

Decision No. 8852

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

Blythe Chamber of Commerce,
Palo Verde Valley Farmers Alliance,
Palo Verde Joint Levee District of
Riverside and Imperial Counties, Cal.,
And Palo Verde Cotton Association,
Complainants,

vs.

California Southern Railroad Company,
a corporation, and
Atchison, Topeka & Santa Fe Railway
Company, a corporation,
Defendants.

ORIGINAL

CASE NO. 1512.

I. B. Stewart, F. B. Gleason and A. B. Short, Jr., for
Blythe Chamber of Commerce,
F. P. Gregson, for Associated Jobbers of Los Angeles.
Ward Chapman, for California Southern Railroad Company,
G. E. Baker, for Atchison, Topeka & Santa Fe Railway Company.

LOVELAND, COMMISSIONER:

O P I N I O N

The complainants in this proceeding are civic and industrial organizations located at points within the Palo Verde Valley who allege by complaint, filed November 26, 1920, that the class and commodity freight rates and the passenger fares of defendants between all points in the Palo Verde Valley located upon the rails of the California Southern Railroad Company to Los Angeles and the intermediate points on the rails of the Atchison, Topeka & Santa Fe Railway Company, hereinafter referred to as the Santa Fe, and all of the local freight rates and passenger fares of the California Southern Railroad Company, are excessive, unreasonable and unjust.

The Associated Jobbers of Los Angeles intervened on behalf of the jobbing houses located at Los Angeles.

The line of the California Southern Railroad is standard gauge, extending from Rice, a point on the Phoenix Branch of the Santa Fe, to Ripley Station, a distance of approximately 50 miles. The first 35 miles are over a desert, producing no tonnage, and therefore its local rates are of importance only to the Valley shippers in connection with traffic moving through Rice to Santa Fe points, particularly to and from Los Angeles. The distance via the Santa Fe from Los Angeles to Rice is 290 miles, making a combined mileage of 340. The California Southern operates a mixed train daily, except Sunday, between Rice and Blythe. This train consists of one combination baggage and express car, one passenger coach, a Pullman, and such freight cars as are necessary to handle the traffic. In addition, the train is required to carry a tank water car, there being no water at any intermediate point, and the locomotive tender does not carry sufficient water to make the round trip.

The California Southern commenced operations between Rice and Blythe in 1916 and extended the line from Blythe to Ripley in 1920. Prior to the construction of the railroad there was but little development in the valley and such products as were moved out were either teamed over the desert, a distance of 65 miles, to the Southern Pacific Company, or a distance of 45 miles to Blythe Junction, on the Santa Fe. The average cost for this team haul was from \$15. to \$20. per ton.

Prior to the advent of the California Southern, in 1916, about 1200 acres were under cultivation. This was increased to 5000 acres in 1917; to 17000 acres in 1918; to 27000 acres in 1919 and to about 35000 acres in 1920. The Valley contains approximately

90,000 acres to be brought under cultivation.

During the year 1920, 669 carloads of freight were moved out of the Valley; of this, 283 carloads were of cotton seed and 304 carloads of cotton, leaving 82 cars distributed among the other commodities, of which 34 consisted of livestock and 12 of gypsum. It will, therefore, be seen that the Valley acreage in the past has been devoted almost entirely to the production of cotton. The tonnage was moved in cars furnished by the Santa Fe, as the California Southern has no freight equipment of its own.

The total freight moved, inbound and outbound, during the year 1920 was 40,880 tons. The principal tonnage was as follows:

Cotton Seed	6,890
Cotton	3,591
Stone and Sand	9,475
Lumber	2,826
Lumber Products	1,392
Oil	3,383
Machinery	2,095

A total of 29,652 tons, or approximately 72% of the entire freight handled. Commodities, such as stone, sand, lumber, oil and machinery, were used to a great extent in building the line between Blythe and Ripley, and by the settlers in the construction of their homes and other buildings. It is claimed that very little of this class of tonnage will move into the Valley during the year 1921. The California Southern estimates that the total freight traffic for the year 1921 will not be in excess of 25,335 tons and the total freight revenue is estimated at \$128,842.52, as compared with a revenue of \$220,596.09 secured in the year 1920.

