

Decision No 99

Before the Railroad Commission
of the State of California.

Decision No. 99

IN THE MATTER OF THE REGULATION OF
RATES FOR THE CARRYING OF FREIGHT
BETWEEN THE STATIONS WITHIN THE
BUSINESS DISTRICT OF THE CITY OF
LOS ANGELES AND LOS ANGELES HARBOR
BY THE SOUTHERN PACIFIC COMPANY AND
THE SAN PEDRO, LOS ANGELES & SALT
LAKE RAILROAD COMPANY.

No. 115.

DECISION.

In this case, the complainant, the Board of Harbor Commissioners of the City of Los Angeles, questions the reasonableness of certain freight rates of the Southern Pacific Company and the San Pedro, Los Angeles and Salt Lake Railroad Company, on their branch lines between Los Angeles and the Harbor at San Pedro. The rates so questioned include all the class rates and certain of the commodity rates. The defendant railway companies deny specifically that such rates are in any way excessive or unreasonable. There is little controversy concerning the nature of the lines of either of the carriers. The evidence shows that the Southern Pacific Company has twenty-four miles of track and the San Pedro, Los Angeles and Salt Lake Railroad Company twenty-seven miles; that the operation is surrounded by no unusual difficulties; and that the haul is substantially a floor level haul. There is, however, considerable conflict in the evidence concerning various matters upon which evidence was introduced on behalf of the several parties or at the direct request of the Commission. Witnesses on behalf of the complainant testified that the Southern Pacific Company's line, exclusive of right of way, would cost to reconstruct in its present

condition \$1,036,757.00, while the Southern Pacific Company's engineer testified on this point to the sum of \$1,154,506.00. The variance between these amounts is slight. But with reference to the value of the right of way, the conflict is so great that the Commission finds itself in the position of being required to reject in toto either the evidence of the witnesses called on behalf of the complainant or of those called on behalf of the Southern Pacific Company. The two real estate experts called by the complainant are men who have had a very considerable experience in determining land values, both for the City of Los Angeles and for and against railway companies in condemnation and other suits. They testified in substance that the present value of the real estate included in the rights of way of the Southern Pacific Company is \$551,361.00 (Complainant's Exhibit No. 33), while Mr. Pope, representing the Southern Pacific Company, testified that the same real estate has a present value of \$12,702,944.00. (Defendant Southern Pacific Company's Exhibit No. 6).

We had hoped to be able, in this decision, to adopt some theory of fixing rates more reasonable than that of comparison with other rates, and to this end sought to ascertain "the fair value of the property being used by it (the railroad) for the convenience of the public." X

Smyth vs. Ames, 169 U. S. 466, 546.

Enough evidence has been presented to the Commission so that it has a general knowledge as to the fair value of the property involved. Conceding a valuation very much in excess of that which the evidence shows to be fair, the rates charged by the Southern Pacific Company (and in this portion of the decision we shall deal mainly with that ~~xxx~~ road) are in

the main excessive and unreasonable. We do not, however, deem it necessary in this case to commit ourselves to any particular theory of rate making. We have considered both the theory of rate fixing adopted in Smyth vs. Ames, supra, and the theory of comparative rates, and the rates herein established are fair to the defendants on either theory. We assume that the defendants will not be disposed to question in some other tribunal the correctness of the theory of fixing a rate by comparison with other rates, which theory they have urged is the proper one. Accordingly, in order to test our conclusion that all of the class rates and many of the commodity rates on the San Pedro Branch of the Southern Pacific Company are unreasonable and excessive, we have compared those rates with other rates of the Southern Pacific Company in this state, where similar traffic moves under substantially similar conditions. Not having determined the broader question as ^{to} the reasonableness of all the rates of the Southern Pacific Company within this state, we are disposed to entertain the presumption, for the purposes of this inquiry at least, that this company's rates are reasonable as to all such rates which are not now in question. We are not unmindful of the fact that such comparison may be unduly favorable to the Southern Pacific Company, because, while it has been a comparatively easy matter to find equal distance hauls under generally substantially similar conditions, yet we find no place within the State of California where there is an amount of freight moving over as short a stretch of railroad terminating at the terminals thereof equal to the amount carried between San Pedro and Los Angeles: but we also call attention to the fact that, while the amount of freight

moving over this branch is tremendous, yet by far the larger portion thereof moves in one direction, viz: from San Pedro to Los Angeles. The actual tonnage moved during the eighteen months ending December 31, 1910, was 436,275 tons, from San Pedro to Los Angeles, and 35,677 tons from Los Angeles to San Pedro, necessitating a very large empty car movement from Los Angeles to San Pedro. We have carefully considered this fact and are of the opinion that it ought to and does in a considerable measure overcome the advantage of this particular line of railroad over the portions of the road with which we have compared it in our tables. It must be remembered also that the comparisons shown, particularly as to class rates, cover rates between points where the business is of much less volume than between San Pedro and Los Angeles. If the rates thus compared are reasonable for comparatively small movements, it must be apparent that the rates would be amply remunerative for such a heavy movement as we are here considering.

