

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

ORIGINAL

Riverside Portland Cement Company,
a corporation,
Complainant.

vs

San Pedro, Los Angeles & Salt Lake
Railroad Company, Atchison, Topeka
& Santa Fe Railway Company, Southern
Pacific Company, and Wm. C. Henshaw,
doing business as a railroad corporation
under the name and style of Crescent City
Railway,
Defendant.

Case No. 539.

California Portland Cement Company,
Intervener.

Seth Mamm, for complainant,
A. S. Halsted, for San Pedro, Los Angeles &
Salt Lake Railroad Company.
E. W. Camp, for Atchison, Topeka & Santa Fe
Railway Company.
Geo. D. Squires, and F. B. Austin, for Southern
Pacific Company.
W. J. Bohon, for Crescent City Railway,
Fred P. Gregson, for California Portland Cement
Company.

LOVELAND, Commissioner:

SUPPLEMENTAL OPINION

In the original order in this proceeding the Crescent City Railway and the Southern Pacific Company were ordered to reduce the joint rate on cement in carloads from Crestmore to Los Angeles from \$1.50 to \$1.25 per ton of 2000 lbs. and it was further ordered that in the event of the failure of those carriers to agree upon the division of the reduced rate that said carriers appear before the Commission and show cause why the Commission should not proceed with the establishment of divisions as authorized by Section 33 of the Public Utilities Act. On March 25th the Riverside, Bialto & Pacific Railroad Company, the successor to the Crescent City Railway, petitioned this Commission for a hearing

in the matter of divisions, no agreement having been reached as to the division of the reduced joint rate between it and the Southern Pacific Company. Thereupon the Commission issued its order of March 27, 1915, directing the Riverside, Rialto & Pacific Railroad Company and the Southern Pacific Company to appear before the Commission on April 6, 1915, and show cause why this Commission should not proceed and establish the division of said joint rate. A hearing was held on that date and the matter submitted for the Commission's decision.

The former joint rate of \$1.50 per ton applying on cement in carloads from Crestmore to Los Angeles was divided between the Crescent City Railway and the Southern Pacific Company by allowing the former line 20¢ per ton and the latter \$1.30 per ton. The Riverside, Rialto & Pacific Railroad Company, hereinafter referred to as the Riverside Company, contends that its proportion of the through rate should not be further reduced as the cement traffic moving on the joint rates is not now contributing nor has it in the past contributed fully to the revenues of that company. To sustain this contention it undertakes to show the cost of handling the cement traffic and the net income accruing therefrom. By its Exhibit "A" it shows that during the year ending December 31, 1914, there was a total of 11,646 cars of freight handled over its entire line. Of this total 6670 cars or 57.3% were loaded with cement which moved on a joint rate out of which the Riverside Company received 20¢ per ton or less. The actual revenue accruing from this traffic was \$42,566.23 or 51.3% of the total freight revenue. The total operating expenses and taxes for that year aggregated \$67,824.15 and of that amount the Riverside Company apportions, on the basis of cars handled 57.3% or \$38,863.23 of that expense, to the cement traffic moving on the joint rates out of which it received 20¢ per ton or less. Deduct-

ing this amount from the revenue accruing from cement traffic handled on the joint rates, aggregating \$42,566.23, the Riverside Company concludes that its net income from this particular traffic is but \$3,703.00 or 24.5% of its total income for the entire year, whereas 57.3% of the total loaded cars handled were loaded with this particular traffic, the tonnage of which was 54.5% of the total freight tonnage of the line.