The following comparative statement gives the

Operating Revenues and Operating Expenses, actual for the first six years, and estimated for 1921. This is taken from defendant's Exhibit No.8:

	<u>1916</u>	<u>1917</u>	<u>1918</u>	<u>1919</u>	<u>1920</u>	<u>1921</u>
Total Operating Revenue	\$ 44,267.23	\$107,940.59	\$136,809.61	\$198,897.11	\$276,894.25	\$177,887.50
Total Operating Expenses	21,905.49	50,984.28	83,879.75	146,709.04	202,954.91	199,310.00
Gross Income	22,361.74	56,956.31	52,929.86	52,188.07	73,939.34	21,422.50
Total Deductions from Gross Income	5,892.14	41,111.75	45,127.41	47,955.75	62,197.50	61,798.64
Net Operating Income	16,469.60	15,844.56	7,802.45	4,232.32	11,741.84	103,221.34
Grand Total	21,039.75	15,844.56	8,005.16	5,125.33	11,754.64	103,221.34

These financial reports have been checked by the Commission's accountants, found to be correct, and in accordance with the rules. The physical conditions of the road were examined by our engineers, and the reports of the two departments are filed as exhibits in this proceeding. It will not be necessary to enter into any detailed analysis, other than to mention that the road has been well maintained and that owing to the rapid deterioration of the ties, due to poor materials used and the heat conditions in the Valley, it will be necessary during the next four years to renew nearly all of them at a large expense.

The railroad operating expenses for 1920, as shown by the annual report, totaled \$202,954.91. Our Engineering Department reduced this amount to \$159,168.80, or by \$43,786.11, making the net income \$55,540.95 instead of \$11,754.84. This result was arrived at by a readjustment of the amount claimed for depreciation, reducing the charge from \$42,397.11 to \$21,361.00, or by \$21,036.11, and allowing but \$12,000.00 for general officers' salaries instead of \$34,750.00, a reduction of \$22,750.00, making a total decrease in these two items, as stated above, of \$43,786.11. The Commission believes that the revised figures are fair and sufficient to meet all the requirements of a road of this character. The general officers' salaries of \$34,500.00 for a railroad having but fifty miles of track and less than 50 employees is certainly excessive and unreasonable. Those salaries have not all been paid in cash, much of the amount remaining as a credit on the books; nevertheless they cannot be included in the operating expenses.

During the construction period the California Southern purchased two second-hand locomotives; one of them has deteriorated to the point where it is entirely worthless and can only be sold for junk. The other locomotive, while in condition to be used for emergency purposes, cannot be employed in the regular train service. Trains are now being handled with a rented locomotive secured from the Santa Fe at a charge of \$30.00 per day, or \$10,950 per annum. This annual rental represents a 6% return on \$180,000.; an illustration of the heavy expense which would not be incurred if the company were in a position to purchase proper motive power. The same condition exists in connection with the freight and passenger equipment; this company owning no equipment of its own must depend upon cars received from the Santa Fe. At the present time the coach in the service is rented at \$8.00 per day, which with the charge for the baggage car, together with the mileage allowance to the Pullman Company, brings the daily passenger car rental expense to about \$10.00, and all freight cars are secured at the regular per diem charge. It will thus be seen that this company is under a severe handicap in the rental of equipment and motive power, the greater part of which rental is paid to the Santa Fe, the connecting carrier.

The California Southern is, apparently, a very valuable feeder to the main line of the Santa Fe, and while no actual figures were introduced giving the revenue secured by the Santa Fe from the passenger and freight business originating in the Palo Verde Valley, it was estimated that this freight and passenger traffic gave to the Santa Fe a gross revenue of \$650,000 per annum; this amount, however, may be underestimated. There was testimony to the effect that the Santa Fe supplied much of the material used

in the construction of the line, particularly the rails, and that a considerable part of the California Southern bond issue, amounting to \$475,000. is pledged to the Santa Fe for payment of these materials.

The Santa Fe, which may well be considered the principal in this proceeding, having the haul of 290 miles against the California Southern haul of 42 miles, presented no exhibits, and the testimony of its one witness was mainly devoted to a discussion of the exhibits filed by the intervenor, the Associated Jobbers of Los Angeles. This would indicate that it was not seriously opposing or objecting to an adjustment of the Palo Verde Valley-Los Angeles freight rates.

Palo Verde Valley is somewhat similar in character to the Imperial Valley, located on the Southern Pacific in the same general territory, having very much the same climate, soil and irrigation systems. The developments of the Palo Verde Valley were far more rapid than in the Imperial Valley, no doubt due to the excessive demands and the high price of cotton during the world war. Since this abnormal condition is passing away, the cotton production in the future will not be as great as during the years 1919-20, and efforts are now being made by the railroad management and other interested parties to establish new industries, such as beet factories, cotton gins and oil mills. It is expected the cotton acreage will be reduced by 50% in 1921 and that the farmers will commence the planting of grape vines, from which the railroads will receive but little tonnage during the next two or three years.

