

Decision No. 8221

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

South San Francisco Chamber of Commerce.)

Complainant.)

vs.)

CASE NO. 1433.)

Southern Pacific Company, a corporation.)
The Atchison, Topeka & Santa Fe Railway)
Company (Coast Lines), a corporation, and)
Western Pacific Railroad Company, a cor-)
poration.)

Defendants.)

- Sanborn and Roehl, by A. E. Roehl, for Complainants.
- C. W. Durbrow and Elmer Westlake, for Southern Pacific Company.
- E. W. Camp, for The Atchison, Topeka & Santa Fe Railway, Defendant.
- Seth Mann, for San Francisco Chamber of Commerce.
- George Lull and John J. Dailey, for City and County of San Francisco.
- Matt I. Sullivan, for Executive Committee of Industrial and Civic Associations of San Francisco.

LOVELAND, COMMISSIONER:

O P I N I O N

Alleging unreasonableness and discrimination, this complaint assails the switching limits of San Francisco and the rate for freight in carloads between San Francisco and South San Francisco; also maintains that the main-line rates to San Francisco should apply to South San Francisco, and prays for the establishment

of just, reasonable and nondiscriminatory rates. Carload traffic only is concerned.

The essential items of the complaint are that rate of 60 cents per ton is maintained on freight (except live stock and certain other commodities) regardless of classification, between San Francisco and South San Francisco, a distance of 9.1 miles, vs. rate of 30 cents per ton, minimum \$6.50 per car, for freight, in carloads, between Oakland Wharf and Elmhurst, 9.9 miles; that the rate between South San Francisco and transfer tracks with the Western Pacific Railroad and the Atchison, Topeka & Santa Fe Railway, hereinafter called Western Pacific and the Santa Fe, at San Francisco, on traffic incidental to a line haul beyond San Francisco via those roads, is 60 cents per ton, while at Oakland the rate is \$2.50 per car between transfer tracks with the carriers mentioned and industry tracks and private sidings within Southern Pacific Company's switching limits when originating at or destined to non-competitive points and that no charge is made in the case of competitive traffic; that by comparison with Oakland the switching limits of San Francisco are unduly, unreasonably and prejudicially restricted; also that switching limits are larger at other points than at San Francisco; that between other points where greater service is performed the freight rates are the same or less than between San Francisco and South San Francisco.

At the beginning of the hearing, August 5, 1920, in this proceeding, it was stipulated that all of the testimony and exhibits presented in Case No. 1149 would be made a part of this case. Case No. 1149 was filed September 19, 1917 and heard during the month of January, 1918. The presentation was very thorough, consisting of

895 pages of testimony and 46 exhibits. By reason of federal control and lack of jurisdiction on the part of this Commission the case was dismissed October 2, 1919. The changes in the situation since Case No. 1149 was submitted have not rendered immaterial any of the exhibits or testimony given in that proceeding and the additional testimony and exhibits given August 5, 1920, in Case No. 1433 simply bring the details up to date.

The essence of complaint is that South San Francisco be placed within the San Francisco switching limits and given the same rates as apply to San Francisco.

In support of the complaint, petitions of intervention were filed by the following:

City and County of San Francisco.
Manufacturers' Association of South San Francisco,
City of South San Francisco,
Executive Committee of the Industrial Civic Associations,
San Francisco Chamber of Commerce.

Complainants base their allegations of unreasonableness and discrimination principally upon comparison of the switching limits at San Francisco and freight rates applying in that district with those prevailing at Oakland and Los Angeles.

So much of the testimony has been addressed to the switching limits at these three places that it will be well at this time to discuss briefly the meaning of the designation "switching limits" and the relative situation at the points mentioned. The term "switching limits" is an arbitrary expression, used to define the limits or boundaries within which freight will be switched at certain rates.

In the case of line-haul traffic, the switching limits mark the area within which the carload rates to and from a specified station apply. In this sense the term is synonymous with station limits. Likewise with foreign-haul traffic, the switching limits prescribe the territory within which traffic will be switched to and from connecting lines for a specified charge. As to local station movement, that is traffic picked up and laid down at a certain station on which no system or foreign-line haul service is performed; the switching limits define the area within which such traffic will be handled at specified switching charges.

