

Decision No. 645  
ORIGINAL

BEFORE THE RAILROAD COMMISSION  
OF THE  
STATE OF CALIFORNIA

Rosenwald & Kahn, et al.,  
Complainants,  
-vs-  
Southern Pacific Company,  
Defendant.

Case No. 234

F. Alleyne Orr, for Complainants  
C. W. Durbrow, for Defendant

O P I N I O N

LOVELAND and GORDON, Commissioners,

In this complaint various shippers and receivers of freight located at points along or adjacent to the Placerville Branch of the Southern Pacific Company allege that the class and commodity rates maintained by the defendant for the transportation of freight between Sacramento, San Francisco and points on the Placerville Branch are excessive, unreasonable and discriminatory. No specific commodity rates, however, have been complained of; the complainants relying on the very general allegation that all commodity rates between the points mentioned are excessive and unreasonable.

We will not, of course, consider the original and amended complaints, for the reason that the case was heard on the pleadings appearing in the second amended complaint filed with the Commission August 9, 1912.

The original complaint in this case was filed the latter part of December, 1911, to which the Southern Pacific Company demurred because the complaint did not state facts sufficient to constitute cause of action and which demurrer was sustained by the Commission. An amended complaint was filed June 11, 1912, and the second amended complaint, as above stated, August 9, 1912.

At the hearing the complainants presented some exhibits to substantiate their claims that the class rates are excessive and unreasonable. No exhibits were introduced nor testimony offered in support of the allegations that the commodity rates are excessive.

The issues, therefore, may be confined to the reasonableness of the class rates between Sacramento, San Francisco and points on the Placerville Branch. The question of discrimination seems to have been based largely on the fact that shippers located at interior points in Amador County could receive freight cheaper via Ione than via Yatrobe.

The exhibits introduced by the complainants showed comparisons with rates for similar distances on other branch lines of the defendant in California as well as rates for similar distances in other States. As we have repeatedly said before, the value of these comparisons depends to a great extent on the similarity of conditions under which various rates are made.

Witnesses for the complainants testified that in their judgment rates complained of were too high, and we may say at this time that the Commission cannot decide questions of this kind on the mere statement of an interested shipper that the rate is too high when such statement is supported by nothing but his individual opinion. We can no more consider this kind of evidence as conclusive than we can the mere statement of a transportation company that the rates are just and reasonable.

Satisfactory rate adjustments can never be made on this basis, for the reason that a great many shippers always think the rates are too high while the carriers generally maintain that the rates are either reasonable or too low.

If this opinion and order has been delayed beyond what may be regarded by some as a reasonable period it is because the Commission has been compelled to call for a considerable amount of statistical data and make a great many calculations in connection with such data which should either have been presented by the defendant in justification of its rates or brought out by the complainants to sustain their allegations that the rates are unreasonable.

The defendant in justification of its present rate adjustment introduced a number of exhibits similar to those introduced by the complainants. And here again we have a situation where no evidence is introduced to show that the conditions under which the rates were made in other sections are analogous or similar to those involved in this proceeding.

Stripped of all its trimmings the case amounts to this: Complainants allege certain rates are unreasonable, excessive and discriminatory and witness. For the defendant maintained that the Placerville Branch line does not pay operating expenses, and further testified that there is a very heavy empty car movement on to this branch, particularly with reference to that part of the line east of Folsom. It was stated that the empty movement is approximately nine to one, i.e. defendant moves one load into Placerville to every eight or nine loads moving out for which empties have to be taken in. In considering this question we will first take up the empty car movement into Placerville which, it is claimed, constitutes a heavy item of expense in the operation of this branch line, and particularly the statement that for every carload of freight that goes in eight empties

accompany it to take care of the outbound business.

According to the statements furnished by the defendant there was shipped into the town of Placerville for the calendar year 1911, 7864 tons of freight of all descriptions, and there was forwarded from Placerville 5583 tons. It must be remembered that the bulk of the tonnage going into Placerville consists of less than carload lots of merchandise and it is not customary to load these cars of miscellaneous merchandise in excess of 10,000 or 12,000 pounds. The business from Placerville, we daresay, is to a large extent carload traffic moving out at a much higher minimum weight than the carloads of merchandise are loaded going in. Hence, it will be seen that if 7864 tons moved in and 5583 tons moved out, ~~that~~ when we consider the loading capacity of the cars inward bound with that in the opposite direction the empty car movement instead of being into Placerville is just the reverse.

