

Decision No. 10436

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of the
Sacramento Northern Railroad, a corpor-
ation, for an order authorizing an
increase in certain switching rates. }

APPLICATION NO. 6812.

BY THE COMMISSION:

OPINION ON PETITION FOR REHEARING

The Sacramento Northern Railroad Company petitioned for a rehearing in Application No. 6812, decided September 23, 1921, Decision No. 9545, involving an increase in the switching charges from \$5.00 per car when incidental to a foreign line haul, and \$4.00 per car for local movement to 37½ cents per ton, minimum charge \$6.50 per car for the switching of loaded cars between the transfer track of the San Francisco-Sacramento Railroad at West Side and the transfer track of the Southern Pacific Company, Western Pacific Railroad Company or Central California Traction Company at Sacramento.

The application for a reopening of the proceeding was granted and a hearing was held before Commissioner Benedict at San Francisco on April 10, 1922 and the matter is now ready for determination.

In its petition for rehearing applicant relies mainly upon two things: First, that proper consideration was not given

to the claimed cost of moving the cars and, second, that the decision was made upon the theory that applicant received compensation by way of reciprocal allowances from the San Francisco-Sacramento Railroad. By stipulation, all of the record made in a similar proceeding, Docket 13224, held before the Interstate Commerce Commission in San Francisco February 1, 1922, was made a part of the instant proceeding.

The evidence and the exhibits submitted in support of this application on rehearing, also the record made in Interstate Commerce Commission Docket 13224, is not materially different from that considered in the original opinion and order, Decision No. 9545. Two new exhibits were filed, one by applicant dealing with the segregation of switching costs in the Sacramento yards, the other by protestant, San Francisco-Sacramento Railroad, setting forth that the charge is \$3.00 by other railroad companies within the State of California for the rendering of a similar service between transfer tracks at the different terminals. The effect of the exhibit showing costs was to reduce the amount as claimed by the applicant in its exhibits at the original hearing from \$4.25 to \$4.17 (without fixed charges and taxes), the reduction being accomplished by taking into consideration the changes in wages paid to switching crews.

Considerable stress has been laid upon the cost of performing the switching service in connection with shipments coming from the San Francisco-Sacramento Railroad. The tables presented by the applicant show a variation of the operating cost per loaded car (without fixed charges and taxes) running from \$3.74 to \$5.13, dependent upon the method employed in reaching the conclusion. We do not believe that the approximated costs claimed

by applicant can be made the controlling factor in arriving at a switching rate for a terminal charge. It is a matter of common knowledge that operating expenses are decreasing and this being so it is obvious that the data prepared in connection with the costs of operation cannot be accurate and cannot be a dependable guide for the Commission to follow. In view of this we must decline to accept the results upon which the figures are based. It was shown by the testimony of several witnesses that the standard charge of \$3.00 between transfer tracks at terminals within the State of California was established without consideration having been given to the actual cost of the service and for the further reason that the carriers were not in a position to justify a higher charge from a transfer track to a transfer track than they assessed for a movement from a transfer track to an industry track and this practice has been in effect in the State of California for more than fifteen years.

Should this application be granted not only would the San Francisco-Sacramento Railroad suffer through loss of tonnage, but the city of Sacramento would be at a severe disadvantage. So far as its markets on the San Francisco-Sacramento are concerned there would be a discrimination against Sacramento and against the territory served by the San Francisco-Sacramento Railroad and would result further in the granting of undue preference to industries located on the tracks of the Sacramento Northern within the Sacramento switching limits, as against the industries located on the tracks of either the Western Pacific, Southern Pacific or the Central California Traction Company receiving freight from shippers located on the rails of the San Francisco-Sacramento Railroad.

and would have a tendency to divert tonnage in every situation where the transfer switching charges of the Sacramento Northern are involved and where the competing carriers could make direct delivery of the commodities.

Item 490, which it is proposed to change by the instant application, now provides a charge of \$3.00 for freight, carloads, when moving between transfer tracks of the San Francisco-Sacramento Railroad at West Side and industry tracks of the Sacramento Northern within the switching limits at Sacramento, which charge is to remain in effect. The item also provides, between transfer tracks at West Side and transfer tracks of the Southern Pacific Company, Western Pacific and Central California Traction Company at Sacramento, a charge of \$3.00 to be applied only when incidental to a foreign line haul, and a charge of \$4.00 when the movement is local between West Side and the transfer tracks for delivery at Sacramento. Both charges, \$3.00 and \$4.00, are sought to be eliminated from the tariff and in lieu of the same to be published a charge of 37½ cents per ton, with a minimum of \$6.50 per car.

It would appear to the Commission, as stated in the original decision, that to cancel the present charge of \$3.00 for line haul and \$4.00 for local traffic to or from transfer tracks of the connecting carriers would create a distinct discrimination, inasmuch as a carload moving from West Side to the industry tracks at Sacramento located on the rails of the Sacramento Northern, would have a charge of \$3.00 per car, while a similar movement to the transfer tracks of the Southern Pacific, Western Pacific or Central California Traction Company for delivery at Sacramento would be required to pay a charge of 37½ cents per ton, with a minimum of \$6.50 per car.

