

Decision No. 9464

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

ORIGINAL

East Bay Water Company, a corporation,
Union Construction Company, a corporation,
Best Steel Casting Company, a corporation,
Pacific Coast Canning Company, a corporation,
Golden West Brewing Company, a corporation,
T. K. Domoto and E. Domoto, copartners,
doing business under the firm name and style
of Domoto Bros.,

CASE NO. 1578.

Complainants,

vs.

Southern Pacific Company, a corporation,
Atchison, Topeka & Santa Fe Railway Company,
a corporation,

Defendants.

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East Bay Water Company, a corporation,

Complainant,

vs.

Southern Pacific Company, a corporation,
Defendant.

CASE NO. 1579.

E.W.Hollingsworth, R.T.Boyd, and Bishop & Bahler, for
Complainants and Oakland Chamber of Commerce,
Elmer Westlake and M.A.Cummings, for Southern Pacific Company.
G.E.Baker, for Atchison, Topeka & Santa Fe Railway Company.
Robert Hutcherson, for Associated Oil Company, Intervener,
C.E.Donaldson, for Shell Oil Company of California, Intervener,
J.I.Sheridan, for Union Oil Company, Intervener,
Duncan S. Murray, for Alameda Sugar Company, Intervener.

LOVELAND and BENEDICT, COMMISSIONERS:

O P I N I O N

These two cases, which were heard together and will be
disposed of in one report, relate to the rates on petroleum fuel
oil, in tank cars, from Richmond to Oakland and Alvarado. The

complaints were filed April 8, 1921 and allege that the rates assessed and collected are unjust, unreasonable, in violation of the Public Utilities Act and of the Constitution of the State of California. The establishment of just and reasonable rates for the future and reparation since March 1, 1920 are sought. The Associated Oil Company, Shell Oil Company, Union Oil Company and Alameda Sugar Company intervened, as their interests might appear, and particularly in opposition to any change in the adjustment bringing about a disruption of the oil rate blanket now in effect from all east San Francisco Bay refining points to the consuming territory embracing Oakland and vicinity. Rates hereinafter stated apply per 100 pounds, except as otherwise indicated.

Case No. 1578 attacks the rate of $6\frac{1}{2}$ cents in effect prior to August 26, 1920, and rate of 8 cents, effective August 26, 1920 applying from Richmond to Oakland via both Southern Pacific Company and the Atchison, Topeka & Santa Fe, while Case No. 1579 calls into question the rate of $7\frac{1}{2}$ cents, in effect prior to August 26, 1920 and rate of $9\frac{1}{2}$ cents, effective August 26, 1920, from Richmond to Alvarado, via Southern Pacific Company.

Prior to June 25, 1918 the rate from Richmond to points within the Oakland switching limits was 35 cents per ton; on that date it was increased 25 per cent, or to 40 cents per ton. On August 10, 1918 this rate was cancelled and an increase of 4.5 cents substituted; the rate to Oakland thus became $6\frac{1}{2}$ cents; on August 26, 1920 another increase of 25 per cent was added, which made the present rate of 8 cents. By the same proceeds, the rate of 3 cents, in effect prior to June 25, 1918, to Alvarado, became $9\frac{1}{2}$ cents.

The distances from the loading tanks in Richmond to

the industry tracks of the six complainants vary from 14.7 miles to the Pacific Coast Canning Company, to 23.5 miles to the Best Steel Casting Company, or an average distance of 18.3 miles, while the distance from Richmond to Alvarado is approximately 34 miles.

In support of their claim of unreasonableness, complainants rely principally upon a comparison of the present rates with those formerly in effect. They also presented a number of exhibits showing rates for certain selected commodities between points in the San Francisco Bay districts and between points in other territory within the State. Defendants contend that most of the rates set forth in the exhibits were established not with regard to the proper measure of return for the services performed, but to meet certain situations created mainly by compelling water competition.

An analysis of the exhibits will not be necessary, for the reason that subsequent to submission of this proceeding the Southern Pacific Company voluntarily established a readjustment of the commodity freight rates, including fuel oil, in carload lots, between Richmond and points located within Oakland switching limits, which limits include Berkeley, Emeryville, Alameda and Elmhurst. This adjustment is published in Southern Pacific Company Local and Proportional Freight Tariff 730-A. C.R.C. 2436, as per Item 1875, shown on Original Page 130-A, issued August 15, 1921, and made effective August 17, 1921.

The readjustment of the carload freight rates between Richmond and the Oakland switching district is graded out according to zones, creating a first zone with a rate of 3 cents, including Emeryville and points north and east thereof, and a second zone with a rate of $3\frac{1}{2}$ cents in the territory south of

the city boundary line at Emeryville to and including Oakland Wharf on the one hand and Fallon Street on the other. Within this second zone is located the industry tracks of complainants, Union Construction Company, Pacific Coast Canning Company and the Golden West Brewery. In the third zone a rate of 4 cents per 100 pounds has been established in the Oakland switching district, which includes the territory east of Fallon Street to and including Elmhurst and industries located within the city of Alameda. This district serves the industry track of complainants, East Bay Water Company, Domoto Brothers and Best Steel Casting Company. The freight commodity rates just referred to also include, as heretofore stated, petroleum fuel oil, and by the provisions of Item No. 1670-B, carried on Ninth Revised Page 326 of Southern Pacific Company Local, Joint and Proportional Freight Tariff 533-P, C.R.C. 2395 make the carload freight commodity rate apply to fuel oil from all of the oil shipping points - Richmond to Avon inclusive.