Exclusive of the rock shipments moving from Folsom and the dredger fields which, from the nature of the commodity, requires an inbound empty car movement, we find, according to defendant's Exhibit #6, that approximately 62,000 tons of all commodities moved from the branch. As against this 37,000 tons moved on to the branch; and considering the fact that a large percentage of the inbound tonnage consisted of merchandise which loads lightly in a car we believe it is plainly apparent that there is no such empty car movement as has been testified to. Likewise, we are inclined to disregard the statement of witness for the defendant to the effect that it costs approximately six times as much to handle the same business which now moves between Sacramento and Placerville as it would to handle it to Colfax. If we considered this statement very seriously it would be apparent to us that the rates to Colfax are in need of immediate revision.

Will state, at this time, in connection with the charge of discrimination, that the conditions surrounding the making of the rates to Ione are not at all similar to those surrounding the movements to Latrobe. The rates to Ione are lower for the reason that the defendant carries a 10 cent scale of rates to Stockton which is reflected as far as Ione, and no such condition exists on Latrobe movements.

From data furnished by the defendant in its Exhibit #7 we believe a fair distribution of the earnings on traffic to and from the Placerville Branch will result in approximately \$220,000.00 of freight revenue being credited to that branch for the calendar year 1911, and that passenger revenue will amount to approximately \$100,000.00 per annum, or a total gross revenue which should be credited to this branch of approximately \$320,000.00 per annum. It may be true that a large percentage of this revenue is derived from the rock traffic originating at Folsom and the dredger fields, but, as we have said before, and as has been repeatedly held by the courts, carriers cannot single out a particular portion of a line or system and burden it with excessive rates for the reason that it may not contribute as much traffic as another section of the same line or system.

The operating expenses of the Southern Pacific Company in 1911 were 60.41% of its operating revenue, and in 1912 were 60.14% of its operating revenue. We have no reason to believe that the operation of the Placerville Branch will exceed this percentage. In fact the operation of many roads the mileage of which is approximately the same as that of the Placerville Branch and the earnings of which compare quite favorably, substantiates this conclusion, particularly when it is considered that roads operated independently, the mileage of which is approximately the same as the Placerville Branch, are subject to overhead and administrative expenses which are not present on this branch.

We cannot consider, therefore, as accurate, the statement that the Placerville Branch, or more particularly that portion east of Folsom, does not pay operating expenses when, as a matter of fact, it clearly appears to us that the contrary is the case - considering the branch as a whole.

From all of the evidence in this case we find that the class rates of the defendant for the transportation of freight between Sacramento, San Francisco and points on the Placerville Branch are excessive and unreasonable. The complainants have not sustained the allegation that the commodity rates are unreasonable and the Commission will not consider the very general allegation that all commodity rates are unreasonable.

We find as a fact that the class rates ~~are~~ set out in Schedules 1 and 2, attached hereto and made a part hereof, are reasonable class rates for the transportation of freight over the line of the defendant between Sacramento, San Francisco and Placerville Branch line points.

We recommend the following order:

O R D E R

Rosenwald & Kahn and other shippers having filed with this Commission a complaint attacking the reasonableness of the class and commodity rates of the Southern Pacific Company for the transportation of freight under class rates between Sacramento, San Francisco and points on the Placerville Branch, and a regular hearing having been held, and finding as a fact that the class rates of the defendant between Sacramento, San Francisco and Placerville Branch line points are excessive and unreasonable, and basing this order on the findings of fact set out in the foregoing opinion,


IT IS HEREBY ORDERED, that the Southern Pacific Company publish and file with this Commission, within thirty (30) days from date hereof, in the manner prescribed by law, tariffs containing rates as set out in Schedules 1 and 2, attached hereto and made a part hereof, which rates the Commission finds

to be just and reasonable and hereby establishes the same as just and reasonable rates to be charged by the defendant.

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 this 6th day of May, 1913.