Switching limits are established by the traffic departments of the transportation companies and, with the exception that they do not as a general rule transcend the boundaries of the operating yard, have no fixed relation to yard limits, which are determined by the operating officials and define the districts or yards where tracks are provided for the making up of trains and other purposes over which movements not authorized by time table or train order may be made. Switching areas may be co-extensive with the boundaries of the operating yard, or more restricted, at the discretion of the traffic department. Where tariffs do not specify such limits they are of the same extent as the yard confines.

South San Francisco is in San Mateo County, outside the switching limits of San Francisco, being some four miles south of Bay Shore, but within the San Francisco operating yard limits, which extend beyond San Bruno to a point 15.3 miles distant from San Francisco. While corporately separate, it is, in a commercial and industrial sense, a component part of San Francisco, being included in the San Francisco Postoffice system, most of its banking business being transacted there and approximately one-half of the working population of South San Francisco residing in San Francisco. A total

of 18084 loaded cars were handled at South San Francisco during the year 1919; of these 6727 were forwarded and 11357 received, approximately 80% of which consisted of intrastate shipments.

The greater part of traffic to and from points within the San Francisco yard limits moves via the Dumbarton Cutoff and is handled almost entirely through Southern Pacific Company's terminal yard at Bay Shore. This yard, which contains some 17 miles of track, embraces the stations of Bay Shore and Visitacion, its northern extremity being at a point 4.907 miles from Southern Pacific Company's Fourth and King Streets depot at San Francisco and the southern end 2.316 miles from South San Francisco. The center of the yard is at a point 5.63 miles from San Francisco and 3.45 miles from South San Francisco.

It is the general practice to assemble and distribute at this yard all freight cars having origin or destination in the San Francisco yard limits. Inbound trains are broken up there, the road engine detached and the cars composing such trains are classified and hauled by switch engines to team, transfer, industry, house or other tracks within the San Francisco yard. Similarly, outbound cars are brought by switch engine to the assembling tracks at Bay Shore, where the various trains are made up and the road engine attached preparatory to hauling same to their respective destinations. In short, the assembly and break-up yard at Bay Shore is the operating terminal for San Francisco and South San Francisco. There is a shorter switching service performed in making the deliveries to the team or industry tracks at South San Francisco than is rendered in the deliveries to similar tracks withⁱⁿ the city of San Francisco. Traffic destined to either San Francisco or South San Francisco moving via the Dumbarton Cutoff passes through South San Francisco and Bay Shore, and the operating practice of carrier in breaking up the main-line trains at Bay Shore makes a back-haul on the South San Francisco

traffic of 3.45 miles.

The matters involved in this complaint may best be discussed under the following heads:

- 1- Traffic between team and industry tracks at South San Francisco and team tracks, industry tracks or wharves at San Francisco.
- 2- Traffic between South San Francisco and points other than San Francisco on Southern Pacific Company's line.
- 3- Traffic between San Francisco and South San Francisco originating at or destined to points beyond San Francisco on lines other than that of Southern Pacific Company.

As regards the first division, traffic between team or industry tracks at South San Francisco and team tracks, industry tracks or wharves at San Francisco, complainant alleges that rate of 60 cents per ton for transportation between San Francisco (Fourth and King Streets) and South San Francisco, a distance of approximately 9.30 miles, is unreasonable and discriminatory as compared with rate of 30 cents per ton for haul of 9.9 miles between Oakland Wharf and Elmhurst, within the Oakland switching limits, or at Los Angeles, between Maier and University, 11.4 miles. It is unnecessary to discuss in detail the situation at Los Angeles, as from a transportation standpoint any condition existing there is also present at Oakland. For the purpose of this proceeding, therefore, Oakland will be considered as representative of Los Angeles in its relation to South San Francisco.

It is the contention of defendant, Southern Pacific Company, that complainant has failed to show that maintenance of the 30-cent rate at Oakland has resulted in damage to the South San Francisco interests; that before this can be done, it

must be shown that traffic moving between South San Francisco and San Francisco competes with that moving between Oakland Wharf and Elmhurst, and that the evidence of such competition is absent from the record.

