Decision No._____

Decision No. 2317

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the matter of application of SOUTHERN PACIFIC MILLING COMPANY for permission to charge 15¢ per ton for loading grain and grain products on board cars when stored in its warehouses, and to raise its rates for storage of hay.

Application No. 1082

C. J. Durbrow for applicant.
J.A. Bardin and Fred A. Treat for certain protestants.
Benjamin W. Shipman for Hueneme Wharf & Warehouse Company, Farmers Warehouse Company, Sawtelle Warehouse Company, and Huntington Beach Warehouse Company.

LOVELAND, Commissioner.

O P I N I O N

This application was filed April 13, 1914, in which applicant, the Southern Pacific Milling Company, asked permission to charge 15¢ per ton for loading grain and grain products on board cars when shipped from its warehouses, and to raise the rates for storage of hay.

Applicant is a corporation engaged in the business of storing and shipping produce, buying, selling and cleaning grain and dealing in certain merchandise. It has warehouses located in the counties of Monterey, San Luis Obispo, Santa Barbara and Ventura, in the State of California. Certified copies of the Articles of Incorporation of applicant were filed with the application, and a financial statement of applicant was also filed, as provided for in the Commission's rules and regulations, from which statement it appears that applicant has invested in real estate,

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warehouse property and improvements $508,813.59. As indicated above, however, applicant's investment is not all devoted to the warehouse business, as, in addition to its warehouse business applicant conducts a merchandise business of buying and selling bags, twine, flour, feed, hay, grain and other merchandise, the sale of which is an accomodation to its patrons. Applicant also conducts a commission business and the business of rolling barley, cleaning grain, beans, etc.

It is extremely difficult to segregate the capital investment as between the ~~xxxxxxxxx~~ warehouse business and the merchandise, commission and other business; and is even more difficult to allocate the labor expense and other expenses as between these classes of business. The time of the managers and other employees of each warehouse is partly given to the warehouse business and partly to the merchandise and other business.

The present rates of applicant for storage of grain are as follows:

> 50¢ per ton for the first month, or fraction thereof,
> 25¢ per ton for the second month, or fraction thereof,
> 25¢ per ton for the third month, or fraction thereof,
> and balance of the season to the first of June following, free.

For these rates applicant gives the following service: Weighing the grain, receiving it from the wagon, trucking it into the warehouse, piling it into piles, issuing a warehouse receipt, carrying it on storage, taking it from the piles when ordered shipped, repairing and patching sacks to put them in condition for shipment, trucking it aboard the cars, piling it in the cars, making out a shipping receipt, securing signature to the receipt and mailing it to the shipper.

Applicant claims that the rates named are non-compensatory for the service rendered, and asks that it be permitted to add to such charges an additional charge of 15¢ per ton for loading and piling the grain on board cars when it is shipped out. A service

is sometimes rendered at applicant's warehouses and a charge made therefor, no mention of which appears in the schedule of rates and service filed by applicant with the Railroad Commission, which is the service of passing grain through the warehouses of applicant from wagons direct to the cars -- for this service a charge of 25¢ per ton is collected by applicant, and applicant desires to continue this service and charge.

The present rates for storage of hay are as follows:

75¢ per ton for the first month, or fraction thereof,
25¢ per ton for the second month, or fraction thereof,
25¢ per ton for the third month, or fraction thereof,
and balance of the season to the first of June following, free.

The storage rates of hay include the following service: Weighing the hay, receiving it from the warehouses, piling it by means of block and tackle in the warehouses, taking it out afterward by means of block and tackle and loading it in the cars, making out the shipping receipt, securing signature to same and mailing to shipper. Applicant asks that it be permitted to change its present rates on hay to a flat charge of $1.25 per ton for the season - to the first of June following the placing in the warehouse.

Applicant has been engaged in the warehouse business in the territory before described, for twenty-seven years. Its charge, at first, was $1.00 per ton for the season, such rate being afterward adjusted as named above. It now gives the following specific reasons for asking permission to advance the rates: First, the increase in the minimum carload weight. Previous to the change in railroad equipment which has taken place in the past few years, the minimum carload was fifteen tons, which amount could be loaded into a car by one man. Under the present greater minimum two men are required in order to pile the grain high enough to load the minimum into the car, which applicant claims materially increases

the cost of loading. Second, applicant refers to the well-known fact that wages of laborers have materially increased in recent years. Third, applicant shows by testimony that the rate now prayed for is in effect elsewhere and is considered by competent authority a reasonable rate, such competent authority being the Grain Trade Association of the San Francisco Chamber of Commerce composed of men who deal in grain and are in position to judge of the reasonableness of any charge for handling that product. Such Grain Trade Association of the San Francisco Chamber of Commerce has, among others, the following rule:

> "Regular warehouses shall be permitted to make a charge of not exceeding 15¢ a ton for loading grain."

and, further, applicant calls attention to the fact that the rates for such regular warehouses, established by the Grain Trade Association of San Francisco Chamber of Commerce, are in excess of the rates now prayed for by applicant.

