

dec 232

Decision No. 301

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

ORIGINAL

In the matter of the application of the COWELL PORTLAND CEMENT COMPANY, a corporation, and BAY POINT & CLAYTON RAILROAD COMPANY, a corporation, for the establishment of through route and joint rates in connection with the Southern Pacific Company, a corporation.

Case No. 233.

George D. Squires, for Southern Pacific Company.
John S. Partridge, for complainants.
Seth Mann, for intervenors,
Pacific Portland Cement Company and
Cement Tolenas and Tidewater Railway
Company.

OPINION.

LOVELAND and GORDON, Commissioners.

This case was brought by the Cowell Portland Cement Company and the Bay Point and Clayton Railroad Company against the Southern Pacific Company asking for through route and joint rates with that company, a similar complaint being filed at the same time against the Atchison, Topeka & Santa Fe Railway Company, which case was No. 232, and reference is hereby made to the general remarks found in the opinion in Case No. 232 on the subject of through route and joint rates between industrial or tap line roads and large steam roads.

At the hearing, the Pacific Portland Cement Company and the Cement Tolenas and Tidewater Railway Company, through Attorney Seth Mann, asked for, and were granted, leave to file a petition in intervention.

Case No. 232, against the Atchison, Topeka & Santa Fe Railway Company, was heard first and it was then stipulated by counsel that this case should be submitted upon the evidence adduced in Case No. 232. Mr. Squires, Attorney for defendant in this case, asking as a part of such stipulation that he should be permitted to file two statements as exhibits in this case.

In the opinion in the case at bar, it is necessary to refer to general conditions obtaining in cement rates as disclosed by defendant's published tariffs as was done in the opinion in Case No. 232.

Complainant bases its right to through route and joint rates upon the allegation in the complaint which was supported by testimony in Case No. 232, effective by stipulation in this case.

First: That it is a public carrier transporting for the public generally considerable tonnage in addition to the moving of cement from its plant, for which reason it is entitled to through route and joint rates with defendant; and

Secondly: In extending rates from main line junction points to the door of the Santa Cruz Portland Cement Company at Devenport on a branch line constructed for the sole purpose of transporting cement, and refusing to extend the main line rates from junction points to the plant served by separately operated properties, constitutes an unjust and unreasonable discrimination against the plants served by such separately operated railroads, and that this discrimination amounts to the cost of transporting cement from the plants located on these separately operated railroads to the junction points from which the main line rates apply.

Considerable testimony was offered as to the volume of business done by the Bay Point & Clayton Railroad Company for the public generally other than transporting its own product, the total earnings of the road being given as Fifty-five Thousand Five Hundred Twenty-five and 99/100 (55,525.99) Dollars for the fiscal year ending June 30, 1911, Four Hundred and Twelve (412) Dollars of which resulted from passenger traffic and the remainder from freight traffic.

As was stated in Case No. 232, the Commission is of the opinion that large steam roads should not in all cases be required to give through route and joint rates with industrial or tap line roads but that each case coming before the Commission must be considered upon the merits of that particular case, and in granting the prayer of complainant in this case and ordering the defendant to publish through route and joint rates with complainants and intervenors on cement the opinion of the Commission is not based upon the right of complainants and intervenors to through route and joint rates by reason of the volume of the traffic other than the movement of cement, but upon the circumstances disclosed in the case relating to the charge of discrimination and the reasonableness of the rate, which we believe has been sustained.

As shown by the tariffs of defendant company, of which the Commission is entitled to take judicial notice, the Southern Pacific Company extended its tracks from its main line to the Colton plant, and receives the product of the company there at the door of the plant, making its rates to destination from the plant. It, also, as is shown by its tariffs, receives the product of the Santa Cruz Portland Cement Company at the door of the plant at Davenport making its rates to destination from that plant.

In considering the claim of discrimination against the plants served by separately operated railroads, we must consider all of the circumstances surrounding the construction of the branch line railroad.

A witness for the intervenors testified that request was made on the Southern Pacific Company to construct a branch line from Tolenas to the cement plant of the Pacific Portland Cement Company, but the defendant positively refused to do so.

There is on file with this Commission a copy of a contract entered into on the 17th day of August, 1905, between

the Santa Cruz Portland Cement Company and the Southern Pacific Company, showing that the Southern Pacific Company built the railroad from Santa Cruz to Davenport for the Santa Cruz Portland Cement Company, receiving for such construction a certain sum which was to be returned to the Santa Cruz Portland Cement Company after a certain amount of money had been received by the Southern Pacific Company for the transportation of cement from the plant of the Santa Cruz Portland Cement Company.

