

Decision No. 10221

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

Traffic Bureau of the Stockton
Chamber of Commerce.
Complainant.

vs.

Southern Pacific Company.
Western Pacific Railroad Company,
Atchison, Topeka & Santa Fe Ry Company,
(Coast Lines).
Tidewater Southern Railway Company.
Sierra Railway Company of California.
Visalia Electric Railroad Company.
Sunset Railway Company.
Defendants.

ORIGINAL

CASE NO. 1649.

J.C. Sommers and S.M. Spurrier, for Complainant
E.W. Klein and Elmer Westlake, for Southern Pacific Company,
Sierra Railway Company, and Visalia Electric Railway Company.
E.W. Camp and B. Levy, for The Atchison, Topeka & Santa Fe Rail-
way Company and Sunset Railway Company.
James S. Moore, Jr. and Theodore Harte, for Western Pacific
Railroad Company and Tidewater Southern Railroad Company.
Seth Mann, for San Francisco Chamber of Commerce.
F.P. Gregson, for Los Angeles Chamber of Commerce and Associated
Jobbers of Los Angeles.
Geo. J. Bradley, for Merchants & Manufacturers Traffic Association
of Sacramento.
Frank M. Hill, for Fresno Traffic Association, Bakersfield Civic
Commercial Association and San Joaquin Valley Commercial
Secretaries Association.
W.D. Wall, for Traffic Bureau San Jose Chamber of Commerce.
E.W. Hollingsworth, R.T. Boyd, and Bishop & Bahler, for Traffic
Bureau Oakland Chamber of Commerce.
Geo. D. McCabe, for City of Modesto and San Joaquin Valley
Commercial Secretaries Association.
H.L. Morrison, for Porterville Districts, and San Joaquin Valley
Commercial Secretaries Association.
A.M. Robertson, for Lindsay Chamber of Commerce and San Joaquin
Valley Commercial Secretaries Association.
Guy Windrum, for Madera Chamber of Commerce and San Joaquin
Valley Commercial Secretaries Association.
C.L. Shafer, for California Co-operative Canneries, Visalia,
Modesto and San Jose.
E.J. Emmons, for Progressive Business Club of Bakersfield.
H.C. Katz, for Bakersfield Civic Commercial Association.

LOVELAND, COMMISSIONER:

O P I N I O N

This complaint, originally filed August 17, 1921, and amended January 5, 1922, alleges that all of the class freight rates of the defendants applying from San Francisco, San Jose, Oakland, Sacramento and Los Angeles to points in the San Joaquin Valley are preferential and discriminatory as compared with the class rates from Stockton to the same points. The complaint is based primarily upon the allegation that by reason of the rate adjustments since Decision No. 56 in Case No. 116 of March 28, 1912 (1 C.R.C.95) was rendered the relationship existing in the rates from Stockton as compared with the rates from other points named and particularly those from San Francisco has resulted to the disadvantage of Stockton.

The prayer is that the defendants be required to re-adjust all of these class rates from all of the shipping points in Northern California to points in the San Joaquin Valley to a basis comparable to the adjustment put into effect by reason of the decision made in Case 116, supra, with the war time increases added to the different rate factors and that the rates from Los Angeles to the same points in the San Joaquin Valley should be computed on the same basis with equated mileage equal to 160 per cent of the actual for the distance Los Angeles to Bakersfield, this to compensate for the alleged mountain haul difficulties between Los Angeles and Bakersfield.

Hearings were held at Stockton January 10 and 11, 1922 before Commissioner Loveland, and at San Francisco February 10, 1922 before the Commission en banc.

Appearances of intervention were entered by

San Francisco Chamber of Commerce.
Oakland Chamber of Commerce.
San Jose Chamber of Commerce.
Los Angeles Chamber of Commerce.
Associated Jobbers of Los Angeles.
Merchants & Manufacturers Association of Sacramento.
Fresno Traffic Association.
San Joaquin Valley Commercial Secretaries Association.
City of Modesto.
Porterville Chamber of Commerce.
Lindsay Chamber of Commerce.
Madera Chamber of Commerce.
California Co-operative Cannery, located at Visalia.
Modesto and San Jose.
Progressive Business Club of Bakersfield.
Bakersfield Civic Commerce Association.
Bakersfield Civic Association.

