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Decision No. _____

ORIGINAL

DocId: 34412

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the matter of the application of
the Western Pacific Railway Company
for relief from the Long and Short
Haul provisions of Section 21, Article
XII of the Constitution of California,
and Section 24(a) of the Public Util-
ities Act, relating to intermediate
class and commodity rates in excess
of rates to more distant points.

Case No. 214-G.

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Allan P. Matthew, for the Western Pacific
Railway Company, applicant.

LOVELAND, Commissioner:

O P I N I O N

This proceeding is a continuation of the Commission's investigation into all violations of the Long and Short Haul provisions of the Constitution of the State as maintained at the present time in the tariffs published by the various common carriers. The history of the preliminary proceedings is fully set forth in Case No. 214-A, and as the instant case presents precisely the same questions, it will not be necessary to here repeat the details.

The Western Pacific Railway Company, in compliance with the orders of this Commission, filed its applications requesting authority to continue all class and commodity rates which are in violation of Section 21, Article XII of the Constitution, and Section 24(a) of the Public Utilities Act.

These rates are now published in applicant's Local Freight Tariffs Nos. 36-C and 263, CRC Nos. 108 and 126. All the violations contained in its tariffs are brought about by the publication of lower class or commodity rates to or from San Francisco, Oakland, or Western

Pacific Mole on the one hand, and either Stockton or Sacramento on the other than to intermediate points.

In justification of the violations, applicant filed with the Commission exhibits explanatory of the situations as they exist in the tariffs to which reference is made. These exhibits cover commodity rates only, it not being considered necessary to set forth the class rate situation between San Francisco, Oakland and Stockton, published in Tariff CRC No.108, as it is no different from that existing between the same points via the Southern Pacific Company and The Atchison, Topeka & Santa Fe Railway Company, which are covered in decisions rendered in Cases Nos.214-A and 214-B, the low rates being identical, viz:

10 10 9. 9 7 7 6 5 $\frac{1}{2}$ 5 $\frac{1}{2}$ 5 $\frac{1}{2}$

The high rates at intermediate point are between San Francisco and Glass Works:

18 16 14 12 11 11 9 8 $\frac{1}{2}$ 8 6

In defense of this situation applicant refers to the fact that this low scale of rates is the same as published by the California Transportation Company and the California Navigation & Improvement Company, both of which companies operate a line of boats between San Francisco, Sacramento and Stockton and intermediate landings.

It is found that competition by boat lines operating on San Francisco Bay, Sacramento and San Joaquin Rivers, is sufficient to influence and control the rates in the territory involved and, under the circumstances, the discrimination against the intermediate points is not considered unreasonable and applicant will be authorized to continue the low class rates to the more distant point and the present higher rates to intermediate points.

Exhibit No.1, Page 1- covers violation in rate of 5 cents per hundred pounds on Bags and Bagging, carloads, published in Tariff CRC No.108, applying between San Francisco, Western Pacific Mole and

Oakland on the one hand and Stockton on the other. High rate at intermediate point is Lathrop, 11 cents per hundred pounds.

In defense of this low rate, applicant shows that rate of 5 cents is maintained between these points by the aforementioned boat lines and that such rate is necessary to meet the competition.

Page 1 of this exhibit also covers violation in rate of 10 cents per hundred pounds on Beer, carloads, between San Francisco and Sacramento, and in justification applicant shows that a similar rate is in effect between these points via the boat lines and that they were forced to meet this water competition. High rate at intermediate point is 13 cents, Sacramento to San Leandro to Trevarno, inclusive.

Page 3 of this Exhibit covers violation in rate of 6 cents per hundred pounds on Lumber, carloads, and articles taking lumber rates, from Stockton to Niles, published in Tariff CRC No.108. High rate at intermediate point is 9 cents at Mayburg. Applicant could offer no justification for this violation and the granting of this item will therefore be denied

Witness for applicant stated at the hearing that its tariff No.36-C, CRC No.108 also contained three violations not shown in its exhibits which it would not attempt to justify and that Supplement would be issued to the tariff, making the low rates applicable at intermediate stations, thus removing the violation. These three situations are as follows:

1- Item 345- rate of 5 cents per 100 lbs. on Canned Goods, C/L, from Stockton to San Francisco and Oakland.

2- Items 400 and 405- rate of $7\frac{1}{2}$ ¢ per 100 lbs. on Tin Cans, in cases, C/L, between San Francisco and Stockton.

3- Item 1595- rate of 10 cents per 100 lbs. on iron or steel, structural. C/L, from Sacramento to San Francisco.

In each of the three cases shown above a higher rate is charged at intermediate stations. As to the other items in the exhibit, the situations are exactly the same as the illustrations given herein for page 1, except as to the commodity moved. It will, therefore, not be necessary to burden this report with further details.

There is no doubt that the boat line competition between San Francisco and Oakland on the one hand and Stockton and Sacramento on the other is both active and controlling and that the rail rates between the points in question have been established on a lower scale than they would otherwise have been were it not for the effect of the boat line competition.

It was further shown in regard to the low rates maintained between Sacramento and San Francisco and Oakland that the distance San Francisco to Sacramento via applicant's line is 160% of the distance via the route of its short line competitor, the Southern Pacific Company, and that in all cases the low rates were necessary to meet the rates established either by the short line or boat lines.

With the understanding that violations hereinbefore referred to, for which no exhibit was made, will be removed from the tariff, I would recommend that these applications be granted, with the exception of the item covering lumber, Stockton to Niles, which should be denied.

It is understood that this adjustment of non-intermediate rates is reflected at points beyond point of origin or destination, at points between point of origin or destination or at branch line points, by combination on some one or other of the low rates from or to points shown, or on a progression of same and that such combinations and progressions are sometimes published in, or made by use of other tariffs than the one containing the low rates. This practice is entirely justifiable where legitimately applied and the granting of petitions containing such violations carries with it the authority to continue the application of such rates.

I therefore submit the following form of order:

O R D E R

The Western Pacific Railway Company having applied to this Commission for an order granting relief from the provisions of Section 21 of Article XII of the Constitution of California, and for authority to continue intermediate class and commodity rates that are higher than the class and commodity rates between more distant points, as set forth in the exhibits and tariffs referred to in the opinion which precedes this order and a hearing having been held on these applications, and the Commission being fully apprised in the premises and basing its conclusion on the findings of fact;

IT IS HEREBY ORDERED that the Western Pacific Railway Company be and it is hereby authorized to continue class and commodity rates as set forth in the applications and exhibits referred to in the opinion which precedes this order and maintain higher rates to intermediate points, with the exceptions noted in said opinion, provided that this authorization shall not be construed to pass on the reasonableness of the intermediate rates or any other matter, except the application of the Long and Short Haul clause of the State Constitution and the Public Utilities Act, and

IT IS FURTHER ORDERED that this authority will extend to rates from and to points more distant than the terminals between which violations are hereby authorized when combinations are made over the low rates at the terminals.

All the rates herein authorized are, of course, subject to complaint, investigation and correction if in conflict with any provision of the Constitution or the Public Utilities Act.

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 19th
day of June 1916.

Max Thelen
A. H. Ryland
Alexander
Edwin O. Edgerton

Commissioners.