Tariffs on file with this Commission also disclose the fact that a few years ago when a cement company was about to be established at San Juan, known as the San Juan Portland Cement Company, the Southern Pacific Company published joint through rates in connection with the San Juan Pacific Railway Company which was an adjunct of the San Juan Portland Cement Company, and that under such through route and joint rates there was a considerable movement of equipment for the construction of a plant at San Juan on which the San Juan Pacific received a division of the through rate, which through rates were the main line rates extended to apply to San Juan.

The defendant maintains joint rates in connection with the Iron Mountain Railway, an adjunct of the Mountain Copper Company, which joint rates are the rates applying to Keswick, the main line junction point on the Southern Pacific and from which joint rates the Iron Mountain Railway receives a division for its services.

The defendant has extended its main line rates to industries served by the Richmond Belt Railroad and allows that line a division of such rates.

Numerous cases could be cited where main line rates on various commodities have been extended to apply on branch lines and on separately operated lines. We would not be understood as contending that in every case junction point rates should be extended to apply to branch line points, but when it has been voluntarily done by the carriers, the presumption must be entertained that the rates are at least reasonable from carriers' standpoint.

In receiving the product of the cement plant at Colton at the door of the plant, making its rates therefrom to destination, and in receiving the product of the Santa Cruz Portland Cement Company at the door of the plant with rates therefrom to destination, while it compels the Cowell Portland Cement Company to deliver its product at the junction at Bay Point and the Pacific Portland Cement Company to deliver its product at junction at Tolenas, the defendant is discriminating against complainants and intervenors. It must be apparent that the only obligation of the defendant in naming rates for the cement plant at Davenport or at Colton was to name rates from the main line junction points if it was to be consistent with its policy towards other plants, but instead the defendant has chosen to extend its main line rates to the door of these other plants while declining to do so for the complainants and intervenors.

We find as a fact from the evidence in this case that no satisfactory through route and joint rates for the transportation of cement now exist between Cowell, California, and points on the line of the Southern Pacific Company within the State of California and between Cement, California, and points on the lines of the Southern Pacific Company within the State of California and that public convenience and necessity demand the establishment of through routes and joint rates for the transportation of cement between said points.

We find further that the rates on cement which are now in effect between Bay Point, California, and points on the lines of the Southern Pacific Company in California would be at least reasonable joint rates for the transportation of cement between Cowell and said points on the lines of the Southern Pacific Company within the State of California.

We also find that rates on cement which are now in effect between Tolenas, California, and points on the lines of the Southern Pacific Company in California would be at least reasonable

joint

rates for the transportation of cement between Cement and points in California on the lines of the Southern Pacific Company.

We are of the opinion that the cement rates generally in California, owing to the rapid growth of the cement industry and the largely increased demand for cement, are in need of revision and that a revision of the joint rates herein established will probably be necessary.

If the parties cannot agree upon the divisions between them of the joint rates herein established by the Commission, they shall apply to the Commission for a supplemental order establishing such divisions.

We recommend that the following form of order be issued:

O R D E R.

THE COWELL PORTLAND CEMENT COMPANY, a corporation, and the BAY POINT & CLAYTON RAILROAD COMPANY, a corporation, having applied to this Commission for through route and joint rates with the Southern Pacific Company on shipments of cement from the plant of the complainant at Cowell, California, to various destinations and the Pacific Portland Cement Company, a corporation, and the Cement Tolenas Tidewater Railroad Company, a corporation, having intervened and asked for a similar order on shipments of cement from Cement, California, to various destinations, and the Commission finding as a fact that no satisfactory through route and joint rates for the transportation of cement now exist between Cowell, California, and points on the lines of the Southern Pacific Company within the State of California and from Cement, California, to points on the lines of the Southern Pacific Company within the State of California, and the Commission further finding that public convenience and necessity demand the establishment of through routes and joint rates for the transportation of cement between said points and that the rates on cement now in effect between Bay Point and points on the lines of the Southern Pacific Company in California

will be at least just and reasonable joint rates for transportation of cement between Cowell, California, and said points on the lines of the Southern Pacific Company within the State of California and that the rates on cement now in effect between Tolenas, California, and points on the lines of the Southern Pacific Company in California will be at least just and reasonable joint rates for transportation of cement between Cement and said points on the lines of the Southern Pacific Company within the State of California, and basing its findings upon the foregoing findings of fact and upon the further statement of facts which appear in the opinion which precedes this order,

IT IS HEREBY ORDERED as follows:

First: Through routes and joint rates for the transportation of cement are hereby established between Cowell, California, and all points in California on the lines of the Southern Pacific Company; said joint rates shall be the rates which are now charged by the Southern Pacific Company for the transportation of cement from Bay Point to such points on its said line of railway.