We have found it necessary to make these comparisons independently of the tables introduced by the parties to this action, because, just as Mr. Pope's value of the right of way is in our opinion grossly in excess of the real value, so a large number of comparative rates introduced by the complainants are likewise unreliable, because of the fact that the conditions under which the hauls are made are not similar to those in this case. In justice to Mr. Gregson, however, it must be said that he testified that he was not familiar with the conditions under which the traffic moved between many of the places submitted in his comparisons.

The rates herein established, of course, do not affect the earning on any freight which originates at any point upon this line and is carried beyond it, or vice versa, and we have purposely refrained from making any change in rates which would affect the rates upon such movements. If we should in this proceeding establish rates which eliminate any excess which may exist in the rates between points upon this line and points beyond (and of course, for interstate business this Commission has certainly no such power, and as to intrastate business, even conceding the power, the propriety would be very doubtful), then, should it develop at a later hearing that an entire rate applying to a movement both on and off this branch, as it now stands, is excessive, we would not be in a position to make a reduction, because we would already have reduced the railroad's earning power so that the needed reduction could not be made. To illustrate this point, we call attention to the reasoning of the United States Supreme Court in the Smyth vs. Ames case, already referred to. In that case the court held that even if the railroads in question earned a return upon the fair value of the property through their interstate rates alone, thereby making their earnings from intrastate business, to use a common expression, velvet, yet the Legislature of Nebraska could not force the state rates down to a point where they of themselves would be less than reasonable rates. The proper procedure, as pointed out by the court in that case, is to ascertain that proportion of the railroad's property which is properly attributable to intrastate and that proportion which is properly attributable to interstate business. Reasonable rates for intrastate business will then be rates which bring a reasonable return upon that portion of the property which is attributable to intrastate

business. In the present case, if the rate from San Pedro to Riverside, for example, should be found to be excessive with the result that the portion of the rate attributable to the San Pedro Branch would, necessarily, also be excessive—then, in an investigation of the rates on the San Pedro Branch, it would not be proper to deprive the Southern Pacific Company of the excessive earning that it is making upon the rate from San Pedro to Riverside and reduce the rates attributable to the branch lines to such a degree that the excessive earning for the entire movement would be eliminated. The conclusion follows for the reason already suggested, that if this procedure were adopted, then if the rate from San Pedro to Riverside were questioned and found to be excessive, it would not be possible in fairness to reduce it, because the carrier has already been deprived of some of the excess earnings by reason of too great a proportional reduction of the rates on the San Pedro Branch. We go into this somewhat in detail for the reason that it has been urged in this case, that, such reduction should be made in the branch rates as would wipe out all of the excessive earnings, both on the branch business and on that which moves beyond. To do this would produce unduly low and favorable rates for the business which is confined to the line between Los Angeles and San Pedro. If such action were taken, it might be necessary in a future proceeding, in which the rates for hauls partly upon the branch and partly off the branch might be found to be excessive, either to refuse a reduction, and thereby work an injustice to the shippers and the public ~~XXXX~~, or to order a reduction and work an injustice upon the railroads.

Another consideration which has been urged upon us in this case is the effect which a lowering of these rates will have on certain business now moving from San Diego to Los Angeles. The distance from San Diego to Los Angeles over the Santa Fe Railway is one hundred and twenty-six miles, and the distance between San Pedro and Los Angeles over the Southern Pacific line is twenty-four miles; yet the rate for these two movements is today the same. It is urged that, although the Santa Fe at the present time for this one hundred and twenty-six mile haul from San Diego to Los Angeles meets the rates of the Southern Pacific and Salt Lake from San Pedro to Los Angeles, yet should the rates be reduced from San Pedro to Los Angeles below their present amounts, the Santa Fe will not meet such reduction, and ships, instead of landing at San Diego, would land at San Pedro. We sympathize with any community which, by reason of the practices which have been prevalent among railroads in the past, has relied upon the maintenance of unnatural conditions. No other railroad practice, in our belief, has wrought as much harm to all the people of the United States, and will in the future, if not already, work as much harm to the railroads themselves, as this practice of attempting by an unduly preferential freight rate to afford a community advantages which its natural position does not afford, or by an unduly oppressive rate to deny to some other community the advantages to which its natural condition entitles it. We say that these practices have worked harm to the people in general, because they work an economic waste. Under ordinary circumstances, one must agree that it costs more to move a ton of freight a thousand miles than a hundred miles, but when a railroad moves freight a thousand miles for a less rate than it moves the same freight a hundred

