Decision No. 508

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

HUNT BROTHERS COMPANY,
Complainants,
vs.
SOUTHERN PACIFIC COMPANY,
Defendant.

Case No. 276.

J. O. Bracken, for complainants.
George D. Squires, for defendant.

LOVELAND, Commissioner.

OPINION.

Complainants are engaged in the business of canning fruits and vegetables at various points in California, amongst others at Exeter, Tulare County, and in the conduct and operation of such business have occasion to ship sugar in car lots to their various canneries. In this case they complain of the rate on sugar from San Francisco to Exeter as compared with the rate on sugar from Visalia to San Francisco. Visalia and Exeter are both located in the San Joaquin Valley, being separated by but a short distance and both relatively the same distance from San Francisco. The complaint alleges that the rate on sugar from San Francisco to Exeter is $8.70 per ton, while the rate in the opposite direction from Visalia to San Francisco is but $3.50 per ton. Previous to the effective date of the decision in the case known as the San Joaquin Valley Rate Case, otherwise No. 116, the rate on sugar from San Francisco to Exeter was $8.90 per ton. Under that decision, sugar moved under fifth class which was $7.60 per ton, but shortly after the effective date of the decision in Case No. 116 the Commission arranged with the carriers for a commodity rate on sugar less than the rate on fifth class, and $6.20 per ton was named as such commodity rate. Based upon the information which was available to the Commission at that time, this rate of $6.20 per ton for a haul of 246 miles, or 2.52 cents per ton per mile was considered a fair and

120

reasonable rate.

Complainants now allege that it is an unreasonably high rate and base their claim upon a comparison of rates, such comparison being the rate from Visalia to San Francisco, from Spreckels to San Francisco, from Betteravia to San Francisco, and from Hamilton to San Francisco. So far as the comparisons from Spreckels, Betteravia and Hamilton are concerned, they may be dismissed from consideration for the reason that in the case of shipment from each of these places rates are affected by water competition. With reference to the rate from Visalia to San Francisco, investigation has shown that the sugar refinery at Visalia is not now being operated and has not been operated for some time and that there is no prospect of its resuming operation.

The rate of $3.50 per ton from Visalia to San Francisco and Sacramento, [redacted] was made for several reasons: first, to enable the local manufacturer at Visalia to compete with the manufacturers on San Francisco Bay in the markets of San Francisco and Sacramento; second, because the empty car movement was largely Northbound and shipments of sugar from Visalia furnished loading for cars that would otherwise be returned empty; third, the movement from the Visalia sugar factory was expected to be large and the carriers believed that the volume of traffic justified a somewhat lower rate than in the opposite direction.

The first reason given, namely, that of enabling the manufacturer at an interior point to compete with manufacturers at other points, I regard as most important and one that, sooner or later, must be definitely passed upon by this Commission. It is market competition pure and simple and there is much to be said both for and against it. The Interstate Commerce Commission has recognized market competition within certain limits. The matter has never yet come up to this Commission in such a manner as to demand a definite decision and, as I see it, it is not now presented to us by this case in such a manner as to require that it be definitely passed upon.

Complainants have alleged that a rate of $8.70 from San Francisco to Exeter is unreasonably high. The rate at no time was $8.70, but, as hereinbefore explained, previous to the decision in the San Joaquin Valley Rate Case was $8.90; was reduced by that case to $7.60, and later, by arrangement with the carriers, to $6.20. Upon learning of this at the time of the hearing, the testimony of complainants was directed to an effort to show that $6.20 was an unreasonably high and discriminatory rate. To do this, comparisons of rates were made, as above indicated, which comparisons, in my judgment, were not fair, for the reason that the rates thus compared were not analagous to the rate complained of. Since the decision in the San Joaquin Valley Rate Case, under which rates which were considered fair based upon the facilities which the Commission then had to arrive at reasonable rates, were established, and the subsequent naming by the carriers, at the request of the Commission, of the commodity rate of $6.20 from San Francisco to Exeter on sugar, I know of nothing that has occurred to lead us to think differently as to that rate and as that is the only matter which is really before the Commission at this time a conclusion as to that rate is a conclusion as to the merits of this complaint.

The Commission has delayed the decision in this case until it could receive from the carriers a large amount of statistical data bearing upon sugar rates and particularly showing the rate per ton per mile received by the carrier on carload movements of sugar generally in the State. The rate of $6.20 from San Francisco to Exeter is, as above stated, 2.52 cents per ton per mile. The following statement shows the actual movement of sugar from San Francisco and from Crockett during a period of five months, the volume of the tonnage and the average rate per ton per mile:-

San Francisco.

Month	Tonnage	Average rate per Ton per Mile
June	809 tons	3.43 cts.
July	973 "	3.2 "
August	628 "	2.52 "
Sept.	662 "	2.63 "
Oct.	261 "	3.38 "

Crockett.

Month	Tonnage	Average rate per Ton per Mile
June	1031 tons	2.37 cts.
July	1841 "	2.98 "
August	1560 "	2.9 "
Sept.	1904 "	2.36 "
Oct.	3297 "	2.95 "

With the completion of certain investigations which the Commission is now making as to the movement of merchandise generally under commodity rates, which will enable us to determine whether sugar moving under commodity rates is paying a just and proper proportion of the cost of operation, and when the physical value of the railroad properties of the State has been taken so that that can be used as an element in arriving at the reasonableness of rates, it may be found that the commodity rates under which sugar is now moving generally throughout the State, most of which are higher than the rate from San Francisco to Exeter, are too high, but for the present I am of the opinion that the rate of $6.20 per ton from San Francisco or Crockett to Exeter is a fair and reasonable rate, and that complainants have failed to show otherwise. In view of the frequency with which it is sought to be shown that rates are unreasonable or discriminatory by comparison with other rates, I believe the Commission should call attention of counsel who present such cases that a comparison of rates to be valuable or of weight with this Commission must be made under circumstances which are as nearly similar to the rates complained of as possible. A mere comparison of two or three rates made under entirely different circumstances and conditions does not make out a case of unreasonableness of rates complained of. On the information at present available, I find that the rate of $6.20 per ton on sugar from points on San Francisco Bay to Exeter, Tulare County, California, is a reasonable carload rate and recommend that the application be dismissed without prejudice. I recommend the following form of Order:-

ORDER.

This application being at issue upon complaint and answer on file, and having been duly heard and submitted by the parties, complainants and defendant, and a full investigation of the matters and things involved having been had, and the Commission on this date having made and filed an Opinion containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof,

IT IS ORDERED: That as, in the judgment of the Commission, complainants have failed to show that the rate complained of, namely, $6.20 per ton on sugar from points on San Francisco Bay to Exeter, Tulare County, California, is an unreasonably high rate, and as there is no movement of sugar from Visalia to San Francisco, and has not been for some considerable time, at a rate less than the rate from points on San Francisco Bay to Exeter, by reason of which said rate could be declared discriminatory,

NOW, THEREFORE, BE IT ORDERED: That the complaint of Hunt Brothers Company in the above entitled action is dismissed without prejudice.

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 eighteenth day of March, 1913.

John M Eshleman
H D Loveland
Alex Gordon
Max Thelen
Edwin O. Edgerton
Commissioners.

124