The Commission, in Case 116, established the specific rates between Stockton and points in the San Joaquin Valley, and between Los Angeles and the same points of destination, while the rates from San Francisco were made by the carriers themselves on the basis of the water-compelled rates San Francisco to Stockton, plus the rates established by this Commission from Stockton to the interior points. In addition, the water-compelled rates were also applied to points not directly on the river, but whose nearness to it influenced the adjustments.

Since the decision was rendered, March 28, 1912, the class rates into the San Joaquin Valley have been materially increased. Originally, the first class rate between San Francisco and Stockton was 10 cents, a depressed adjustment established by the carriers to meet water competition. The class rates between San Francisco and Stockton have advanced from a first class of 10 cents to a first class of 28 cents, the increases having been accomplished during the war period.

It is the contention of Stockton in this proceeding that the rates from San Francisco should be the 28 cent scale to

Stockton, plus the run-out of rates on mileage from Stockton to the interior points in the San Joaquin Valley.

Sixteen exhibits were introduced by the complainant, all of which were intended to illustrate that the present rates from San Francisco and the other northern points were to the disadvantage of Stockton by reason of the fact that rates are not now a full combination of the locals over Stockton.

The following tabulation explains the situation:

First class rates between San Francisco, Stockton and Los Angeles on the one hand and points specified on the other, during period indicated and the differential in favor of Stockton as against San Francisco and Los Angeles.

		BETWEEN					
AND	DATE	San	Stockton	Los Angeles	Differential in		
		Francisco			favor of Stock-		
					ton as against		
		1st Class Freight Rate			San	Los	
		Per 100 Pounds.			Francisco	Angeles	
MERCED	June 24, 1918:	\$.35	.25	.80	.10	.55	
	June 25, 1918:	.44	.31½	1.00	.12½	.68½	
	Aug. 26, 1920:	.55	.39½	1.25	.15½	.85½	
	:	:	:	:	:	:	
FRESNO	June 24, 1918:	.53	.43	.74	.10	.31	
	June 25, 1918:	.66½	.54	.92½	.12½	.38½	
	Aug. 26, 1920:	.83	.67½	1.15½	.15½	.48	
	:	:	:	:	:	:	
BAKERSFIELD	June 24, 1918:	.72	.66	.63	.06	.03-	
	June 25, 1918:	.90	.82½	.79	.07½	.03½-	
	Aug. 26, 1920:	1.12½	1.03	.99	.09½	.04-	
	:	:	:	:	:	:	
-In favor of Los Angeles.							

From the above table it will be seen that when the differentials in favor of Stockton as against San Francisco and Los Angeles are considered, Stockton is in a much better position today than it was in 1912, when our decision in Case 116 was rendered. It is to be noted that the differential in favor of Stockton as against San Francisco at Merced was originally 10 cents, increased to 12 $\frac{1}{2}$ cents on June 25, 1918 and to 15 $\frac{1}{2}$ cents on August 26, 1920, an additional

advantage of $5\frac{1}{2}$ cents per 100 pounds. To the same destination (Merced) the differential in favor of Stockton as against Los Angeles was originally 55 cents, increased June 25, 1918 to $68\frac{1}{2}$ cents and August 26, 1920 to $85\frac{1}{2}$ cents, or an additional advantage over Los Angeles of $30\frac{1}{2}$ cents. The same may be said of Fresno, where the differential in favor of Stockton as against San Francisco was increased by $5\frac{1}{2}$ cents, and as against Los Angeles by 17 cents. At Bakersfield, Stockton's advantage as against San Francisco was increased from 6 cents to $9\frac{1}{2}$ cents, or by $3\frac{1}{2}$ cents. At the same point where Los Angeles had an advantage over Stockton originally of 3 cents the advantage is now 4 cents, or an increase of but 1 cent. To the further benefit of Stockton as a jobbing point, it may be stated that since the year 1917 Stockton has had the benefit of the same transcontinental terminal freight rates as San Francisco, San Jose and Sacramento, which rate adjustment was restored by an order of the Interstate Commerce Commission. Therefore, on commodities moving from transcontinental points to Stockton and reshipped from Stockton to points in the San Joaquin Valley, the rate adjustment today in effect are decidedly in favor of Stockton as a jobbing center.