In some instances, as appears from the testimony and the exhibits, the haulage service rendered for a charge of \$3.00 to the industry tracks will be greatly in excess of the service to the transfer tracks of the connecting lines, where it is proposed to put in the higher rate of $37\frac{1}{2}$ cents per ton, minimum \$6.50.

While West Side is not within the authorized switching limits of Sacramento, as outlined in Item 590 of Tariff 5-B, it has, nevertheless, in the past been treated as part of the Sacramento limits by the use of Item 490 referred to above.

The proposed adjustment would appear to be in violation of Section 19 of the Public Utilities Act:

"No public utility shall, as to rates, charges, service facilities or in any other respect, make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage. No public utility shall establish or maintain any unreasonable difference as to rates, charges, service, facilities or in any other respect, either as between localities or as between classes of service. The Commission shall have the power to determine any question of fact arising under this section."

Under the application a car could move from the transfer track at West Side to an industry track within the switching limits of the Sacramento Northern at Sacramento in the American River yards, a distance of 7.2 miles, for \$3.00, regardless of the weight of the shipment. A similar car moving from the same transfer tracks, in part over the same rails, for delivery to the Southern Pacific Interchange No. 1, Front and X Streets, a distance of 1.83 miles, would be assessed a charge of $37\frac{1}{2}$ cents per ton, with minimum of \$6.50 and, in addition, a charge of \$3.00 by the Southern Pacific Company for movement from the transfer track of the Sacramento Northern to the industry track. If a car going to the industry

track of the Southern Pacific carried 50 tons the charge would be \$18.75 for the Sacramento Northern for movement West Side to Southern Pacific transfer, and \$3.00 for the Southern Pacific, or a total charge of \$21.75 as against a charge of only \$3.00 if delivery were made on an industry track of the Sacramento Northern, and in some districts the industry tracks of the two carriers are but a few blocks apart.

In the Railroad Commission of Nevada vs Southern Pacific Company, I.C.C.21, 329-366, the following language is employed:

"A community is entitled to something more than a reasonable rate; it is entitled to a nondiscriminatory rate, * * *. It must view its rates as a whole and see to it that they effect no advantage or preference to one community over another which does not arise necessarily out of the transportation advantages which the one has over the other".

Applicant relies upon the allegation that there is no direct reciprocal switching arrangement whereby it receives a similar service or benefit or any allowance out of the line-haul revenue from the San Francisco-Sacramento Railroad and, therefore, contends this Commission should ignore any reference to reciprocity between the two companies. The testimony is conflicting, but admitting there is no actual compensation to the Sacramento Northern, consideration must be given the adjustment upon broad and liberal lines, in order to prevent discrimination as between industries at Sacramento and between the City of Sacramento and other industrial communities.

This applicant, by its proposed adjustment, would establish an act of reciprocity for the benefit of preferred shippers by making a rate of \$3.00 per car between West Side and Sacramento to industries located on its own rails, but for an equal quantity of

service for industries located on the rails of other carriers at Sacramento would make a rate of $37\frac{1}{2}$ cents per ton, or \$18.75 for a 50-ton car, for a haul over the same track. Clearly, the rate increases proposed would create a violent discrimination within the Sacramento switching limits.

As heretofore stated, railroads within California, including this applicant, established the \$3.00 switching charge between transfer tracks at terminals without regard to the element of service costs. This is clearly proven by a check of the exhibits and tariffs; the standard uniform transfer track charge of \$3.00 is in effect at Bay Point, Fresno, Oakland, San Francisco, Richmond, Stockton, etc.; where lines performing the service receive no similar benefit at other terminals. Terminal switching from transfer track to transfer track is reciprocal in a liberal sense, because the intended result is the upbuilding of the entire community to the best advantage of all participating railroads. The practice among carriers within the State of California to make no greater charge within switching limits for a haul from transfer tracks to transfer tracks than from transfer tracks to industry tracks is practically universal.

The Commission has reviewed all of the testimony presented in an effort to discover additional evidence which might have been omitted in the original proceeding, but fails to find any relevant or material facts introduced either by the applicant or the protestant at the three different hearings; that is, two before this Commission and one before the Interstate Commerce Commission, which had not been developed at the original hearing.

The Commission is of the opinion that the conclusion

as reached in Decision No.9545 should not be modified and that this application should be dismissed.

O R D E R

It appearing, that on September 23, 1921 the Commission entered its opinion and order in the above application, and on April 10, 1922 reopened this proceeding for further hearing; that such further hearing has been had; and that the Commission, on the date hereof, has made and filed its opinion on rehearing containing its findings of facts and conclusions thereon, which is hereby referred to and made a part hereof,

IT IS HEREBY ORDERED that this proceeding be and it is hereby dismissed.

Dated at San Francisco, California, this 16th day of May, 1922.

H. B. Reading

James Martin

W. F. Leander
Commissioners.