Defendant, Southern Pacific Company, maintains that the real issue involved herein is one of reasonableness of the rates from competing districts to San Francisco rather than a comparison of the local situation on the east and west sides of the Bay, for the reason that the territory contiguous to San Francisco Bay forms a blanket, or zone, of which San Francisco is the logical center. Defendant furthermore states that the 60-cent rate (originally 50 cents) was published from South San Francisco to San Francisco to place South San Francisco on a parity with East Bay points enjoying the same rate, the latter having been established to meet barge competition, the desire being to enable points similarly situated on both sides of the Bay to reach San Francisco, the common market, port, commercial and industrial center, on an equal basis.

The propriety of a blanket or zone system of rates has long been recognized. The advantages of such an adjustment are manifold, as it allows dealers a wide purchasing radius and places the different producers on the same footing in a common market. An arrangement of this kind should not ordinarily be disturbed where the rates are reasonable and nondiscriminatory. The reverse is true, however, where a zone of this kind fails to recognize geographical location of producing points and thereby damages such points, with corresponding benefit to others.

Defendant's view is not in harmony with Section 19 of

the Public Utilities Act of this State, which provides that:

"No public utility shall, as to rates, charges, service, facilities or in any other respect, make or grant any preference or advantage to any corporation or person, or subject any corporation or person to any prejudice or disadvantage. No public utility shall establish or maintain any unreasonable difference as to rates, charges, service, facilities or in any other respect, either as between localities, or as between classes of service."

Under the provisions of the section of the Public Utilities Act quoted, the element of direct damage is more or less immaterial, the question at issue being whether South San Francisco and its industries are subjected to prejudice or disadvantage, or if an unreasonable difference in rates is maintained as between the two localities, the determination of which must, of necessity, require a comparison of the rates between South San Francisco and San Francisco against Oakland Wharf-Elmhurst.

The 50-cent rate between San Francisco and South San Francisco was established in 1899, at which time all peninsula traffic moved over the Valencia Street Line. Later, the Bay Shore Cut-off was constructed, which resulted in shortening the line by some $3\frac{1}{2}$ miles and overcoming the severe grades previously encountered. On account of the saving in transportation cost effected by the construction of this cut-off, complainant contends that a reduction should be made in the existing rate. This theory, however, presupposes that the rate when originally established took into consideration the cost of handling the traffic, which is not borne out by the record. On the contrary, it shows the rate to be based on expediency rather than on the principle of operating cost.

The 30-cent switching zone at Oakland was originally much more restricted, the extremity at that time on the Elmhurst line being Alice Street, a distance from Oakland Long Wharf of approxi-

ately 4.3 miles. It was later extended to Fruitvale, 7 miles, and finally to Elmhurst, 10.8 miles. Subsequently, Oakland Long Wharf was eliminated and the traffic is now handled through Oakland Wharf, which reduces the distance .9 of a mile, making the extreme distance 9.9 miles.

The Southern Pacific Company in explanation of the extension of the Oakland limits avers that such action was pursuant to the demand of the city of Oakland to comply with the terms of an ordinance granting defendant the right to operate in that city, which provides that "No point in the city of Oakland shall have any better rate than any other point in said city, except that proper and reasonable switching charges may be collected". A reading of the full text of the section of the ordinance bearing on this situation, which was filed as an exhibit, does not justify an interpretation such as has been placed upon it, which fails to take cognizance of that section reading "Except that proper and reasonable switching charges may be collected".

However that may be, it is unnecessary to decide the point, as it has been judicially established that franchise provisions are ~~not~~ not conclusive in the determination of issues of this nature. No such claim is made with respect to Los Angeles, where, it is admitted, the 30-cent zone is more extensive than at San Francisco.

Defendant, Southern Pacific Company, in justification of the difference in adjustment on the east and west sides of the bay, alleges that operating conditions are more favorable in the Oakland district, due to less vehicular and main-line train interference.

During the year 1914 the Southern Pacific Company made a time study of the cost of switching loaded cars at its principal

terminals, from which it was ascertained that the average time, per car, consumed was; at Oakland 18.1 minutes; at San Francisco 19.7 minutes and at Los Angeles 20.3 minutes. The operating cost of performing switching was found to be the same at the different terminals, viz: \$6.57 per engine hour. Based on the foregoing factors the expense per car figures; at Oakland \$1.98; San Francisco \$2.15; Los Angeles \$2.22. Evidence was introduced by defendant to show that since this data was prepared the difficulties and expense of operation have increased more at San Francisco than at Oakland.