While the increased car minimum, and the greater expense, were specifically urged by applicant as justifying the rates prayed for, attention was also drawn to other increases in the cost of doing business such as increased taxes, franchise taxes, license of corporation, State liability law, etc.

At the hearing of this application a large number of the patrons of applicant's warehouses appeared by counsel to protest against the increase asked for. Counsel and the Manager for the Hueneme Wharf & Warehouse Company, Sawtelle Warehouse Company, Farmers Warehouse Company, and the Huntington Beach Warehouse Company, also asked for and were granted permission to intervene in opposition to the granting of the rates asked for by applicant. Counsel for protestants first mentioned, namely, patrons of applicant's warehouses, developed by cross-examination of applicant's principal witness, Mr. Fairfax Wheelan, Vice-President and

Manager of applicant, the fact that there was formerly discrimination in the application of the rates of applicant not only as between the various warehouses but also as between patrons of the same warehouse. The records of the Railroad Commission show, however, that on August 16, 1912, an application was made by the Southern Pacific Milling Company, applicant herein, as provided by the Public Utilities Act, for permission to continue certain exceptions to its rates filed with the Railroad Commission, such exceptions covering the discriminations developed under cross-examination at this hearing, as above set forth. This application, No. 188, was afterward withdrawn but during its consideration and before its withdrawal applicant was advised by the Commission that it would have to discontinue all of the exceptions which it asked permission to continue, except that of the special rate given to Tresconi & Johnson at applicant's San Lucas warehouse, which special rate was the subject of a contract in writing; and that should applicant desire to continue the special rate so given to Tresconi & Johnson it would be required to file a copy of the contract under which such special rate was given, that the Commission might consider its merits. This suggestion was accepted by applicant and all exceptions or departures from its rates filed with the Commission were discontinued except the special rate accorded Tresconi & Johnson. As to that, the record does not show that the copy of said contract was filed with the Commission, and the decision in this application will be that the special rate given to Tresconi & Johnson at the San Lucas warehouse must be discontinued, which will eliminate all of the departures from applicant's rates, as filed with this Commission.

Testimony of various witnesses was offered in behalf of protestants, patrons of applicant's warehouses, in opposition to the granting of the rates prayed for by applicant, on the ground that witnesses believed the present rates high enough, and that

other warehouses, competing with applicant for the warehouse business, were charging applicant's present rates. One witness testified that he was interested in a Company which was building a warehouse in Salinas and that it was his opinion that his Company will be satisfied to charge the rates now being charged by applicant.

It was also developed by cross-examination that certain warehouses in the San Joaquin Valley, and one at Hollister, San Benito County, were charging the present rates of applicant but applicant claimed that the class of such warehouses and conditions under which they do business are not comparable to the class and conditions of applicant's warehouses and business.

Counsel for other protestants, namely, the Hueneme Wharf & Warehouse Company, Farmers Warehouse Company, Sawtelle Warehouse Company and Huntington Beach Warehouse Company, stated for his clients that it was their opinion, . . when intervention was decided upon, this was a proceeding under which the Commission would fix rates for all warehouses; but when advised by the Commission that such was not the case and that only the rates of the Southern Pacific Milling Company were before the Commission in this application, these intervenors simply offered the testimony of the Manager of these warehouses to the effect that in his judgment if the increase of 15¢ was allowed for loading grain on cars it should be added to the first month's storage charge instead of being made a loading out or charge for putting the grain on the cars. Counsel for these protestants also made the statement that to permit a charge of 15¢ for loading the grain on the cars, as prayed for by applicant, would discriminate in favor of the man who comes to the warehouse with his wagon and takes the grain away, and for that reason he was further of the opinion that if the 15¢ was allowed it should be added to the first month's storage.

I am of the opinion that the charge of discrimination in favor of the man who comes to the warehouse with his wagon and hauls his grain away could not be sustained for the obvious reason that such a person is not given the various services for which the applicant hereby seeks authority to charge; that is, loading and piling grain in a car in such a manner that the minimum carload weight may be shipped.

In order to determine whether the present rates of applicant produce fair returns upon the investment and if not whether the rates prayed for are justified, a valuation by the Engineering Department of the Railroad Commission was clearly necessary, as was also a report by the Auditing Department of the Commission, on the operation of the various warehouses allocating, so far as possible, the capital investment and expenses as between the warehouse business and the merchandise, commission and other business. Such report from these Departments involved a large amount of work occuping many months because of the large number of warehouses owned and operated by applicant. These reports have now been filed and a decision upon the application may be rendered.

