentials vary from $1\frac{1}{2}$ to $2\frac{1}{2}$ cents. The differential is not constant, nor does it decrease with distance.

As illustrative of the above condition the following

tables are compiled from Southern Pacific Company's Freight Tariff No. 793-B, C.R.C. No. 2487, showing rates in effect December 7, 1921, applying on grain and grain products:

SACRAMENTO VALLEY

Between And	Miles From: Port Costa	Port Costa South Vallejo	Rate	Oakland Rate	Differential
Copeland	156.3	20 $\frac{1}{2}$	22 $\frac{1}{2}$	2	
Rawson	162.4	20 $\frac{1}{2}$	23	2 $\frac{1}{2}$	
Draper	183.3	22 $\frac{1}{2}$	24 $\frac{1}{2}$	2	
Anderson	190.6	22 $\frac{1}{2}$	25	2 $\frac{1}{2}$	
Cuargo	209.8	24	25 $\frac{1}{2}$	1 $\frac{1}{2}$	
Pitt	221.8	24	25 $\frac{1}{2}$	2 $\frac{1}{2}$	
Shasta Springs	268.9	25 $\frac{1}{2}$	27 $\frac{1}{2}$	2	
Cole	346.3	31 $\frac{1}{2}$	33	1 $\frac{1}{2}$	

By inspection of the tariff it was found that within a distance of 100 miles, Copeland to Conant, inclusive, there are 41 rates with differentials varying from 1 $\frac{1}{2}$ cents to 2 $\frac{1}{2}$ cents; progressing with distances beginning at Copeland, there are seven points where Oakland is 2 cents higher than South Vallejo-Port Costa, five points 2 $\frac{1}{2}$ cents higher, then two points 2 cents, then nine points 2 $\frac{1}{2}$ cents, four points 1 $\frac{1}{2}$ cents and fourteen points 2 $\frac{1}{2}$ cents higher.

Going a farther distance, from Oakland to Shasta Springs, 268.9 miles, differential 2 cents, while at Cole, 346.3 miles, differential 1 $\frac{1}{2}$ cents. Here we have a lower differential for greater distances than for less distances.

Now, going to the San Joaquin Valley, it is found that rates from points in that territory to South Vallejo-Port Costa are generally the same, but the differentials between South Vallejo-Port Costa on the one hand and Oakland on the other vary from one-half cent to 2 $\frac{1}{2}$ cents. As an illustration:

Rates from Southern Pacific Company Freight Tariff

No. 793-B, C.R.C.No.2487.

RATES IN CENTS PER 100 POUNDS					
Between	South Vallejo	Port Costa	Oakland		
And	Miles from	Rate	Rate	Differential	
	Port Costa				
Lyoth	53.8	11 $\frac{1}{2}$	12	1 $\frac{1}{2}$	
Yarmouth	56.8	11 $\frac{1}{2}$	12 $\frac{1}{2}$	1	
Vernalis	61.5	12	14	2	
Westley	69.3	12	14 $\frac{1}{2}$	2 $\frac{1}{2}$	
Crow's Landing	82.1	14 $\frac{1}{2}$	15 $\frac{1}{2}$	1	
Stomar	84.9	15	15 $\frac{1}{2}$	1 $\frac{1}{2}$	
Gustine	92.4	15	17 $\frac{1}{2}$	2 $\frac{1}{2}$	
Ingomar	98.2	15 $\frac{1}{2}$	17 $\frac{1}{2}$	2	
Volta	104.5	16 $\frac{1}{2}$	18	1 $\frac{1}{2}$	
Trant	107.3	16 $\frac{1}{2}$	19	2 $\frac{1}{2}$	
Oxalis	128.7	19 $\frac{1}{2}$	21 $\frac{1}{2}$	2	
Sikazo	130.5	20 $\frac{1}{2}$	21 $\frac{1}{2}$	1	
Tranquility	156.1	22 $\frac{1}{2}$	23	1 $\frac{1}{2}$	
Jameson	153.4	20 $\frac{1}{2}$	21 $\frac{1}{2}$	1	
Armana	198.1	22 $\frac{1}{2}$	23	1 $\frac{1}{2}$	
Lemoore	202.8	22 $\frac{1}{2}$	24	1 $\frac{1}{2}$	
Coalinga	237.3	24 $\frac{1}{2}$	27	2 $\frac{1}{2}$	

In the above table it will be noted that the differential fluctuates fifteen times in less than 100 miles, while the rates at South Vallejo-Port Costa remain the same. It will also be seen that at Coalinga, a greater distance, a higher differential prevails for 237.3 miles than at many of the previously named points where the distance is less, whereas fundamentally the reverse should be true.