Second: Through routes and joint rates for the transportation of cement are hereby established between Cement, California, and all points in California on the lines of the Southern Pacific Company; said joint rates shall be the rates which are now charged by the Southern Pacific Company for transportation of cement from Tolenas to such points on its said line of railway.

Third: The Southern Pacific Company is hereby ordered to publish and file with the Commission within twenty (20) days from the service upon it of this order tariffs showing such through routes and joint rates.

Fourth: The parties hereto shall seek to agree upon the proper division of the joint rates herein established, but in event such agreement cannot be reached on or before fifteen (15) days from the service of this order upon the parties hereto, this Commission will proceed to establish the division of said joint

rates as provided by law.

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 25th day of October, 1912.

John M. Eskleman

H. B. Loveland

W. E. Goddard

Max Thelen

Edwin O. Edgerton

Commissioners.

RECOMMENDATIONS OF THE COMMISSION IN CONNECTION
WITH THE DECISIONS IN CASE 232 and CASE 233.

It is apparent to the Commission that main points in controversy in these cases are the divisions or allowances to be made complainants and intervenors for delivery of cement to main line junction points of the defendants.

The Commission desires to dispose of this controversy, if possible, at this time and the recommendations hereafter made have this object in view. We, therefore, recommend the following:

1. That the Southern Pacific Company and the Atchison, Topeka & Santa Fe Railway Company arrange to publish divisions of the joint rates established in the decisions in Case No. 232 and Case No. 233 on the following basis:

(a) When rate from Cement or Cowell to destination is \$1.00 per ton of 2000 lbs., or less, the Bay Point & Clayton Railroad and the Cement Tolenas & Tidewater Railroad shall receive ten cents (10¢) per ton, maximum five (5.00) dollars per car.

(b) When the rate from Cowell or Cement to destination is in excess of \$1.00 per ton of 2000 lbs. the Bay Point and Clayton Railroad and the Cement Tolenas and Tidewater Railroad shall receive twenty (20) cents per ton.

2. That the Southern Pacific Company and the Atchison, Topeka & Santa Fe Railway Company arrange to publish rates through from the plant of the Riverside Portland Cement Company on the same basis as now apply from the Colton plant and arrange for the same allowance for the railroad operated by the Riverside Portland Cement Company as we recommend for the Bay Point & Clayton Railroad and the Cement Tolenas and Tidewater Railroad, whenever the railroad operated by the Riverside plant brings itself within the requirements

of the Public Utilities Act governing common carriers.

3. That the Atchison, Topeka & Santa Fe Railway Company and the Southern Pacific Company establish in connection with their cement rates and the joint rates established by the Commission in Case 232 and Case 233 the following minimum carload weights:

(a) When the rate from point of origin to destination is 75 cents per ton, or less, minimum carload weight shall be the marked capacity of the car.

(b) When the rate from point of origin to destination is in excess of 75 cents per ton minimum carload weight shall be 60,000 pounds.

4. Many informal complaints have been made to the Commission concerning excessive cement rates between the mills of northern and southern California and San Joaquin Valley points. We have made a careful study of this situation and suggest to the carriers that the following rates from various cement plants to points in the San Joaquin Valley be published:

ORIGINAL

RATES RECOMMENDED ON CEMENT, CL. FROM COWELL, COLTON
AND RIVERSIDE TO POINTS ON LINES OF THE ATCHAFALAYA,
TOPEKA & SANTA FE RAILWAY COMPANY.

From Cowell TO	Rates in cents per ton of 2000 lbs.	From Colton Riverside TO	Rates in cents per ton of 2000 pounds.
Empire	170	Oleander	390
Merced	235	Bowles	390
Fresno	320	Monmouth	390
Reedley	330	Conajo	385
Dinuba	335	Laton	385
Visalia	340		
Hanford	335	Clint	390
Tulare	340	Cornwall	390
Bakersfield	360	Cepford	390
		Lanare	390
From Colton Riverside TO	Rates in cents per ton of 2000 lbs.		
Fresno	390	Harlow	385
Calwa	390	Lucerne	385
		Banner	385
Cecile	390	Hanford	380
Mattel	390	Clinker	380
Lone Star	390	Odessa	380
Wolf	390	Guernsey	380
Del Rey	390	Bean	380
Miley	390	Corcoran	375
Parlier	390	Gurnbull	375
Lac Jac	390	Blanco	375
Reedley	390	Angiola	375
		Spa	375
Darwin	395	Stoil	370
Wino	395	Allenworth	370
Wahtoke	395	Kernell	370
Minkler	400	Pond	365
Oakhurst	400	Elmo	365
Piedna	400	Wasco	365
		Palmo	365
Dinuba	390	Shafter	360
Tokay	390	Rosedale	360
Sultana	390	Jastro	355
Cutler	390	Bakersfield	355
Yetter	390		
Peral	390		
Visalia	385		
Pasuco	385		
Loma	385		
Swall	385		
Imhoff	380		
Tulare	375		
Robla	380		
Paige	380		
Waukena	380		

