

Decision No. 9674

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

Albers Bros. Milling Company,
Complainant,

vs.

Southern Pacific Company,
Atchison, Topeka & Santa Fe Ry. Co.,
Northwestern Pacific Railroad Co.,
Western Pacific Railroad Company,
Defendants.

CASE NO. 1471.

In the Matter of the Investigation
of the transit privileges - mill-
ing, cleaning, storing and other-
wise treating in transit grain and
grain products of the Atchison,
Topeka & Santa Fe Railway Company,
Los Angeles & Salt Lake RR Company,
Northwestern Pacific Railroad Com-
pany, Southern Pacific Company,
Western Pacific Railroad Company,
Sacramento Northern Railroad Com-
pany, Pacific Electric Railway
Company and San Francisco-Sacra-
mento Railroad Company.

CASE NO. 1526.

G.W. Squires, for Albers Bros. Milling Co.
C.W. Durbrow, F.B. Austin and M.A. Cummings, for Southern
Pacific Company.
G.H. Baker, for The Atchison, Topeka & Santa Fe Railway Co.,
Seth Mann, for San Francisco Chamber of Commerce,
E.W. Hollingsworth, for Oakland Chamber of Commerce,
G.J. Bradley, for Sacramento Merchants & Mfgs. Traffic Assn.,
F.M. Hill, for Fresno Traffic Association,
F.P. Gregson, for Associated Jobbers of Los Angeles, and
milling interests of Southern California,
J.C. Sommers, for Stockton Chamber of Commerce,
L.H. Rodebaugh, for San Francisco-Sacramento Railroad,
H.E. Waelner, for Los Angeles Grain Exchange and Great
Western Milling Company,
James S. Moore, Jr., for Western Pacific Railroad Company,
Fred E. Petit, Jr. for Salt Lake Railroad Company,
F.F. Miller, for Nicholl-Loomis Company.

ORIGINAL

LOVELAND, COMMISSIONER:

O P I N I O N

In this proceeding the milling in transit privileges extended to shippers of grain and grain products by the rail carriers within the State of California on intrastate business is brought into question.

In Case No. 1471 Albers Bros. Milling Company, a corporation, operating a mill at Oakland Pier in Alameda County, filed a complaint against the Southern Pacific Company alleging that its milling in transit rules and practices are discriminatory and unlawful to the extent that certain out-of-line hauls are permitted by defendant at South Vallejo, Colusa and Stockton which are not permitted at Oakland.

A hearing was held at San Francisco, at which developed circumstances and conditions that led the Commission to initiate Case No. 1526, an investigation upon its own motion of the entire question of milling in transit of grain and grain products within the State of California.

Further hearings were held in Los Angeles and San Francisco, at which it was stipulated by all concerned that the evidence presented in each case would apply alike to the other insofar as relevant and material. And these matters having been heard together are consolidated for opinion and order.

The result of the present milling in transit arrangement is that no other mills in California enjoy the same transportation cost and convenience as the mills at Colusa, South Vallejo and

Stockton, on account of the three last named milling points being granted the out-of-line haul privilege. It was contended by the defendant, Southern Pacific Company, that South Vallejo was granted the milling in transit out-of-line haul privilege for the reason of its peculiar location. It being a bay point at the end of a branch line on navigable water has always been considered, for rate making purposes, as upon the main line. The reason for this is that Port Costa, also a bay point, is upon the main line of the Southern Pacific railroad and directly intermediate between the Sacramento and San Joaquin Valleys, and Oakland and San Francisco, two large consuming markets.

The same water competition exists at South Vallejo as at Port Costa, these points being opposite each other on the north end of San Francisco Bay, and because of their location South Vallejo and Port Costa are necessarily on the same rail rate basis, otherwise business would move by water. The out-of-line haul at Colusa was likewise extended to that point on account of water competition, while the out-of-line haul granted Stockton was to meet competition of the other carriers as well as water competition and, further, because from points north of Merced via Oakdale-Stockton Branch of the Southern Pacific, Stockton is directly intermediate to any destination north or west thereof. However, there is no charge made at Stockton as there is at Colusa and South Vallejo, Stockton being given the advantage of its inherent geographical location by being declared intermediate from both Sacramento and San Joaquin Valley points.

Testimony showed that shipments of grain originating in the Sacramento Valley could be milled at Colusa, 12.9 miles off the main line, or at South Vallejo, 40.2 miles off the main line,

and then reforwarded to Oakland or San Francisco or other destinations at the charge applicable to the finished product from the point of origin to destination, with a small additional charge for the out-of-line haul, and that shipments from San Joaquin Valley points, as well as from Sacramento Valley points, could be milled at Stockton and forwarded to the large markets of San Francisco, Oakland and other points at the through charge from point of origin to destination applicable to the finished product.

The evidence further showed that shipments originating in the San Joaquin Valley and the Sacramento Valley could be milled at Oakland only when the finished product is destined to points to which Oakland is directly intermediate. Furthermore, it was shown that in many instances through rates are not provided between Sacramento Valley points and San Joaquin Valley points, and Coast Division points on the Southern Pacific and, therefore, shipments destined to coast points would pay combination of local rates to and from the milling points, whereas in practically all instances through rates are provided from Sacramento and San Joaquin Valley points to Oakland and San Francisco, but the subject of through rates is not before the Commission in this proceeding.