The computation of the switching costs in 1914 did not include traffic between San Francisco and South San Francisco, nor does it disclose the relative cost of switching between Elmhurst and Oakland Wharf against South San Francisco-San Francisco. Therefore, while of general interest as an index of switching costs in the different sections embraced within its scope, it is of little evidentiary value in the determination of the issues involved in this proceeding.

The wharves of San Francisco are served by the State Belt Railroad, the rates of which are not involved in this proceeding.

The distance between South San Francisco and the transfer track of the Belt at San Francisco is approximately one-half mile further than the distance between South San Francisco and the depot at San Francisco shown herein. Complainant alleges that the maintenance of a 30-cent rate from Elmhurst to Oakland Wharf, a distance of 9.9 miles, while concurrently charging 60 cents from South San Francisco to the Belt connection in San Francisco,

discriminates against and results in an injury to the South San Francisco interests. Southern Pacific Company contends that most of the traffic from points in the Oakland switching limits going beyond via water is carried to the steamship piers at San Francisco and that it is, therefore, a question of rates from Oakland against South San Francisco to San Francisco rather than a comparison of the local rates on the east and west sides of the bay. The evidence of record, however, shows that traffic does move between points in the Oakland 30 cent switching zone and Oakland Wharf and, as hereinbefore stated, a comparison of the charges paid by South San Francisco to reach the San Francisco waterfront with those paid by Oakland industries within the 30 cent zone to reach the Oakland waterfront, is the proper test of discrimination as between localities.

The dimensions of the different districts used in comparison may be gained from the following table of distances prepared from exhibits filed at the hearings. These figures represent miles:

	<u>San Francisco</u>	<u>Oakland</u>	<u>Los Angeles</u>
Extreme distances from breaking-up yards within which line-haul carload traffic will be handled without extra charge.	9.2	8.5	5.3
Extreme distances from main depot within which line-haul traffic will be handled without extra charge	5.2	7.8	6.5
Extreme distances between points in the switching zone within which local switching is performed at 30 cents per ton, minimum \$6.50 per car.	9.2	9.9	11.4
Extreme distances in the commodity freight rate zone within which the charge is 60 cents per ton.	13.3	22.1	-

The industrial territories of San Francisco and Oakland are divided into three distinct districts so far as the switching services are concerned:

- 1st- The Free Zone
- 2nd- The 30-Cent Zone
- 3rd- The 60-Cent Zone.

At San Francisco, the extreme limits of the first zone within which free switching is performed in connection with main-line hauls, extends from Elkton to but not including Bay Shore, a distance of 9.2 miles; this is also approximately the greatest distance from the breaking-up yard at Bay Shore. The second, or 30-Cent zone, extends from, not including Bay Shore, to, but not including Elkton, a distance of approximately 9.2 miles, while the third, or 60-cent zone, extends from South San Francisco to San Francisco, including all points within the switching limits, the extreme distance South San Francisco to Elkton being 13.3 miles.

On the Oakland side of the bay the extreme limits of the first zone within which free switching is performed in connection with main-line hauls extends from Gilman Street, Berkeley, to Elmhurst, a distance of approximately 13.2 miles, the greatest distance from the breaking-up yard at West Oakland being to Elmhurst, 8.5 miles. The second, or 30-cent zone, extends from Oakland Wharf to Elmhurst, a distance of approximately 9.9 miles, while the third, or 60-cent zone embraces the industrial territory outside of these two zones, including part of Oakland, the cities of Alameda, Berkeley and Richmond, the rate applying between Richmond and Oakland-Elmhurst including the wharves, covering a distance of 22.1 miles. This last named rate will also apply between Richmond and San Francisco, 18.5 miles.

Complainants are asking that South San Francisco be included within the switching limits of the city of San Francisco, in order that the industries located at South San Francisco may have not only the San Francisco rates and free switching in connection with the competitive traffic moved by the Santa Fe and the Western Pacific, but also a rate of 30 cents per ton from South San Francisco to San Francisco. If South San Francisco were included within the 30-cent interyard switching limits of San Francisco the extreme distance would be 15.3 miles South San Francisco to Elkton, while now the extreme length of the 30-cent zone in Oakland, against which complaint is made, is but 9.9 miles; the switching limits at San Francisco would thus exceed by 3.4 miles the Oakland limits and exceed by 1.9 miles the limits at Los Angeles, with which comparisons have been made.

