

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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ORIGINAL

Division No. 1602

In the matter of the application of Southern Pacific Company for authority to cancel rates on Sand, in carload lots, from all points on the Ione Branch to all other points on its line in California, shown in Southern Pacific Company's Tariff No. 335-B, CRC 43, and as supplemented.

APPLICATION NO. 1088

APPEARANCES

- Geo. D. Squires, for applicant,
Seth Mann, for San Francisco Chamber of Commerce,
John L. McNab, for W. Clark & Sons,
A. D. Shephard, for Pacific Improvement Company,
Alfred J. Harwood, for Steiger Terra Cotta & Pottery Works,
G. J. Bradley, for Merchants & Manufacturers Association of Sacramento,
C. F. Wente, for Livermore Fire Brick Company,

GORDON, Commissioner:

OPINION.

On January 22, 1914, the Southern Pacific Company filed its application for authority to cancel the carload commodity rates on Sand, applying from all points on its Ione Branch to other points on its line in California, as shown in Southern Pacific Co's Tariff No. 335-B, CRC No. 43, and as amended. In justification of the cancellation of these rates the applicant alleges that there is no movement of Sand from points on the Ione Branch and therefore there is no necessity for maintaining the rates.

The Steiger Terra Cotta & Pottery Works and the Ione Coal & Iron Company filed protests against the cancellation of these rates maintaining that there is a movement of Sand on these rates at the present time. At the hearing W. Clark & Sons and the Livermore Fire Brick Company also protested against the cancellation of the rates. The reasonableness of the present carload rates on Sand from points on the Ione Branch to San Francisco

and South San Francisco was also questioned by the protest of the Steiger Terra Cotta & Pottery Works, but if it is desired to put that matter in issue an original complaint should be filed and the matter regularly placed before the Commission. The reasonableness of the present rates, therefore, will not be considered, but the single question as to whether there is any sand moving on the rates the applicant seeks to cancel.

As the effect of the cancellation of these commodity rates would be to bring about an increase in the rates, provided for the movement of Sand from points on the Lone Branch, under the provisions of the Public Utilities Act the burden of justifying the proposed increases is upon the carrier.

At the hearing considerable evidence was introduced concerning the nature of the materials now being shipped from various so-called "Clay pits" and "Sand pits" on the Lone Branch and witnesses, expert in the composition of these materials, were introduced by both the applicant and the protestants for the purpose of scientifically determining their proper classification and while there is no evidence that these experts differ in their opinions as to the elemental or the mechanical structure of these materials there appears to be a wide divergence in their views as to the proper classification for transportation purposes of some of the materials now being shipped.

The applicant's geologist, upon whose opinion it mainly relies to support its contention that the materials now being shipped from points on the Lone Branch are properly classified as Clay, submitted samples from practically all the producing pits and testified that the materials represented by these samples, which were marked Exhibits Nos. 1 to 14, inclusive, should be classified as Clays or Sandy Clays with the exception of the materials represented by the samples marked Exhibit Nos. 2 and 12, of which there is at the present time no movement. This opinion was largely based upon the fact that the materials, other than those represented by Exhibit Nos. 2 and 12, were used with other

materials, in the manufacture of clay products.

The expert introduced by the protestants testified that the materials represented by the samples submitted by him and marked Nos. 1, 5, and 8 should be classified as Sand for the reason that Sand predominates in their mechanical structure. It appears that these samples are from the same pits as samples introduced by the applicant and which the applicant's witness testified should be classified as Clay. There is, however, no issue raised as to the classification of the material represented by the samples marked Applicant's Exhibit No. 12, both the applicant and the protestants agreeing that this material is washed sand. Although there is no movement of this Sand at the present time its owner testified that he has on hand at his plant near Ione some 3000 tons awaiting shipment until the determination of this matter and that no shipments are now being made because he did not want to contract to deliver the Sand until the controversy concerning the rate on which it will move, and which is an important factor in marketing such a low grade commodity, is finally settled. It was also shown by protestants that shipments of a material classified as Sand, to which classification the petitioner has taken no exception, are now being made from a pit near Ione to Livermore, to the Livermore Fire Brick Company.

From all the evidence I am of the opinion that the allegation of the applicant that there is no sand moving from points on the Ione Branch is not sustained by the evidence and for that reason the application should be denied and I am also of the opinion that the probable large movement of Sand from the plant of the Clay Products Company near Ione is another reason why the application should not be granted.

I find as a fact therefore that the Southern Pacific Company has failed to justify its application for authority to cancel the carload commodity rates on Sand from points on the Ione Branch to other points on its line in California, and I recommend that the application be denied and that it be so ordered.

I submit the following form of order:

O R D E R.

The Southern Pacific Company having applied to this Commission for authority to cancel the carload commodity rates on Sand from points on its Lone Branch to other points on its line in California 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 authority to cancel the carload commodity rates on Sand from points on the Lone Branch to other points on its line in California; and

Basing its order on the foregoing finding of fact and the findings of fact in the opinion preceding this order;

IT IS HEREBY ORDERED by the Railroad Commission of the State of California that the application be and the same is hereby 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 twenty-second day of June, 1914.

*John M. Escherman*  
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*De G. Foster*  
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*Max Thelen*  
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Commissioners.