RATES RECOMMENDED ON CEMENT, CL, from CEMENT, COWELL
 NAPA JUNCTION and DAVENPORT TO POINTS ON LINES
 OF SOUTHERN PACIFIC COMPANY.

To	From Cement Cowell Napa Jct.	From Davenport
Rates in cents per ton of 2000 lbs.		
Yarmouth	135	
Vernalis	145	
Ohm	145	
Romain	150	
Westley	155	175
Vanormer	160	180
Patterson	165	185
Crows Landing	170	190
Stomar	175	195
Timba	175	195
Newman	180	200
Gustine	185	205
Linora	190	210
Ingomar	195	215
Volta	205	225
Trent	210	230
Los Banos	215	235
Abatto	220	240
Agatha	230	250
Brito	235	255
Dos Palos	235	255
Oxalis	250	270
Silazo	255	275
Firebaugh	260	280
York	265	285
Arbios	270	290
Mendota	275	295
Whites Bridge	275	295
Ingle	285	305
<hr/>		
Tranquillity	300	320
Caldwell	320	340
Helm	325	345
Burrell	325	345
Riverdale	325	345
Robinson	325	345
Hub	325	345
Lynn	325	345

RATES RECOMMENDED ON CEMENT, CL, FROM RIVERSIDE,
COLTON, COWELL, CEMENT, NAPA JUNCTION and
DAVENPORT TO POINTS ON LINES OF SOUTHERN
PACIFIC COMPANY.

To	From Riverside Colton	From Cowell Cement Napa Jct.	From Davenport
Rates in cents per ton of 2000 lbs.			
Jameson		305	325
Kerman	395	305	325
Rugg	395	310	330
Floyd	395	310	330
Polinda	395	315	335
Kearny	395	320	340
Nevills	395	320	340
Patton	395	320	340
Forsey	395	320	340
Crayold	395	320	340
Wesby	390	320	340
McMullin	395	315	335
Raisin City	395	320	340
Caruthers	390	320	340
Cando	390	325	345
Billis	390	325	345
Hardwick	390	325	345
Kimble	385	330	350
Armona	385	330	350
Orin	385	330	350
Lemoore	390	335	355
Heintzen	390	335	355
Rossi	390	335	355
Cuneo	390	340	360
Marsala	390	340	360
Stratton	395	340	360
Iethent	390	340	360
Huron	400	345	365
Tunk	400	350	370
Ora	405	355	375
Coslinga	405	355	375
Crump	405	355	375
Alcalde	405	355	375
Hanford	380	335	355
Remmoy	380	335	355

RATES RECOMMENDED ON CEMENT, CL, FROM CEMENT, COWELL,
 NAPA JUNCTION and DAVENPORT TO POINTS ON LINES
 OF SOUTHERN PACIFIC COMPANY.

To	From Cement Cowell Napa Jet.	From Davenport
Manteca	135	155
Morreno	135	155
Weston	145	165
Ripon	150	170
Salida	150	180
Modesto	170	190
Ceres	180	200
Esmar	180	200
Keyes	185	205
Turlock	190	210
Delhi	200	220
Livingston	210	230
Arena	215	235
Atwater	220	240
Buhach	225	245
Fergus	230	250
Merced	235	255
Lingard	245	265
Athloné	250	270
Sierra Vista	260	280
Minturn	260	280
McNear	265	285
Califa	270	290
Berenda	275	295
Salbot	295	315
Daulton	305	325
Jesbel	320	340
Knowles	320	340
Raymond	320	340
Madera	290	310
Borden	295	315
Irrigosa	300	320
Tharsa	305	325
Herdon	310	330
Muscotel	320	340
Fresno	320	340

RATES RECOMMENDED ON CEMENT, CL, FROM RIVERSIDE
 COLTON, COWELL, CEMENT, KAPA JUNCTION AND DAVENPORT
 TO POINTS ON LINES OF SOUTHERN PACIFIC COMPANY.