On the Coast Division a great variance in differentials exists between Oakland and Port Costa on the one hand and between Oakland and South Vallejo on the other. As an illustration, using Oakland as the basing point, we have compiled the following table

from Southern Pacific Company's Tariff No. 793-B, C.R.C.No.2487:

	Oakland	Port Costa	South Vallejo
Between	Miles	Rate	Differential
And	Miles	Rate	Rate Over Oakland
Campbell	46.3	13	15
Santa Cruz	76.4	20 $\frac{1}{2}$	22
Gilroy	71.8	15	16 $\frac{1}{2}$
Plantal	75	15 $\frac{1}{2}$	17 $\frac{1}{2}$
Watsonville	92.8	19 $\frac{1}{2}$	20 $\frac{1}{2}$
Aptos	84.2	20	21 $\frac{1}{2}$
Salinas	109.3	19 $\frac{1}{2}$	22 $\frac{1}{2}$
Gabilan	122.1	24	25
Santa Margarita	226.6	24	25
Cuesta	230	24 $\frac{1}{2}$	29
Surf	293.8	29	32 $\frac{1}{2}$
Baroda	294.9	30	34
LaSalle	299.5	32	35 $\frac{1}{2}$

It will be seen from the above illustrations that a uniform adjustment is not only desirable but necessary.

All other questions, excepting that of the removal of discrimination, having been disposed of in the previous decision and order in this case, this opinion and order will be directed only toward the elimination of discrimination.

The evidence showed that in the establishment of grain rates South Vallejo is given practically the same adjustment as Port Costa on tonnage moving to and from competitive river and bay points served by water carriers. Great quantities of grain are sent to South Vallejo and Port Costa by river and bay boats and it is because of this competition that the defendant in this proceeding found it necessary to carry South Vallejo and Port Costa on a rate parity.

The complainant's contention that the South Vallejo rates are lower than the Oakland rates, regardless of the distance from the grain growing districts in the San Joaquin and Sacramento Valleys, created discrimination, was met by carrier's contention, as indicated above,

that it has been forced to meet water competition at South Vallejo as well as at Port Costa and has, therefore, placed the ports of South Vallejo and Port Costa on the same basis from the Sacramento and San Joaquin Valleys, the two ports being on opposite sides of Carquinez Straits and requiring no greater service by water carrier to serve one point than the other. (Trans. page 177-8).

"Q: (Seunders, Witness) Why have you taken Port Costa, Mr. Seunders, in justifying your rates to South Vallejo on the one hand and Oakland on the other? Why did you start with that as a basing point?

"A: Because the rates from both the Sacramento and San Joaquin Valleys have been made with relation to what it was necessary to make in order to compete with the river lines. Now, the river lines operating out of the Sacramento Valley and the San Joaquin River territory, and in the interior of the San Joaquin Valley, years ago made some rates, the same rates to South Vallejo and Port Costa. From a water transportation standpoint there is practically no difference in the service. That is the reason why we use Port Costa as a basis and our distance from the Sacramento Valley is substantially the same as South Vallejo, at Port Costa is practically the same as at South Vallejo."

From the Sacramento Valley territory via Suisun,

South Vallejo is only 2.7 miles greater distance than to Port Costa, while Oakland is 26.2 miles greater than Port Costa. From the San Joaquin Valley territory, Oakland is 14.8 miles farther distant than Port Costa, using short line mileage to Oakland via Livermore. From the Salinas Valley (Coast Division), however, the condition is dissimilar, both as to distance and competition, the distance to Port Costa being 26.2 miles greater than to Oakland, and to South Vallejo being 62.7 miles greater than to Oakland.

Taking into consideration all of the compelling forces referred to above, I believe that reasonable and just differentials from these three large grain shipping valleys to Oakland and South Vallejo-Port Costa would be as follows:

Using Port Costa as the key point, I find that the rates from the Sacramento Valley to South Vallejo and Port Costa should be the same; for distances not exceeding 200 miles from Port Costa the Oakland rate should be $1\frac{1}{2}$ cents higher than South Vallejo-Port Costa rates; for distances over 200 miles and not over 300 miles from Port Costa the rate to Oakland should be 1 cent higher than the South Vallejo-Port Costa rates.

Using Port Costa as the key point, I find that the rates from the San Joaquin Valley to South Vallejo and Port Costa should be the same; for distances not exceeding 200 miles from Port Costa the Oakland rate should be 1 cent higher than the South Vallejo-Port Costa rate; for distances over 200 miles and not over 300 miles from Port Costa the Oakland rate should be one-half cent higher than the South Vallejo-Port Costa rates.

Using Oakland as the key point, I find that the rates from the Salinas Valley (Coast Division) for distances not over 200 miles from Oakland, the Port Costa rate should be $1\frac{1}{2}$ cents more than to Oakland, and the South Vallejo rate 3 cents more than Oakland; to and from points over 200 miles and not over 300 miles from Oakland the Port Costa rate should be 1 cent higher than Oakland and the South Vallejo rate should be 2 cents higher than Oakland.