miles, it builds up a population at the thousand mile point and inflicts upon itself the burden of continuing to haul freight in the future, at the low rate, to this thousand mile point; and if the rate to this point is too low, the deficit must be made up from other traffic. It would be just as logical for one to construct his house upon the top of a foundation one thousand feet in height when he could have an equally secure house on a foundation of ten feet, thereby subjecting himself to the burden, during his entire tenancy of this structure, of climbing to the dizzy heights upon which he had placed it. We believe that it is the duty of any rate making body to eliminate artificial conditions in the interest of economy for the people, but we recognize the injustice which will be worked upon the people who built upon the faith of preferential freight rates, not by the elimination of the artificial conditions, but by their original imposition. In this case, we do not think any matter competent to be considered by this Commission except the reasonableness of the rate involved upon the San Pedro Branch of these lines. Reasonable rates shall not be denied here because unreasonable rates, if such be the case, have been accorded elsewhere.

The carriers maintain the following scale of class rates between Los Angeles and San Pedro:

Classes:	1	2	3	4	5	A	B	C	D	E
Rates:	15	14	12	11	10	10	10	9	8½	8½

We have made a careful and exhaustive comparison of rates between other points on the Southern Pacific Company's lines within California for approximately the same mileage and have ascertained that the average of the rates so compared is considerably lower than the rates above mentioned. This comparison shows that in many instances a lower scale of class rates is in effect for

a far greater distance than between San Pedro and Los Angeles and that these lower rates are not influenced in any way by water competition. The average of eighteen scales of class rates in various parts of California not affected by water competition is as follows: (Exhibit No. 1).-

After carefully weighing all the evidence in this case, bearing in mind the fact that the preponderance of the traffic moves in one direction, and making due allowance for empty car movement, the Commission finds that the present scale of class rates for the transportation of freight is excessive and unreasonable and should not exceed the following:-

Classes:	1	2	3	4	5	A	B	C	D	E
Rates:	12	11	10	8	7	7	6	5½	5	5

The complainants in this case specially urge the unreasonableness of the rate on forest products between the Port of San Pedro and the City of Los Angeles, and we have given this feature of the case careful consideration. The tariffs of the Southern Pacific Company on file in this office show that many rates are now in effect upon the lines of that Company within this State for distances several times as great as that between San Pedro and Los Angeles and that rates are maintained over these greater distances as low, and in some cases lower than the existing rate of \$1.20 per ton between these two points. These are all cases in which there are no compelling features.

The commission is driven to one of two conclusions in this matter: either the present rate between San Pedro and Los Angeles is too high or the carriers have in these many instances favored certain localities and shippers with greatly preferential rates. In the absence of evidence to the contrary, we accord to the carriers the presumption against

discrimination and in favor of right dealing with the public. Indulging this presumption in their favor, we are forced to conclude that the rates which they have thus voluntarily put into effect in other portions of the State, in some cases over similar hauls, and in many cases over more difficult hauls, and in almost all cases in territories where much less traffic is moving, are in themselves reasonable; and if we entertain this presumption, we are driven to conclude that the rates for this traffic under the specially favorable circumstances surrounding it are excessive and unreasonable.

While we are of this opinion and believe that the rates herein established are reasonable, even at the minimum weights now in existence in the Southern Pacific Company's tariffs, yet we believe that, in the interest of economy, wherever such a procedure does not work an injustice to the public, the minimum carload weight should be increased.

At the present time, under forest products, the carriers include sash, doors, door frames, window frames and many articles in a manufactured form which are bulky and can not be loaded to a heavy minimum weight. As to all such, we believe the minimum should remain as it now exists, viz; at 30,000 pounds. But as to all other so called forest products, it should be increased to 40,000 pounds.