To	From Riverside Colton	From Cowell Cement Kapa Jet.	From Davenport
Rates in cents per ton of 2000 lbs.			
Barton	395	320	340
Granz	395	325	345
Maltermoro	395	325	345
Las Palmas	395	325	345
Eggers	395	325	345
Vanris	395	325	345
Tarpey	395	325	345
Molvin	395	325	345
Clovis	400	325	345
Deering	400	330	350
Clorietta	400	330	350
Gordon	400	330	350
Nopoc - El Prado	400	330	350
Gravel	400	335	355
Friant	405	335	355
Ball	390	320	340
Mars	390	320	340
Blossoma	390	320	340
Luvita	390	320	340
Eshel	390	320	340
Butler	390	320	340
Locans	390	320	340
Ivesta	390	325	345
Clotho	390	325	345
Sanger	390	325	345
Tarn	390	325	345
Fargo	390	330	350
Lac Jac	390	330	350
Samuel	390	330	350
Reedley	390	330	350
Dimuba	390	335	355
Smyrna	385	335	355
Monson	385	335	355
Taurusa	385	340	360
Klink	385	340	360
Dorsey	380	340	360
Roche	380	340	360
Kaweah	380	340	360
Lort	380	345	365
Exeter	380	345	365
Burr	385	345	365
Lindsay	380	345	365
Strathmore	375	345	365
Zanta	375	350	370
Lisko	375	350	370
Kurth	375	350	370
Porterville	375	350	370
Adobe	375	350	370
Worth	375	350	370
Success	375	355	375
Globe	380	355	375
Springville	380	355	375
Bonar	375	350	370
Ponca	375	350	370

RATES RECOMMENDED ON CEMENT, CL. FROM RIVERSIDE
COLTON, COWELL, CEMENT, NAPA JUNCTION AND DAVENPORT
TO POINTS ON LINES OF SOUTHERN PACIFIC COMPANY.

To	From Riverside Colton	From Cowell Cement Napa Jet.	From Davenport
Rates in cents per ton of 2000 lbs.			
Lola	375	350	370
Terra Bella	370	350	370
Ducor	370	355	375
Orris	370	355	375
Richgrove	370	355	375
Jasmin	365	355	375
Craycroft	390	320	340
Calwa	390	320	340
Malaga	390	320	340
Hevant	390	320	340
Fowler	390	325	345
Star	390	325	345
Selma	385	325	345
Kingsburg	385	330	350
Traver	385	330	350
Goshen Jet.	380	335	355
Jacobs Spur	380	340	360
Visalia	385	340	360
Ambler	385	340	360
Farmersville	380	340	360
Giant Oak	380	345	365
Luna	380	345	365
Tagus	380	340	360
Tulare	375	340	360
Octol	375	345	365
Tipton	375	345	365
Quail	370	345	365
Pixley	370	345	365
Earlimart	370	350	370
Radnor	370	350	370
Delano	365	350	370
McFarland	365	355	375
Hunt	365	355	375
Famaoa	365	355	375
Page	360	355	375
Lerdo	360	360	380
Saco	360	360	380
Oil Junction	355	360	380
Boaz	360	360	380
Waite	360	360	380
Seguro	360	360	380
Maltha	360	360	380
Volcan	360	360	380
Cesaro	360	365	385
Oil City	360	365	385
Ainrof	360	365	385
Cuando	360	365	385
Porque	360	365	385
Nome	355	360	380
Bakersfield	355	360	380
Kern Junction	355	365	385
Stock Corral	355	365	385
Wible Orchard	360	365	385
Gosford	360	365	385
Stevens	365	370	390
Rio Bravo	365	375	395
Bowerbank	370	375	395
Button Willow	370	380	400
Lokern	375	380	400
Asphalto	380	395	405
McKittrick	380	385	405
Olig	380	385	405

RATES RECOMMENDED ON CEMENT, CO, FROM RIVERSIDE,
 COLTON, COWELL, CEMENT, NAPA JCT and
 DAVENPORT TO POINTS ON SUNSET RAILWAY
 COMPANY.

To	From Riverside Colton	From Cowell Cement Napa Jct.	From Davenport
Rates in cents per ton of 2000 lbs.			
Bakersfield Corrals	355	365	385
Wible Orchard	360	365	385
Gosford	360	365	385
Connor	360	370	390
Millux	370	370	390
San Emidio	370	375	395
Pentland	375	380	400
Kerto	375	380	400
Welco	375	380	400
Lio	375	380	400
Copen	375	380	400
Signa	375	380	400
Lowry	380	380	400
Luft	380	380	400
Milso	380	385	405
Midoll	380	385	405
Fellow	380	385	405
Suplico	380	385	405
Shale	385	385	405
Hazleton	375	380	400
Monarch	375	380	400