It is not denied that actual water competition exists in the rates in effect between San Francisco and Stockton. As heretofore stated, the first class rate between these points was 10 cents at the time Case 116 was decided. This rate is now 28 cents, or an increase over the rate in effect in the year 1912 of 180 per cent, which increase was brought about by reason of the World War.

If the rate between Stockton and San Francisco were placed upon the same mileage basis as the rates from Stockton south

it would be 44 cents, on a distance of 78 miles via the short line of the Santa Fe, an increase over the 10 cent rate of 340 per cent. The contention of complainant is that if the carrier were not permitted to meet water competition this would be the rate in effect today, but manifestly such an adjustment would be to the great disadvantage of Stockton in connection with local traffic to and from San Francisco.

Under the provisions of Section 21, Article XIII, of the State Constitution, and Section 24(a) of the Public Utilities Act, a carrier may not charge any greater compensation as a through rate than the aggregate of the intermediate rates. It is, therefore, compulsory on the part of the carrier to publish rates from San Francisco to points in the San Joaquin Valley which shall not be in excess of the combination on Stockton made by use of the water-compelled rates. The constitution, however, does not require that rates must be a combination of locals and, therefore, it is not unlawful for a carrier to establish through rates lower than such combination on the rate-breaking points. As a matter of fact, through rates are lower than the combination of the locals and this practice has been fully justified in past proceedings. Under ordinary circumstances the imposing of a through rate made up of the combination of the respective locals would be questioned in most situations.

The first class rate between San Francisco and Stockton has been increased three times since decision in Case 116; the first occurring on August 8, 1917, when the rate was made 18 cents, the second June 25, 1918, when the rate became 22½ cents, and the third on August 26, 1920, when the rate became 28 cents. There were two increases in through rates during the war period, made by the Federal authorities; the first June 25, 1918 by order of the

Director General, his General Order No. 28 and the second August 26, 1920, by reason of the order of the Interstate Commerce Commission, its Ex parte No. 74, which latter rates were also authorized by this Commission to meet the requirements of an act of Congress, commonly known as the Esch-Cummins, or Transportation Act. These two increases raised the San Francisco and Stockton through rates by approximately 56 per cent and, as stated, while not bringing about a full combination of locals resulted in a decided increase in the differentials existing in favor of Stockton.

If the San Francisco rates were always to be a combination over Stockton we would have a changed adjustment every time the carriers readjusted their local schedules to meet the competing influences; in other words, if in the future the boat lines should, either voluntarily or by order of this Commission, reduce rates it would then become necessary under the theory advanced by the complainant in this proceeding to immediately reduce all rates from San Francisco to interior points, a proceeding which would redound to the detriment of Stockton. On the other hand, if the rates were increased between San Francisco and Stockton the readjustment would operate to the detriment of San Francisco and to the benefit of Stockton.

No testimony was given showing the volume of tonnage carried by the boat lines as compared with that handled by the rail lines, but the controlling power of the water lines remains and will always reflect an influence upon the freight rates between San Francisco and Stockton.

Reference was made to the grouping of the rates from San Francisco, San Jose and Sacramento into the San Joaquin Valley territory. This adjustment, however, does not appear out of line, for the reason that the differences in mileages from the three communities is not great; the distance from Sacramento to Fresno being 170.1

from San Jose 182.1 and from San Francisco 194.1, the greatest distance, that from San Francisco, is only 24 miles in excess of the shortest distant point, Sacramento.

The practice of including many points in the same group is frequently adopted by the carriers and has been recognized as proper by this and other Commissions. This procedure simplifies tariffs, to the advantage of both the shipping public and the carrier and results in an equality of opportunity to the jobbing and manufacturing points.