To and from all points in the Sacramento and San Joaquin Valleys over 500 miles from Port Costa, and to and from all points in the Salinas Valley over 300 miles from Oakland, the rates should be the same to Oakland, South Vallejo and Port Costa.

The Southern Pacific Company will be expected to submit a tentative adjustment of the grain rates in the territory immediately adjacent to San Francisco Bay extending from Oakland through Port Costa and Benicia to Sacramento, south through Stockton, Tracy, Livermore and Niles to San Jose, thence north through Santa Clara and Western Division to Oakland, the above territory to include

the line from Greycy to Port Costa and from Radium to Avon, also to include the Coast Division between San Francisco-San Jose and the entire Calistoga, Walnut Grove and Santa Rosa branches, such adjustment to be in harmony with the rates prescribed in the order herein. In preparing the adjustment in this territory the carrier will not eliminate water-compelled rates, but will give consideration only to relationship of the rates as between South Vallejo and Oakland.

The record in this proceeding is not sufficient upon which the Commission can reach a conclusion or establish definite rates in the territory described above this because of the keen water competitive conditions prevailing.

O R D E R

It appearing that by Decision No. 9034, dated June 1, 1921, this Commission found that discrimination existed in the rates on grain and grain products applying at Oakland, as compared with rates on the same commodities applying at South Vallejo-Port Costa and ordered the discrimination removed.

It further appearing that the rate adjustment submitted by defendant in compliance with the above entitled opinion and order having been protested by the interested shippers, a rehearing having been held, full investigation of the matters and things involved having been had and the Commission having, on the date hereof, made its findings of fact and conclusions thereon,

IT IS HEREBY ORDERED that the defendant in this proceeding will, within thirty days from the date of this order, establish

upon one day's notice to the public and to this Commission, rates applying on grain and grain products to and from South Vallejo-Port Costa and Oakland, as follows:

Sacramento Valley: All points on the lines of defendant north of Davis, north and east of Sacramento and the Rumsey and Placerville branches.

Port Costa (the basing point)

Present rates and short line mileages to govern.

South Vallejo and Port Costa

Rates to be the same at all points.

Oakland

$\frac{1}{2}$ cents per 100 pounds higher than South Vallejo-Port Costa for distances not over 200 miles from Port Costa.

1 cent per 100 pounds higher than South Vallejo-Port Costa for distances over 200 miles and not over 300 miles from Port Costa.

For distances over 300 miles from Port Costa, the South Vallejo-Port Costa and Oakland rates to be the same.

San Joaquin Valley: All points on the lines of defendant south and east of Galt, Lodi, Stockton, Lathrop and Tracy, main line and branches.

Port Costa (the basing point)

Present rates and short line mileages to govern.

South Vallejo and Port Costa

Rates to be the same at all points.

Oakland

1 cent per 100 pounds higher than South Vallejo-Port Costa for distances not over 200 miles from Port Costa.

$\frac{1}{2}$ cent per 100 pounds higher than South Vallejo-Port Costa for distances over 200 miles and not over 300 miles from Port Costa.

San Joaquin Valley (cont'd)

For distances over 300 miles from Port Costa, the South Vallejo-Port Costa and Oakland rates to be the same.

Salinas Valley Points: All points on the lines of defendant south of San Jose, (main line and branches).

Oakland (the basing point).

Present rates and short line mileage to govern.

Port Costa

1½ cents per 100 pounds higher than Oakland for distances not over 200 miles from Oakland.

1 cent per 100 pounds higher than Oakland for distances over 200 miles and not over 300 miles from Oakland.

South Vallejo

3 cents per 100 pounds higher than Oakland for distances not over 200 miles from Oakland.

2 cents per 100 pounds higher than Oakland for distances over 200 miles and not over 300 miles from Oakland.

For distances over 300 miles from Oakland the South Vallejo-Port Costa and Oakland rates shall be the same.

IT IS FURTHER ORDERED that the above prescribed adjustment of rates shall not apply to the territory immediately adjacent to San Francisco Bay, extending from Oakland through Port Costa and Bonicia to Sacramento, thence south through Galt, Lodi, Stockton, Lathrop, Tracy, Livermore, Miles to San Jose, thence through Santa Clara and the Western Division Line to Oakland; also the territory from Tracy via Antioch to Port Costa, from Radum to Avon, the Calistoga and Santa Rosa branches and the territory from San Jose to San Francisco via the Coast Division. As to this territory

defendant will present informal application necessary to bring about proper rate adjustment.

IT IS HEREBY FURTHER ORDERED that the part of the application dealing with the reasonableness of the rates per se and the claim for reparation be denied.

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 6^d day of March, 1922.

H. B. Goodrich
A. D. Ireland

J. P. Pennington
Commissioners.