A comparison of ^{lumber} rates between twenty-two points within the State of California on the line of the Southern Pacific Company, for distances approximately the same as between San Pedro and Los Angeles, discloses the fact that the average rate for this distance is 22 cents per ton. (See Exhibit No. 2). We do not believe the volume of business between any of the points mentioned in this exhibit in any wise compares with the business between San Pedro and Los Angeles, and this, taken with the fact already mentioned,

~~xxxxxxxxxxxxxxxxxxxx~~ that a lower rate than the one in existence on the branch in question is maintained by the Southern Pacific Company over much greater distances than the distance we are here considering, leads us to conclude that the rate should be somewhat lower than this average, and we find that a reasonable rate for this movement is 80 cents per ton.

We have not undertaken to name specific commodity rates in lieu of each commodity rate now in effect where such commodity rates have been found to be unreasonable and excessive, because it will be found that the majority of these commodities will move under the provisions of the Western Classification on the class rates hereinbefore found to be reasonable in this decision. The following carload commodity rates between San Pedro and Los Angeles have been found, after careful consideration, to be unreasonable and excessive:

Beans and peas	\$2.00	per ton
Canned goods	2.00	"
Cement	1.20	"
Iron and steel articles, viz: blooms, muck, puddle bars and steel billets	1.50	"
Structural Iron and Steel	1.50	"
Iron-Bar and Angle	1.50	"
Iron pig	1.50	"
Lime-Hydrated	1.00	"
Wine, in wood	1.90	"
Pipe, wrought iron	1.50	"
Plaster	2.00	"
Sugar	1.50	"
Rails, iron and steel and track fastenings	1.50	"
Coke	1.70	"
Lumber	1.20	"
Flour	1.50	"
Grain	1.00	"
Feed	1.00	"
Asphaltum	1.00	"
Lead, Bar and Pig sheet lead, etc.	2.00	"
Canned Milk	2.00	"
Scrap Iron	1.50	"

And in lieu of these rates found to be unreasonable, we find the following to be reasonable rates for the transportation of the below mentioned commodities between San Pedro and Los Angeles:

Beans and Peas	1.20	per ton
Canned goods, fish fruit, milk and vegetables	1.20	"
Cement	.75	"
Structural iron and steel	1.10	"
Iron-Bar and Angle	1.10	"
Pipe Wrought Iron	1.10	"
Plaster	.75	"
Sugar	1.00	"
Rails, Iron and Steel and track fastenings	1.10	"
Coke	.90	"
Lumber	.80	"
Flour	1.20	"
Grain and Feed	.80	"
Asphaltum	.80	"

Those commodities moving now under commodity rates which have herein been found excessive, for which we have found no reasonable commodity rate, will move under their appropriate class, according to the provisions of the Western Classification and current exceptions thereto.

The rates herein declared to be reasonable are hereby established, to become effective on the 10th day of November, 1911, to be charged by the defendant Southern Pacific Company for the transportation of freight between Los Angeles and San Pedro, in either direction, for the classes and commodities herein named on intrastate business, and said Southern Pacific Company is hereby ordered to publish and distribute and file with the Commission on or before said 10th day of November, 1911, a tariff of said rates.

In order that there may be no confusion as to the rates which we have herein found to be reasonable, and which we hereby establish, we set them out in full as follows, calling attention specifically to the finding herein made concerning the movement under class rates of that freight which has heretofore moved under commodity rates found herein excessive, for which no commodity rates are prescribed:

CLASS RATES.

Between		In Cents per 100 lbs.									
Los Angeles, California,	And San Pedro, California.	1	2	3	4	5	A	B	C	D	E
		12	11	10	8	7	7	6	5½	5	5

COMMODITY RATES.

Los Angeles, California	Between	San Pedro, California.
	And	

COMMODITY.	Rates in cents per ton of 2000 lbs.
Asphaltum, carloads, minimum weight 30,000 lbs.	80 ✓
Beans and Peas, Dried, carloads, minimum weight 36,000 lbs.	120 ✓
✓ Canned Goods, - Fish, Fruit, Jam, Jelly, Meats, Olives (also in wood) Preserved Fruits, Sauces, Tamales, Vegetables, in tin, glass or earthenware, packages, hermetically sealed, boxed. Butter, Clam Broth, Clam Juice, Soups, in cans hermetically sealed, boxed. Soup Tablets, boxed, Condensed Milk, in glass or cans, boxed, in barrels or half-barrels, carloads, minimum weight 36,000 lbs.	120 ✓
Cement, carloads, minimum weight 50,000 lbs.	75 ✓
Coke, carloads, minimum weight 40,000 lbs.	90 ✓
Flour, Cereals and Cereal Products, as described on page 18 of Southern Pacific Local, Joint and Proportional Freight Tariff CRC No. 805, and as amended, carloads, minimum weight 30,000 lbs.	120 ✓
Grain and its products as described in Item 8-B of Southern Pacific Grain Tariff CRC No. 102, carloads, minimum weight 30,000 lbs.	80 ✓