The practice by carriers of providing milling in transit privileges on grain and grain products is almost universal throughout the United States. Various rules are applied in different sections by the same carriers and different rules in many instances are applied in the same sections by the different carriers serving such territory. The substantial effect of milling in transit is to permit raw material to be shipped to and the finished product from the milling point under a total charge which equals the through charge on the finished product from the point of origin of the raw material to the destination of the finished product.

In some instances an additional charge is made for transit

privileges or for an out-of-line haul when milled at a point not directly intermediate between the point of origin and destination, or there sometimes is an additional charge for both milling in transit and the out-of-line haul.

Prior to federal control of railroads there were no milling in transit privileges provided by carriers for grain and grain products on California intrastate business. During the period of federal control the Director General established milling in transit in Arizona, Nevada and California. No designation was made by the Director General as to whether the transit privileges applied to State or interstate business and the natural assumption was that the Director General looked upon all carriers as a single system and, therefore, the transit privileges applied to all business.

At the time milling in transit was established the order of the Director General referred only to transit at directly intermediate points, but the Southern Pacific Company simultaneously provided for out-of-line haul at Colusa, South Vallejo and Stockton. When publishing the above transit arrangements the Santa Fe made Los Angeles intermediate on traffic originating beyond Todd and destined Orange, Fullerton, Santa Ana and points south thereof. The Southern Pacific Company and the Santa Fe are the only carriers in California that make provision in their transit arrangements for out-of-line haul in connection with milling in transit privilege. The Salt Lake Line, Northwestern Pacific, San Francisco-Sacramento, Pacific Electric and Western Pacific Companies provide for milling in transit privileges only at directly intermediate points.

The defendants contended there was no discrimination against the Oakland mill in favor of the South Vallejo mill, but carriers Exhibit A, which was a statement of the movement of carloads from these two points showed that each of the two mills

ship wheat, feed, mill feed, barley and rolled barley, illustrating to that extent that these mills are in competition.

On the other hand, it was shown that the mill at Stockton manufactures practically the same kind of materials as are manufactured by the mill at Oakland and while the tariff does not specifically provide for Stockton, that point receives practically the milling in transit privileges on all traffic by reason of routing instructions, making Stockton intermediate between point of origin and destination. The same is true of Los Angeles in the case of the Santa Fe, where Los Angeles is declared intermediate to Santa Ana and points south, while by the natural route Los Angeles would not be intermediate.

Milling in transit privilege is obviously useful and profitable to millers. The significant thing about a milling in transit arrangement is its tendency to place the miller at an intermediate point on a more nearly equal footing with the miller at the producing point. The possibility of abuse in the establishment of transit privileges is also self evident.

Taking all these things into consideration, we are of the opinion that discrimination exists in the cases of South Vallejo and Colusa by the granting to them of the out-of-line haul transit privilege, and in the cases of Stockton and Los Angeles by the carriers declaring these points intermediate via routes that are not natural, or short line routes, and that such discrimination should be removed.

These carriers voluntarily established out-of-line haul transit privileges on grain and grain products after they had recommended to the San Francisco District Freight Traffic Committee of the Railroad Administration against the proposition of any milling in transit at all. In the publication of the rules and charges, however, they did not grant the out-of-line haul and milling in

transit privileges upon a non-discriminatory basis within the State of California.

We believe the discrimination should be removed by extending the milling in transit privileges, the out-of-line haul and intermediate routing in the same manner as now applies at Colusa, South Vallejo, Stockton and Los Angeles.

We believe that under all circumstances and conditions prevailing milling in transit on grain and grain products should be accorded all points which can be reached by an out-of-line haul of 100 miles and that a reasonable charge should be made for such out-of-line haul. A suitable order will be issued.

O R D E R

IT IS HEREBY ORDERED that the defendants, Atchison, Topeka & Santa Fe Railway Company, Los Angeles & Salt Lake Railroad Company, Northwestern Pacific Railroad Company, Southern Pacific Company, Western Pacific Railroad Company, Sacramento Northern Railroad, Pacific Electric Railway Company and San Francisco-Sacramento Railroad Company be, and the same hereby are ordered to establish and file, effective on five (5) days' notice to the public and to this Commission, milling, cleaning, storing or otherwise treating in transit arrangements on carloads of grain and grain products applicable to all points on the lines of these defendant carriers within the State of California, and to establish out-of-line haul and intermediate routing to all points within 100 miles, and that a charge be made for out-of-line haul, as follows:

Rates in Cents per 100 Pounds

45 Miles and under - - 2¢
60 miles and over 45 miles- 3¢
80 miles and over 60 miles- 4¢
100 miles and over 80 miles- 5¢

Such rates to be established within thirty (30) days of the date of this order.

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 28th day of October, 1921.

H. B. Brundage
A. F. Leonard

D. J. Brennan
Commissioners.