The extreme distances are set forth, having been employed by complainants, but the record would indicate that the heavy movements from South San Francisco are to the water front and industries near the Fourth and King Streets depot rather than to Elkton.

Attention might here be called to the fact that only a small part of the great industrial territory on the Oakland side of the bay now enjoys the 30-cent rate, for the reason, as heretofore stated, that this zone extends only to Sixteenth Street depot on the Port Costa Line. South San Francisco, under the 30-cent zone as proposed would have an advantage over the numerous industries located beyond the 30-cent zone in Oakland, including Alameda and all of the territory east of Sixteenth Street to Richmond on the Port Costa Line, with which points it is not now on an equality under the present adjustment.

The record shows that transportation between San Francisco and South San Francisco is a switching service similar in character

to that performed between Oakland Wharf and Elmhurst and while the evidence adduced does not warrant a finding that the 30-cent zone at San Francisco should be extended to include South San Francisco, or that the 60-cent rate between San Francisco and South San Francisco is of itself unreasonable, it does show conclusively that a discriminatory and prejudicial situation has been created by the maintenance of a 30-cent rate between Oakland Wharf and Elmhurst with concurrent charge of 60 cents between South San Francisco and San Francisco.

TRAFFIC BETWEEN SOUTH SAN FRANCISCO AND
POINTS OTHER THAN SAN FRANCISCO ON OR
VIA SOUTHERN PACIFIC COMPANY'S LINE

San Francisco and South San Francisco are on a parity as to traffic covered by preceding description, except where the San Francisco rates are non-intermediate and on traffic moving between South San Francisco and points in the territory roughly described as north of Niles and Tracy, west of Sacramento and Stockton and south of Santa Rosa, Calistoga and Rumsey, in which case the 60-cent local applies in addition to the San Francisco rates.

It has previously been shown that the breakup and assembly yard for both San Francisco and South San Francisco embraces the stations of Bay Shore and Visitacion, the center of the yard being 5.63 miles from San Francisco and 3.45 miles from South San Francisco.

Exhibit B, attached to the application, shows the disadvantages under which South San Francisco is laboring in the handling of commodities moving to and from points located in the restricted territory. As illustrative, scrap iron and steel, carloads, from

Antioch to South San Francisco is \$1.90 per ton, based \$1.30 to San Francisco, plus the local of 60 cents beyond, whereas on similar shipments from Antioch to Elmhurst, a point within the Oakland switching limits, or to San Francisco, rate of \$1.30 applies. In the instance of Elmhurst, the Oakland rate applies, although this point cannot be reached by water, while to South San Francisco, which is located on deep water, the local rate of 60 cents is added.

TRAFFIC BETWEEN SAN FRANCISCO AND SOUTH SAN FRANCISCO
ORIGINATING AT OR DESTINED TO POINTS BEYOND SAN
FRANCISCO ON LINES OTHER THAN THAT OF
SOUTHERN PACIFIC COMPANY.

Traffic as above described moving between South San Francisco and transfer with connecting lines at San Francisco is charged for at rate of 60 cents per ton except where joint rates may be in effect. For similar movement within the switching limits of San Francisco and Oakland charge of \$2.50 per car is made on non-competitive traffic, while no charge whatever is made on competitive freight, due to the line-haul carrier absorbing such amount.

The distance (Exhibit No.5) between South San Francisco and transfer track with the Western Pacific at San Francisco is 7.4 miles; 8.5 miles to the Santa Fe transfer and 9.6 miles to the Belt Railroad. At Oakland, the distance between Elmhurst, the most remote point in the switching limits, and transfer with the Western Pacific, is 7.5 miles; to the Santa Fe interchange 9.5 miles.