That such apportionment of the expense does not reflect the probable expense of handling this particular traffic becomes apparent from an analysis of the method of apportionment used. The Riverside Company made no segregation of the total expense in the first place between the freight and passenger service but charged the entire expenses of the line to the freight service although a passenger service was maintained and it received therefrom approximately \$6,000.00 net revenue during the year 1914. While the passenger service was then and is now performed by the Pacific Electric Railway Company under an arrangement with the Riverside Company whereby the former furnishes and maintains the equipment used in that service and assumes the expense for the train crews and electric energy used, the Riverside Company maintains the line and a portion therefore of the maintenance expenses and perhaps of the general and transportation expenses, if not of the traffic expenses, should be charged against the passenger service. In the second place, the method of apportioning the expense to the various classes of freight traffic assumes that the per car expense in each case was the same regardless of the service rendered. The cement plant from which the cement moves is located at Crestmore and the cement delivered to the Southern Pacific Company and the Santa Fe at Riverside Junction, at which point it is interchanged on the joint rates, is handled for a distance of approximately 3.5 miles. The cement delivered to the San Pedro, Los Angeles & Salt Lake Railroad at the

interchange with that line at Crestmore is handled for a distance of approximately one mile. The cement is moved daily from the plant to the junction with these several lines and in most cases the movement is in train loads of three or more cars. That part of the line of the Riverside Company, extending for a distance of 5.75 miles north of Crestmore to Rialto, to which point the line was extended from Bloomington and opened for operation on March 25, 1914, is not used by the cement traffic moving on the joint rates, as the lines in connection with which the traffic is handled on these rates interchange at present with the Riverside Company only at Riverside Junction and Crestmore. Freight handled between Rialto and Riverside for the distance of 9-1/2 miles or between Bloomington and Riverside for the approximate distance of 6-1/2 miles, is given a much greater service than the cement which is handled only from Crestmore to Riverside Junction or the Crestmore interchange with the San Pedro, Los Angeles and Salt Lake Railroad, and it appears obvious that the expense incident to the movement of a carload of freight is not the same in all cases. The Riverside Company admits that during the past year fruit in carloads was handled between Bloomington and Crestmore by special trains and that in such cases the per car expense was undoubtedly in excess of the per car expense of handling cement.

The Riverside Company, as heretofore stated, received as its proportion 20¢ per ton out of the former rate of \$1.50 per ton on cement from Crestmore to Los Angeles. This division equals in some cases, and in other cases exceeds, some of its local rates. Thus it maintains a rate of 20¢ per ton from Riverside to Crestmore on crude oil in packages or in tank cars and a rate of 10¢ per ton from Crestmore to Riverside or Bloomington on crushed rock in carload quantities of 40,000 lbs. or more.

It likewise maintains a rate of 25¢ per ton from Riverside to Crestmore on coal, gypsum and lumber in carload quantities of 40,000 lbs. or more. It also maintains the same rate from Crestmore to Riverside on sugar beets in carload quantities of 80,000 lbs. or more. While it is true, as the Riverside Company contends, that most of these commodities are of lower grade than cement and therefore should properly bear a lower transportation rate, it seems inconsistent that the Riverside Company should contend for a proportion of the rate on cement equivalent to its local rate on fuel oil which is generally classified as a higher grade commodity than cement, or expect as a division of the rate on cement an amount twice as great as its local rate on crushed rock and but 5¢ per ton less than its local rate on lumber from Riverside to Crestmore. The principal traffic of the Riverside Company consists of cement, rock, oil and gypsum and upon the Commission's request that company furnished a statement showing for the year 1914 the tonnage of and the revenue received from that traffic as well as the tonnage of and revenue received from all other freight traffic handled during that period and an apportionment of the entire expense to each class of this traffic on the basis used by the Riverside Company in its Exhibit "A" heretofore commented upon - that is, on the basis of cars handled - indicates that whereas the cement, oil, gypsum and general traffic of the line is handled at a profit that a material deficit results from the rock traffic.