Some testimony was introduced dealing with the growing of live stock, but its preponderance was to the effect that because

of the limited area of the ranges the local livestock industries would not reach large proportions. It is claimed, however, that great acreages would be devoted to the growing of alfalfa and certain grains used in the fattening of cattle if proper freight rates were established permitting feeding-in-transit of cattle at points in the Palo Verde Valley the same as is now done in the Imperial Valley. However, cattle which would be fed in the Palo Verde Valley would come from points outside the State - Arizona and Nevada - and, therefore, the question of the feeding-in-transit rates must necessarily come before the Interstate Commerce Commission for final adjudication, and will not be dealt with in this proceeding.

The interveners, the Associated Jobbers of Los Angeles, introduced a number of exhibits showing, by comparison, that the rates from points on the California Southern to Los Angeles were very much higher than the rates assessed from other points to Los Angeles involving equal mileage. Similar exhibits were introduced by the California Southern to demonstrate that the rates now in effect are not excessive when compared with the selected points shown by their exhibits. While a comparison of rates is always of assistance to this and other Commissions in arriving at a conclusion in proceedings of this character, they cannot be accepted as controlling, for the opposing parties will, as a general practice, select comparisons favorable to the results they desire to obtain.

With the exception of a limited number of commodity rates published in Pacific Freight Tariff Bureau Joint Freight

Tariff No. 147-I, C. R. C. No. 231, rates to and from points in the Palo Verde Valley are built up of the combination of local rates based on the junction point at Rice. This method of computing the rates is not just, for while ordinarily the rate per ton mile decreases as distance increases, such result is not obtained when rates are constructed on a combination of locals. Here the rate per ton mile decreases to the junction point and at that point commences to increase instead of being extended on a nominal grade.

Only a few joint freight rates are published, these appearing in Pacific Freight Tariff Bureau No. 147-I, C.R.C.No. 231, and consist of rates on fluorspar, lumber, gypsum, hay, pebbles and wood. As an illustration of the joint rates voluntarily established, would call attention to Item 110 of the Bureau Tariff applying on fuel wood from Blythe to Los Angeles of $27\frac{1}{2}$ cents per 100 pounds for a distance of 332 miles, and the rate of 35 cents to San Diego, a distance of 415 miles. The combination of local rates on this commodity to both Los Angeles and San Diego is $49\frac{1}{2}$ cents, made up of the Class E rate of 22 cents, Blythe to Rice, and the blanketed commodity rate of $27\frac{1}{2}$ cents, Rice to both Los Angeles and San Diego; the joint rates voluntarily established are, therefore, 55 $\frac{1}{2}$ % of the locals to Los Angeles and 71% of the locals to San Diego. The joint rates on hay, San Diego and San Francisco to Rice, are approximately 70%, and on lumber approximately 74% of the combination of locals. These rates indicate some inclination to meet the situation.

Section 35 of the Public Utilities Act reads:

"Whenever the Commission, after a hearing had upon its own motion or upon complaint, shall find that the rates, fares or charges in force over two or more common carriers, between any two points in this State, are unjust, unreasonable or excessive, or that no satisfactory through route or joint rate, fare or charge exists between such points, and that the public convenience and necessity demand the establishment of a through route and joint rate, fare or charge between such points, the Commission may order such common carriers to establish such through route and may establish and fix a joint rate, fare or charge which will be fair, just and reasonable and sufficient, to be followed, charged, enforced, demanded and collected in the future, and the terms and conditions under which such through route shall be operated."

Under this provision of the Act carriers are required to unite and to serve the routes they have established. The full burden of this duty is upon the carriers in the first instance, but if after formal hearings and investigation it be found they have failed to protect the shippers from excessive rates or discriminatory practices, this Commission must prescribe the volume of the joint rates and the manner in which the through service shall be maintained. In this situation I am of the opinion and find that these defendants have not cooperated to the fullest extent and that they have to that extent failed in their duty to the public.

Since the California Southern commenced operations in August, 1916 there have been two increases in the freight rates, the first on June 25, 1918, by reason of General Order No. 28 of the Director-General of Railroads, the second on August 26, 1920, under the operations of Transportation Act 1920. Without reproducing the complete schedules, it is sufficient to state that the two increases amounted to 56%, the first class rate between Rice and Blythe being advanced from 52 to 81½ cents and the fourth class from 35 to 55 cents; between Blythe and Los Angeles the

first class rate was increased from \$1.77 to \$2.77 and the fourth class from \$1.12 to \$1.75½, with corresponding increases in all other rates.