As before stated, it is extremely difficult to segregate the expenses as between the warehouse business and the merchandise, commission and other business of applicant. The segregation of capital investment and expenses as between the different classes of business conducted by applicant, furnished by it and also reported upon by the Auditor of the Commission, both bear the earmarks of being honest efforts to solve this difficult problem, and do not differ greatly. The testimony as to the increase of expenses in the past few years was not denied and probably could not be successfully controverted, neither was there any attempt, on the part of protestants, to controvert the testimony of witnesses for

applicant that the warehouse business of applicant has fallen off in the past few years. I have also placed considerable weight on the value given by the Commission's Engineering Department to such of the applicant's property as is used for warehouse purposes. Applicant's statement of investment in plant on May 31, 1913 shows a sum invested in all property, including property not devoted to warehouse business, of $508,813.59. The Engineering Department has made a segregation of such property as is clearly used for warehouse purposes and finds that applicant's book cost for such property on May 31, 1913 amounted to approximately $265,000. The reproduction cost new of this same property, as of January 1, 1915, is estimated by the Engineering Department of the Commission at $344,026.45, and the reproduction cost less depreciation at $274,357.48; and these amounts were approximately the same on May 31, 1913, the date of the hearing at which applicant's estimates were offered.

It would appear, therefore, that applicant carries its physical property on its books at a very conservative value. This is the more apparent as much care was used by the Engineering and Auditing Departments of the Commission to eliminate from consideration, for the purposes of this case, all non-operative items, and all property not clearly useful for warehouse purposes. There was also deducted the value of a warehouse in San Miguel, which burned down and has not been rebuilt, but which was included in applicant's estimates of value.

The average yearly gross earnings of applicant on its warehouse business for the four years prior to May 31, 1913 amounted to $18,975.59 on grain warehouse business, and to $2,840.37 on hay warehouse business, or a total of $21,815.96. From this sum is to be deducted $15,183.52 for overhead expenses and depreciation, and it may be well to state here that the

depreciation allowance made by applicant is a very moderate one. There is left, then, average yearly net earnings for the period mentioned, of $6,632.44. Such earnings are equal to a return of only one and nine-tenths per cent (1.9%) on the reproduction cost new, as found by the Commission's Engineering Department - or two and one-half per cent (2½%) on the book cost, a return certainly unattractive from any point of view.

If we disregard our Engineering Department's figures as a measure of value and use, instead, the segregated book cost of only $265,000 as the sum on which the applicant may claim a return the return from the earnings shown would still equal only two and one-half per cent (2½%) of the book cost. I am satisfied, however, that the book cost is not the true measure of the value of applicant's physical property and that the Engineering Department's figures approach the facts more closely.

In case the petition of applicant is granted and the increased rates allowed, and assuming further that the amount of business handled will remain equal to the average for the last four years, the average net earnings on the grain and hay warehouse business, under the new rate, will be $15,542.63 as against $6,632.44 under the old rate. The increased earnings will result in paying four and one-half per cent (4½%) on the reproduction cost new as fixed by the Commission's Engineering Department, or five and nine tenths per cent (5.9%) on the segregated book cost.

I am aware that a fair return on the investment or on the value of the property devoted to public use is not the only measure of public utility rates, and that these rates must not exceed a fair return for services rendered, irrespective of the rate of return. In the case under consideration, I am of the opinion that the rates in themselves, as proposed by applicant and as compared with rates charged by similar utilities for

similar services are not unreasonable, and it is for this reason that the questions of investment and fair value of the property devoted to public service and a fair return thereon appear to me of much moment.

Due consideration has been given to the contention of protestants that if the advance prayed for is permitted it should be added to the first month's storage, but, in my judgment, no sufficient justification has been shown that the advance, if given, should be so charged, nor do I believe that the contention that a charge of 15¢ for loading grain on cars would be discrimination against the man who comes to the warehouse with his wagon and takes the grain away.

I find as a fact that the rates prayed for by applicant are just and reasonable, and recommend the following form of order:

O R D E R.

The Southern Pacific Milling Company, a corporation engaged in the warehouse business in the counties of Monterey, San Luis Obispo, Santa Barbara and Ventura, State of California, having applied to this Commission for permission to charge 15¢ per ton for loading grain and grain products, and to increase its rates for storage of hay; and a public hearing having been held and thereafter a valuation of applicant's physical property made by the Engineering Department of the Commission, and a segregation of the property devoted to warehouse business from applicant's property devoted to other business; and a careful and exhaustive report having been made to the Commission by the Auditing Department on the allocation of the expenses as between applicant's warehouse business and other business; and the Commission having found as a fact that applicant should be permitted to make the charge of 15¢ per ton for loading

grain and grain products, and to increase its rates for storage of hay as prayed for,

IT IS HEREBY ORDERED that applicant be and it is hereby permitted to make a charge of 15¢ per ton for loading grain and grain products on board cars when stored in its warehouses, and to change its present rates for storage of hay from -

75¢ per ton for the first month, or fraction thereof.
25¢ per ton for the second month, or fraction thereof.
25¢ per ton for the third month, or fraction thereof.
and balance of the season to the first of June following free.

to

a flat charge of $1.25 per ton for the season to the first of June following the placing in the warehouse.

IT IS FURTHER ORDERED that applicant be permitted to continue the charge which it now makes for the service of passing grain through its warehouses from wagons direct to the cars, to-wit; charge of 25¢ per ton.

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 10th day of May, 1915.

Max Thelen

A. E. Portland

Alex Gordon

Edwin O. Edgerton

Commissioners.