Defendant, Southern Pacific Company, filed exhibits covering a representative period, showing the actual and average distances on carload shipments moved between interchange tracks of connecting

lines and industries at San Francisco, Oakland and Los Angeles. The average distances traversed were; at San Francisco 2.6 miles, Los Angeles 2.6 miles. Oakland 3.47 miles. Defendant did not furnish a corresponding statement with respect to industries located at South San Francisco from which comparison could be made as between South San Francisco and the opposing districts.

The relative situation of South San Francisco is the same as that in connection with business on which defendant secures a line haul, and for like reasons the conclusion must be reached that the charge for transportation between South San Francisco and interchange with the Santa Fe and Western Pacific at San Francisco is unduly prejudicial and discriminatory, to the extent that it exceeds the charge for switching similar traffic at San Francisco and Oakland.

I find as a fact that the practice of the Southern Pacific Company in excluding South San Francisco from the San Francisco switching limits results in preference and advantage to the industries located within the present San Francisco and Oakland switching limits to the prejudice and disadvantage of industries located at South San Francisco on line-haul carload traffic, either local to the Southern Pacific or in connection with other lines, and is therefore in violation of Section 19 of the Public Utilities Act. That the practice of the Atchison, Topeka & Santa Fe Railway Company and the Western Pacific Railroad Company in refusing to absorb the switching charges of the Southern Pacific Company on competitive carload traffic upon which they receive a line haul originating at or destined to industries at South San Francisco while contemporaneously absorbing the switching charges on like traffic at San Francisco and Oakland subjects South San Francisco to unreasonable prejudice and

disadvantage and is, therefore, in violation of Section 19 of the Public Utilities Act. That the practice of the Southern Pacific Company in maintaining present rates on local carload traffic between South San Francisco and San Francisco and to the Southern Pacific Company's connection with the State Belt Railroad is unduly prejudicial to South San Francisco to the extent that the charge exceeds the charge made at San Francisco and at Oakland for performing a like service. The Southern Pacific Company will be required to submit to the Commission on or before December 10, 1920, in conformity with the terms of the Public Utilities Act and the established rules of this Commission, a tariff removing the discrimination.

I submit the following form of order:

ORDER

The South San Francisco Chamber of Commerce having complained to the Commission that rate of 60 cents per ton assessed by the Southern Pacific Company for transportation of carload freight between San Francisco and South San Francisco, including traffic interchanged with the State Belt Railroad at San Francisco for water transportation beyond, and with the Santa Fe and Western Pacific at San Francisco incidental to a line haul via those roads, is unjust, unreasonable and discriminatory; also that the San Francisco switching limits be extended to include South San Francisco, a public hearing having been held, the Railroad Commission being fully apprised in the premises, and basing its order upon the findings of fact which appear in the opinion preceding this order.

IT IS HEREBY ORDERED that the Southern Pacific Company be, and it is hereby notified and required to cease and desist on or before December 10, 1920, and thereafter to abstain from the undue and unreasonable prejudice and disadvantage found in the preceding opinion to result from the publishing, demanding and collecting of a higher rate for the transportation of freight in carloads between South San Francisco and San Francisco locally, or between South San Francisco and Southern Pacific Company's transfer track with the Belt Railroad at San Francisco, when incidental to water transportation beyond, than it contemporaneously publishes, demands and collects for the transportation of like shipments between Elmhurst and Oakland Wharf.

IT IS HEREBY FURTHER ORDERED that the Southern Pacific Company be and the same is hereby notified and required to cease and desist on or before December 10, 1920, and thereafter to abstain from the undue and unreasonable prejudice and disadvantage found in the preceding opinion to result from the publishing, demanding and collecting of higher rates for the transportation of freight in carloads to and from South San Francisco when incidental to a line haul via Southern Pacific Company, and between South San Francisco and transfer tracks with the Santa Fe and the Western Pacific at San Francisco when incidental to a line haul via those carriers than it contemporaneously publishes, demands and collects for the transportation of like shipments at San Francisco and Oakland.

IT IS HEREBY FURTHER ORDERED that the Southern Pacific Company on or before December 10, 1920, extend its San Francisco

switching limits to include South San Francisco and the industries located at South San Francisco and to apply to the limits thus established the San Francisco line haul rates.

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 11th day of October, 1920.

Edwin C. Egan
H. L. Loveland
Frank H. Allen
H. B. Brundage
Dwight Martin
Commissioners.