The local class rates of the California Southern, when first published were, under the then existing conditions, excessive for a railroad dependent upon a farming community for its tonnage and revenue, and were much higher than any schedule of class rates established by this Commission for a similar distance over a railroad moving the same kind of traffic. Without doubt, had it not been for the World War readjustments would have been imperative almost at the beginning, either by the carrier or by this Commission; as a matter of fact, formal proceedings were commenced in 1918 and subsequently dismissed for lack of jurisdiction, due to the carriers having been taken over by the Federal Government. The increases made by reason of the war have greatly aggravated the situation.

On August 17, 1920 this Commission, in Application No. 5728, by Decision No. 7983, authorized carriers within the State of California, including the defendants in this proceeding, to increase all passenger and freight rates to meet the increases authorized by the Interstate Commerce Commission by its Ex Parte 74, under the provisions of Transportation Act 1920 (Esch-Cummins Act).

In the closing paragraph of our decision the following language was employed:

"This proceeding will be kept open for the purpose of considering adjustments of rates and all appropriate matters which may properly be brought before the Commission.

"Adjustments will be necessary and carriers will be expected to deal promptly and effectively therewith, to the end that such readjustments may be made in as many instances as practicable without forcing an appeal to this Commission."

The defendants in this proceeding should have responded to the appeals of the shippers and arranged a readjustment of the rates, and it is to be regretted that they did not voluntarily accord relief, the necessity for which has recently been made very apparent, without waiting for formal action before this Commission. This proceeding has an importance beyond the immediate situation and it must be apparent to all interested parties that neither the defendant railroads nor the Palo Verde Valley can develop or even hold its present level under the unreasonable and excessive rates now in effect; therefore, the future must be taken into account in dealing with the adjustment.

I am of the opinion and find as a fact that all of the freight class rates and practically all of the joint and local commodity rates are excessive and unreasonable and should be reduced as set forth in Schedules Nos. 1, 2 and 3, attached to and made a part hereof, which rates are found to be just and reasonable under the conditions now existing. The testimony as to the passenger fares was very limited, but a study of the situation and the fares now in effect do not justify any readjustment at this time.

Reparation was sought by the complaint, but no testimony in support of the same was offered. This Commission has held that in a general readjustment of all rates reparation cannot be granted without creating discrimination and as there is here no basis for an award, the same is denied.

The rates set forth in the order do not cover every specific point or commodity and carriers will be expected to publish such additional local or joint rates not inconsistent with this opinion.

and order, and as may be necessary to meet the situation.

The following tabulations of the Rice-Ripley and the Los Angeles-Ripley class rates set forth the present class rates, those ordered into effect and the reductions created in these rates by the adjustment:

BETWEEN RICE, CAL. AND RIPLEY, CAL.

	1	2	3	4	5	A	B	C	D	E
Present	: 81½	: 70½	: 64½	: 55	: 50	: 50	: 36½	: 30	: 25	: 22
Ordered In:	58	: 52	: 46	: 41	: 38	: 38	: 26	: 23	: 20	: 17
Decrease	: 23½	: 18½	: 18½	: 14	: 12	: 12	: 10½	: 7	: 5	: 5

BETWEEN LOS ANGELES, CAL. AND RIPLEY, CAL.

Present	:2.77	:2.45½	:2.15½	:1.75	:1.49	:1.49	:1.08	: 87½	:75	:61½
Ordered In:	2.05	:1.75	:1.52	:1.28	:1.18	:1.18	: .82	: 61½	:51	:41
Decrease	: .72	: .70½	: .63½	: .47	: .31	: .31	: .26	: 26	:24	:20½

O R D E R

The Blythe Chamber of Commerce, Palo Verde Valley Farmers Alliance, Palo Verde Joint Levee District of Riverside and Imperial Counties, and Palo Verde Cotton Association, having filed complaint against the California Southern Railroad Company and the Atchison, Topeka & Santa Fe Railway Company, and the defendants having answered such complaint, a hearing having been held, and being fully apprised in the premises, the Railroad Commission hereby finds as a fact that the local passenger fares of the California Southern Railroad Company and the through passenger fares in connection with the Atchison, Topeka & Santa Fe Railway Company, have not been found to be excessive or unreasonable. This

part of the complaint is dismissed. That all of the freight class rates and practically all of the joint and local commodity rates are excessive, and that all of the class and commodity rates set forth in Schedules 1, 2 and 3, attached hereto and made a part hereof, are, under the existing conditions, just and reasonable rates to be charged by the California Southern Railroad Company and the Atchison, Topeka & Santa Fe Railway Company according as they participate in the traffic. Basing its order on the above findings of fact and the further findings of fact in the opinion hereof,

IT IS HEREBY ORDERED that the schedules of class and commodity rates attached hereto and marked respectively 1, 2 and 3, are hereby approved and established as just as reasonable rates to be charged by the California Southern Railroad Company, and the Atchison, Topeka & Santa Fe Railway Company jointly moving between the points set forth in the said Schedules 1, 2 and 3 and that said rates shall be published in tariffs to become effective within thirty (30) days from the date hereof.