The effect of the adjustment referred to gives to complainants located in the second zone, Union Construction Company, Pacific Coast Cannery and Golden West Brewing Company, a rate of $3\frac{1}{2}$ cents per 100 pounds, or 70 cents per ton, in lieu of the present rate of 8 cents per 100 pounds, or \$1.60 per ton, a reduction of 90 cents per ton.

To the complainants, East Bay Water Company, Domoto Brothers and Best Steel Casting Company, located in the first zone, as described, the rate has been reduced to 4 cents per 100 pounds, or 80 cents per ton, as compared with the present rate of 8 cents per 100 pounds, or \$1.60 per ton, thus creating a reduction of 80 cents per ton. It appears to the Commission that the rates from Richmond to Oakland, made effective by the

Southern Pacific Company, of 60, 70 and 80 cents per ton are reasonable. These rates are zoned according to mileage and conform to the existing switching limits established by this Commission in Application No. 6390, Decision No. 8960, May 12, 1921. We conclude there should be no further reduction in these rates at this time.

This leaves for consideration only the establishment of a just and reasonable rate to apply on fuel oil moving from Richmond to Alvarado, where the rate at the present time is 9½ cents per 100 pounds, or \$1.90 per ton.

The distance from Richmond to Alvarado is slightly more than 34 miles, involving an extra haul of 11 miles beyond the furthest point in the third district within the Oakland switching limits, where the 80 cent rate has recently been established.

The differential in the rate existing between Oakland and Alvarado was 25 cents per ton on June 24, 1918 and became 30 cents per ton August 26, 1920, the date upon which the last increase in rates was authorized in connection with this Commission's Decision No. 7983 in Application No. 5728 of August 17, 1920, which increase in rates followed the decision of the Interstate Commerce Commission in Ex Parte 74.

In view of the fact that any rate on fuel oil established from Richmond to Alvarado, a distance of approximately 34 miles, also applies under the blanket rate adjustment from Avon to Alvarado, a distance of approximately 54 miles, we are of the opinion that the present existing differential of 30 cents per ton should be maintained and that, therefore, a rate of \$1.10 per ton is just and reasonable for the transportation of fuel oil between Richmond and Alvarado in lieu of the present rate of \$1.90 per ton.

Complainants have asked for reparation in connection with shipments moved since March 1, 1920. However, under the provisions of Section 208(a) of Transportation Act 1920 the federal government guaranteed to carriers a fixed rate of return until September 1, 1920, and the Transportation Act further provided that the rates in effect as of February 29, 1920 should not be reduced prior to September 1, 1920 without authority of the Interstate Commerce Commission. It would appear, therefore, that this Commission has no jurisdiction over reparation awards involving shipments moved prior to September 1, 1920 during the period of federal control or during the period of federal guarantee.

This Commission has previously held that in the readjustment of a general schedule of rates, such as involved in this proceeding and covering a large territory and a great number of shippers, reparation awards would result in discrimination and should not be authorized; we therefore conclude that no reparation will be ordered paid in connection with these proceedings.

We find as a fact that the rate of \$1.60 per ton for the transportation of petroleum fuel oil, in carload lots, from Richmond to Oakland, and the rate of \$1.90 per ton from Richmond to Alvarado, are excessive, unreasonable and unlawful.

We further find that the rates established by the Southern Pacific Company August 17, 1921 of 60, 70 and 80 cents per ton on petroleum fuel oil from Richmond to the described districts within the Oakland switching limits are just and reasonable and should not be further reduced.

We also find that a rate of \$1.10 per ton from Richmond to Alvarado is just and reasonable and the Southern Pacific Company should establish this rate within twenty (20) days from the

effective date of this order. As to the rates on fuel oil from Richmond to Oakland via the Atchison, Topeka & Santa Fe, the Atchison, Topeka & Santa Fe has already secured from the Commission, by informal application, authority to reduce its fuel oil rates to Oakland to the same basis as those put into effect by the Southern Pacific Company on August 17, 1921.

We recommend the following form of order:

ORDER

A public hearing having been held in the above entitled proceedings, a full investigation having been had, being fully apprised in the premises, and basing its order upon the foregoing opinion, the Commission finds as a fact that the petroleum fuel oil rate of \$1.60 per ton Richmond to Oakland and \$1.90 per ton Richmond to Alvarado are excessive and unreasonable, and that rates of 60, 70 and 80 cents per ton from Richmond to the respective zones in Oakland (as described in the opinion) and rate of \$1.10 per ton from Richmond to Alvarado are just and reasonable rates.

IT IS HEREBY ORDERED that the Southern Pacific Company and the Atchison, Topeka & Santa Fe Railway Company, as their interests may appear, publish and file with this Commission on or before twenty (20) days from the date of this order tariffs setting forth rates of sixty cents (60¢), seventy cents (70¢) and eighty cents (80¢) per ton on petroleum fuel oil Richmond to the described zones in Oakland and that the Southern Pacific

Company publish rate of \$1.10 per ton Richmond to Alverado.

IT IS HEREBY FURTHER ORDERED as to the other matters involved that the complaints be and the same are hereby dismissed.

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 3rd day of September, 1921.

H. B. Bondage
H. A. Woodland
Dwight Masterson
J. P. Benedict
Commissioners.