

In the Matter of the Application of
SOUTHERN PACIFIC COMPANY for relief
from the provisions of Section 21,
Article XII of the Constitution of
California relating to Long and Short
Hauls.

Case No. 214.
(Application No. 3).

George D. Squires for applicant.

ESELEMAN, Commissioner.

O P I N I O N .

In its application No. 3 of December 26, 1911, the Southern Pacific Company - Pacific System - asks for authority to continue to charge for the transportation of passengers and baggage a greater compensation as a through rate between San Francisco, on the one hand, and on the other Fresno, Tulare, Hanford and Bakersfield, than the aggregate of the intermediate fares to and from Merced or alternately authority is requested to advance the fares between San Francisco and points taking the San Francisco fare, as Oakland, Stock Yards, etc., on the one hand, and Merced on the other, by 5%, so that the aggregate of such intermediate fares would not be less than the present fare to the more distant points.

In justification of this application the Southern Pacific Company alleges that the fare between San Francisco and Merced was, on August 29th, 1906, reduced to \$4.05 to meet the fare erroneously established by the Atchison, Topeka & Santa Fe Railway, Coast Lines, between the same points. The Atchison, Topeka & Santa Fe Railway Company, Coast Lines, in a similar application likewise alleges that such an error was made by it in establishing the fare of \$4.05 from San Francisco to Merced and prays for similar relief. It is contended by the applicant that the proper basis for fares between San Francisco Bay points and San Joaquin Valley points was a com-

bination of the fares to and from Lathrop, the junction of the San Joaquin Valley line with the San Francisco-Stockton line of the applicant, and that on such a basis the fare should have been \$4.10. It is urged that if the application is denied and the petitioner required to establish through fares equal to the sum of the locals to and from Merced, that a considerable reduction in the revenue of the petitioner will be brought about unnecessarily as no formal complaint has been made as to the reasonableness of any of the fares involved. It is further alleged that the fares which it is desired to continue are just and reasonable in and of themselves, also that the fares which the applicant seeks to establish under the relief prayed for are likewise just and reasonable.

The provisions of Section 21 of Article XII of the Constitution relating to through rates in excess of the aggregate of intermediate rates are prohibitory and the Commission is not vested with any discretionary power in the application of this provision, as in the case of the long and short haul provision, therefore it is necessary to consider in this application only the alternative application for permission to increase the intermediate fares to Merced.

The fact that a considerable reduction will probably result in the carrier's revenues or that a large amount of tariff work involving considerable expense will be necessitated if the through fares are reduced to the sums of the intermediate fares is no reason why the reduction should not be made, if the aggregate of the present intermediate fares would be a reasonable fare.

It appears obvious that if the fare of \$4.05 between San Francisco and Merced was established erroneously there was ample time since August, 1906, in which to have corrected that fare and to have advanced it to the basis which it is stated was usually employed in making such fares, and that as a reason why the increase should now be permitted this contention should not carry much weight.

While it may be, as alleged, that the fare which the applicant seeks to increase is on a basis lower than that generally

employed by the carrier, no evidence was submitted tending to establish such a basis as just and reasonable or that it should apply in this particular case. In cases of this kind where increases are sought it is incumbent upon the applicant to show that the existing fares or rates are too low and thereby justify the increase. This the applicant has failed to do, and in my opinion the evidence is insufficient to warrant the Commission to authorize the increase prayed for.

I submit the following order:

O R D E R .

SOUTHERN PACIFIC COMPANY, a common carrier, having applied to this Commission for an order granting relief from the provisions of Section 21, Article XII, of the Constitution of California and permission to continue to charge for the transportation of passengers and baggage a greater^{5th} compensation as a through rate between San Francisco, on the one hand, and Fresno, Tulare, Hanford and Bakersfield on the other, than the aggregate of the intermediate fares to and from Merced; or, in the event the Commission denies such permission, for authority to advance the fares between San Francisco and points taking the San Francisco fare, such as Oakland, Stock Yards, etc., on the one hand, and Merced, on the other, five cents (5¢), so that the aggregate of such intermediate fares would not be less than the present fare to the more distant point; and a hearing having been held, and being fully apprised in the premises,

THE COMMISSION HEREBY FINDS AS A FACT that the Southern Pacific Company has not justified its application for an increase, and has not justified the granting by this Commission of the relief asked for; and

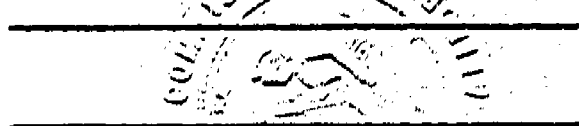
Basing its order on the foregoing findings of fact,

IT IS HEREBY ORDERED that the above application 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 4th day of April, 1914.

John W. Cochran



Max Thelen

Edmund O. Edgerton

Commissioners.