It is contended by the Riverside Company that during the past eight months the cement traffic over its lines has decreased materially and that inasmuch as it is dependent largely upon that traffic for its revenue that any reduction of its proportion of the through rate on cement will materially affect its revenues and deprive it of sufficient income wherewith to meet bond interest and sinking fund requirements. This condition would not, however,

justify the Commission's allowing the Riverside Company an unreasonable division of the rate at the expense of the more prosperous connecting lines participating in through rates. Nor was the predecessor of the Riverside Company heard to offer such an objection to the proposed reduction in the rate in the original proceeding, but a pro forma defense to the reductions proposed by the complainant was advanced by it. While it filed an answer generally denying the allegations of the complaint it submitted no evidence, presented ^{no} brief, or made any argument in support of the joint through rates attacked, or of its proportion of said rates. The only conclusion which could have been drawn from its failure to defend the rates in which it was jointly interested was that it was willing that the reduction asked should be granted. The Riverside Company now states that its predecessor made no defense other than to file its denial of the allegations of the complaint, for the reason that it relied upon the other lines, parties to this proceeding, to do so, but in view of the attitude of the other defendants toward the predecessor of the Riverside Company throughout the entire proceeding, it is inconceivable how it could have rested upon this assumption. At the hearing on the rates the apparent unconcern of the Crescent City Railway in the matter and its failure to defend was referred to by the other defendants as indicative of the close relation existing between the Cement Company and the Crescent City Railway, and in the brief filed only "for defendants, other than Crescent City Railway" it was said that it was significant that the Crescent City Railway offered no objection to the proposed reduction in its revenues.

It is indeed a late hour for the Crescent City Railway, or its successor, to come before this Commission and seek to defend the rates attacked insofar as its own interests are concerned, and plead that to that extent no reduction in the rates

should be made. I am not convinced from the evidence which has been submitted in this latter proceeding that the Commission's conclusion in its original decision in this matter that the rate should be reduced, and that the delivering carriers should not be required to bear this entire reduction is incorrect. And it is my opinion that the Riverside Company and the Southern Pacific Company should pro rate the reduced rate, using as factors to obtain the percentages the division of the former rate. In this manner each line will stand a proportionate reduction in its division of the rate which I believe is just and fair to each carrier.

An examination of the accounts of this Company by the Commission's Auditing Department does not fully substantiate the statement of the Riverside Company that if its proportion of the through rate is reduced, as indicated, that its revenue will be insufficient to meet its operating and other expenses. Based on its operations for the calendar year of 1914, and taking into consideration the more favorable contract covering the operation of the Pacific Electric Company's passenger trains over its tracks, which will be in force during the current year, the Company's revenues promise to be sufficient to meet operating and other expenses if no extraordinary increases are made therein because of reorganization.

I submit herewith the following form of supplemental order:

SUPPLEMENTAL ORDER.

The Crescent City Railway and the Southern Pacific Company having been unable to agree upon the division of the joint rate of \$1.25 per ton of 2000 lbs. heretofore established in this proceeding by this Commission for the transportation of cement

in carload lots from Crestmore to Los Angeles, and an application having been made to this Commission asking that it proceed with the establishment of the division of the rate as authorized by Section 33 of the Public Utilities Act; and a regular hearing having been held and the Commission, being fully apprised in the premises, finds as a fact that a just and reasonable division of said joint rate is to allow the Southern Pacific Company \$1.0833 and the Riverside, Rialto & Pacific Railroad Company \$.1667.

IT IS HEREBY ORDERED that the joint rate of \$1.25 per ton of 2000 lbs. heretofore established in this proceeding by this Commission for the transportation of cement in carload lots from Crestmore to Los Angeles by the Crescent City Railway, the predecessor of the Riverside, Rialto & Pacific Railroad Company, the petitioner, and the Southern Pacific Company, be divided by allowing to the Riverside, Rialto & Pacific Railroad Company for its service from Crestmore to the Junction with the Southern Pacific Company \$.1667 per ton of 2000 lbs., the remainder to accrue to the Southern Pacific Company.

The foregoing supplemental 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 June, 1915.

Wm. J. Heelan
Wm. J. Heelan
Wm. J. Heelan

Commissioners