Summarized, complainants assail the present rate adjustment not because of unreasonableness per se, it being admitted that no tests from this angle had been made, but solely upon the ground that the rates now in effect from San Francisco and Stockton are a departure from a long existing relationship. That the former relationship was of long standing is not without weight, but the testimony would indicate that it was established with reference to the competitive carrier situations and not to most competitive commercial conditions. Rates from jobbing and producing centers should be related and a proper relationship between competitive points is often of greater importance to the shipping public than the measure of the rates themselves. Each producing point is entitled to the advantage of its location, and Stockton is entitled to the benefit of its location and no more. The through rates from the more distant points - San Francisco, Fresno, Los Angeles - into the San Joaquin Valley, cannot be controlled by mere rate comparisons based on combinations over the Stockton rate structures. If such adjustment were approved other jobbing cities could, with perfect propriety, claim the same rate advantages against competing points. In Case No. 331, Associated Jobbers of Los Angeles vs.

Southern Pacific Company, 2, C.R.C. 663, we said:

"The defendant maintains a most extraordinary scheme of rates from various points in California and Nevada into the Owens River country. It has been urged that the narrow gauge haul is unusually expensive and that the transfer from Broad to narrow gauge cars should be considered in making rates from Los Angeles into this territory. The rates from Los Angeles, San Francisco, Stockton and Sacramento to the Owens River country have either been based on a combination of locals via Reno or Mojave, and I desire to state at this time that the Commission does not look with favor upon the building of rates on combination of locals over various junction points, and besides it is violative of all the theories which the carriers have advanced from time to time and which in many cases they carry into actual practice. A sample of this is the following rate on lumber, Los Angeles to Laws:

<u>Rate per Ton</u>			
Los Angeles to Mojave	-	\$ 3.50	Commodity rate
Mojave to Owenyo	-	6.40	Class "B" rate
Owenyo to Laws	-	3.60	Class "B" rate
Through rate	-	\$13.50	

"A more iniquitous system of rate making would be hard to imagine. As has been well stated by the Interstate Commerce Commission, the rates per ton mile should ordinarily decrease as distance increases, while, of course, the aggregate rate will increase. This cannot be possible when rates are built up on combination of locals."

The above quotation is controlling in the instant cases.

At the close of the hearing held in San Francisco February 10, 1922 a motion was made to dismiss the proceeding upon the grounds that this complainant had not proven its charge of discrimination and that, therefore, the defendant carriers and the protesting intervenors should not be put to the expense and loss of time in presenting their testimony and exhibits in opposition to the complaint.

It was pointed out by protestants that if by reason of this proceeding the freight rates were readjusted in such a manner as to bring about increases to the terminals other than Stockton

irreparable damage would be done to the San Joaquin farming and manufacturing interests without any particular advantage to the Stockton merchants. The San Joaquin Valley has an enormous output of products of the soil to dispose of with the world as its marketing place and, therefore, should be permitted to move the tonnage through the various gateways at the lowest possible rates.

The rates under attack are those established during the war period, the last increase having been made August 26, 1920, Interstate Commerce Commission's Order in Ex Parte No. 74 and this Commission's Decision No. 7985 in Application No. 5728, which orders followed the provisions of an act of Congress ordinarily designated as the Esch-Cummins or Transportation Act. All these rates are now again involved in Interstate Commerce Commission Docket No. 13293 before the Interstate Commerce Commission at Washington, D.C. and will be affected by either reductions or increases when the decision issues in that proceeding. Investigations are also being conducted with reference to the long and short haul violations of these rates. In this proceeding we cannot pass upon the reasonableness of the rates per se, they not being of issue. We only refer to the above proceeding to show the scope of the investigations now under way.

Upon all the facts of record we find that the adjustment complained of has not been shown to subject complainants to any prejudice or disadvantage or any unreasonable difference in rates. The Complaint will be dismissed.

O R D E R

Hearings having been held in the above entitled matter, the case having been submitted, a full investigation of the matters

and things involved having been had and basing its order on the findings of fact contained in the opinion which precedes this order.

IT IS HEREBY ORDERED that the complaint in the above entitled proceedings be and the same 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 22nd day of March, 1922. Hms

H. A. Brundage
H. V. Loveland
Edward Martin
Charles H. Rogers
D. J. Glavin
Commissioners.