IT IS HEREBY FURTHER ORDERED that the California Southern Railroad Company and the Atchison, Topeka & Santa Fe Railway Company agree on a basis of division of the joint rates herein found to be reasonable. If such an agreement cannot be reached this Commission will, upon application, proceed to establish the divisions of 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 12th day of April, 1921.

Frank R. DeWitt
H. B. Loveland
J. H. Brundage
James Martin
Charles H. Cowell
Commissioners.

SCHEDULE NO 1.

LOCAL CLASS RATES
ON THE CALIFORNIA SOUTHERN RAILROAD COMPANY

Between:	And	:	1	:	2	:	3	:	4	:	5	:	A	:	B	:	C	:	D	:	E
	Cox)	:	28	:	25	:	23	:	20	:	18	:	18	:	13	:	11	:	10	:	9
	Brown's Spur)	:		:		:		:		:		:		:		:		:		:	
	Floyd's Crossing	:	40	:	36	:	32	:	28	:	26	:	26	:	18	:	16	:	14	:	12
RICE	Solano	:	44	:	40	:	35	:	31	:	29	:	29	:	20	:	18	:	15	:	13
	Fertilia)	:		:		:		:		:		:		:		:		:		:	
	Blythe)	:	58	:	52	:	46	:	41	:	38	:	38	:	26	:	23	:	20	:	17
	Ripley)	:		:		:		:		:		:		:		:		:		:	

SCHEDULE NO 2

JOINT CLASS RATES
BETWEEN
LOS ANGELES ON THE ARCHERSON, TOPEKA & SANTA FE
AND
POINTS SPECIFIED ON THE CALIFORNIA SOUTHERN RAILROAD COMPANY

Between	:	And	:	1	:	2	:	3	:	4	:	5	:	A	:	B	:	C	:	D	:	E
Los Angeles	:	Blythe)	:	2.05	:	1.75	:	1.52	:	1.28	:	1.18	:	1.18	:	.82	:	61 $\frac{1}{2}$:	51	:	41
	:	Ripley)	:		:		:		:		:		:		:		:		:		:	

SCHEDULE NO 3

JOINT COMMODITY RATES BETWEEN POINTS ON THE
CALIFORNIA SOUTHERN RAILROAD COMPANY AND
POINTS ON THE ATCHISON TOPEKA & SANTA FE RAILWAY (COAST LINES)

Commodity In Carloads	Between	And	Rate in cents per 100 lbs.	Minimum Carload Weight
Cotton and Cotton Linters	Blythe Ripley	Los Angeles	1.00	16,000 lbs.
Cotton Seed	Blythe Ripley	Los Angeles	.50	36,000 lbs.
Flour	Los Angeles	Blythe) Ripley)	.60	30,000 lbs.
	Colton	Blythe) Ripley)	.75	
Cereals and Cereal Products (as described in Item 180, Pacific F.T.B. Current (Exception Sheet)	Los Angeles	Blythe) Ripley)	.60	As per Current Exception Sheet
	Colton	Blythe) Ripley)	.55	
Hay	Los Angeles	Blythe) Ripley)	.50	As per Current Exception Sheet.
Ice	Los Angeles	Blythe) Ripley)	.50	30,000 lbs.
Lime) Cement) Plaster)	Los Angeles	Blythe) Ripley)	.50	30,000 lbs. 60,000 lbs. 50,000 lbs.
Forest Products (as described in Pac.F.T.B. Cur- rent Exc. Sheet	San Diego) Redondo)	Blythe) Ripley)	.65	30,000 lbs.
Oil, viz. Petroleum crude, gas, road and fuel	El Segundo	Blythe) Ripley)	.40	30,000 lbs.
Livestock				
Horses, Mules.) Burros, Donkeys) Jacks)	Blythe) Ripley) Blythe)	Los Angeles	\$143.50	
Cattle	Ripley)	Los Angeles	136.70	
Sheep) Hogs) Goats)	Blythe) Ripley)	Los Angeles	102.50	