COMMODITY.	Rates in cents per ton of 2000 lbs.
Iron and Steel, structural, carloads minimum weight 40,000 lbs.	110
Iron, bar and angle, carloads, minimum weight 40,000 lbs.	110
Lumber and its Products, as described on page 27 of Southern Pacific Company Local, Joint and Proportional Freight Tariff CRC No. 699 ^{ANS} carloads, minimum weight 40,000 lbs.	80
Pipe, wrought iron and Connections, car- loads, minimum weight 40,000 lbs.	110
Plaster, carloads, minimum weight 50,000 lbs.	75
Rails, iron or steel, and track fastenings, carloads, minimum weight 50,000 lbs.	110
Steel, carloads, minimum weight 36,000 lbs.	100

This decision has dealt with the Southern Pacific Company alone . The Commission feels that sufficient evidence has not been presented to justify a decision with reference to the San Pedro, Los Angeles and Salt Lake Railroad Company. That Company, if it is so minded, may meet the rates of the Southern Pacific Company herein established. If it does not desire to do so, it is directed to notify this Commission of that fact within ten days from the date hereof, whereupon we shall take the additional steps necessary to arrive at a conclusion as to what rates should be charged by this Company.



John M. Eshleman
A. D. Loveland
W. Gordon

Commissioners.

Dated this 4th day of October, 1911.

Attest:

Charles R. Detrick
Secretary.

Class Rates in Cents per 100 Pounds.

Class	1	2	3	4	5	A	B	O	D	E
San Francisco to Halvorn	9	7	7	6	4	4	4	4	3½	3½
San Jose to San Martin	13	11	10	9	9	8	7½	7½	6	6
Stockton to Olydo	11	9	8	7	6	6	5½	4½	4	3½
Oakdale to Ryer	16	15	14	14	9½	9½	6½	5½	5	4½
Lathrop to Coros	17	15	12	11	9	9	7	6	5	4½
Byron to Turlock	12	12	11	11	7½	7½	5½	4½	4	3½
Turlock to Morcod	13	13	12	11	8½	7½	6½	4½	4½	3½
Stockton to Modesto	12	10	8	7	6	6	6	5½	5	4½
Fresno to Oaruthers	10	9	9	8	6	5½	4	3½	3½	2½
Tipton to Hanford	14	14	13	12	9	8½	5½	5½	4½	3½
Bakersfield to Rio Bravo	6	6	6	5	3½	2½	2½	2½	2½	2
Farmersville to Dinuba	10	9	9	8	6	5½	4	3½	3	2½
South Vallojo to Truobody	17	12	11	9	8	8	8	6½	6	5½
Lodi to Helosma	13	12	11	10	8	8	8	8	6½	6½
Bonicia to Napa Junction	11	10	9	7	6	6	6	6	5½	5½
Antioch to Hookston	12	10	9	6	5	5	5	5	4½	4½
Hiles to Altamont	10	8	7	6	5	5	5	5	4½	4½
Lathrop to Woodbridge	10	8	7	6	5	5	5	5	4	4

Average of above: 12- 10.55- 9.61 - 8.5 - 6.74 - 6.51 - 5.60- 5.17- 4.5 - 3.9

LUMBER RATES

Mileage	From	To	Rates per ton of 2,000 lbs.
22	Folsom	Sacramento	\$1.00
24	Vordt	Truckee	.75
26	Oroville	Marysville	1.00
22	Lameine	Dunsmuir	.55
42	Morely	Dunsmuir	.75
22	Madora	Fresno	1.00
29	Anderson	Kennett	.60
30	Emigrant Gap	Colfax	1.20
31	Red Bluff	Keewick	.75
21	Blue Canon	Syrace	1.00
26	Elmore	Rodding	.60
24	Hooker	Rodding	.55
39	Chico	Red Bluff	1.00
39	Red Bluff	Chico	.60
24	Anderson	Red Bluff	.55
24	Friant	Fresno	1.00
25	Clovic	Sanger	.90
25	Dos Palos	Firebaugh	.70
24	Caldale	Walthall	1.00
29	Shellville Jet.	Yountville	.75
25	South Vallejo	"	.75
30	Vallejo Jet.	San Ramon	1.00

Average:

27.5 .82

Exhibit #2