John M. Eastman  
H. L. ...  
...  
Edwin O. Edgerton



S C H E D U L E N O . 1



	1	2	3	4	5	A	B	C	D	E
Brighton	7	6	6	5	5	5	3	3	2 $\frac{1}{2}$	2 $\frac{1}{2}$
Ramona	8	7	6	6	5	5	4	3 $\frac{1}{2}$	3	2 $\frac{1}{2}$
Perkins	8	7	6	6	5	5	4	3 $\frac{1}{2}$	3	2 $\frac{1}{2}$
Manlove	9	8	7	6	6	6	4	4	3 $\frac{1}{2}$	2 $\frac{1}{2}$
Mayhew	10	9	8	7	7	7	5	4	4	3
Routier	11	10	9	8	7	7	5	4	4	3
Mills	12	11	10	8	8	8	5	5	4	4
Cordova	13	12	10	9	8	8	6	5	5	4
Jura	14	13	11	10	9	9	6	6	5	4
Sacramento	14	13	11	10	9	9	6	6	5	4
Holly	14	13	11	10	9	9	6	6	5	4
Fair Oaks	15	14	12	11	10	10	7	6	5	4 $\frac{1}{2}$
Nimbus	15	14	12	11	10	10	7	6	5	4 $\frac{1}{2}$
Alder Creek	16	14	12	11	10	10	7	6	5	4 $\frac{1}{2}$
Natoma	16	14	12	11	10	10	7	6	5	4 $\frac{1}{2}$
Folsom	17	15	13	12	10	10	7	6	5	4 $\frac{1}{2}$
Donnelly	17	15	13	12	10	10	7	6	5	4 $\frac{1}{2}$
White Rock	19	17	15	13	11	11	8	7	6	5
Cottrin	21	18	16	14	12	12	8	7	6	5
Letrobe	22	19	17	14	12	12	9	7	6	5
Flonellis	23	20	17	15	13	13	9	7	6	5
Brela	23	20	17	15	13	13	9	7	6	5
Brandon	24	20	18	16	13	13	10	8	7	5
Dugan	25	21	19	16	14	14	10	8	7	6
Ballard	25	21	19	16	14	14	10	8	7	6
Bennett	27	23	20	18	15	15	11	9	7	6
ShingleSprings	29	25	22	19	16	16	12	9	8	7
Cummings	31	26	23	20	17	17	12	10	9	7
El Dorado	32	27	24	21	18	18	13	10	9	7
Diamond Sprgs	33	28	25	21	18	18	13	11	9	7
Plummer	34	29	26	22	19	19	14	11	9	8
Placerville	35	30	26	23	19	19	14	11	10	8

S C H E D G E M O 2

	1	2	3	4	5	A	B	C	D	E
Remona										
Perkins										
Manlove	25	22	19	18	15	15	11	10½	8	6½
Mayhew										
Rontier										
Mills	26	23	21	18	16	16	11	10½	9	7
Cordova										
Jura										
Holly	27	24	21	19	17	17	12	11	9	7
Fair Oaks										
Nimbus	28	25	22	20	18	18	13	11	9	7½
Alder Creek										
San Francisco Natoma	29	25	22	20	18	18	13	11	9	7½
Folsom										
Donnelly	30	26	23	21	18	18	13	11	9	7½
White Rock	31	27	24	21	18	18	13	11	10	8½
Cothrin	33	28	25	22	19	19	13	11	10	8½
Latrobe	34	29	26	22	19	19	14	11	10	8½
Flonellis	35	30	26	23	20	20	14	11	10	8½
Brela	35	30	26	23	20	20	14	11	10	8½
Brandon	36	30	27	24	20	20	15	12	11	8½
Dugan	37	31	28	24	21	21	15	12	11	9½
Bullard	37	31	28	24	21	21	15	12	11	9½
Bennett	39	33	29	26	22	22	16	13	11	9½
Saingle Springs	41	35	31	27	23	23	17	13	12	10½
Cummings	43	36	32	28	24	24	17	14	13	10½
El Dorado	44	37	33	29	25	25	18	14	13	10½
Diamond Springs	45	38	34	29	25	25	18	15	13	10½
Plummer	46	39	35	30	26	26	19	15	13	11½
Placerville	47	40	35	31	26	26	19	15	14	11½