

Decision No. 9943

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ALBERS BROS. MILLING COMPANY,)
)
 Complainant,)
)
 vs.)
)
 SOUTHERN PACIFIC COMPANY, et al.,)
)
 Defendants .)

Case No. 1471

In the Matter of the Investigation)
 of the transit privileges - milling,)
 cleaning, storing and otherwise)
 treating in transit, grain and)
 grain products-- of The Atchison,)
 Topeka and Santa Fe Railway Company,)
 Los Angeles and Salt Lake Railroad)
 Company, Southern Pacific Company,)
 Western Pacific Railroad Company,)
 Sacramento Northern Railroad Com-)
 pany, Pacific Electric Railway Com-)
 pany and San Francisco-Sacramento)
 Railroad Company.)

Case No. 1526

BY THE COMMISSION -

OPINION ON PETITION FOR REHEARING

This is a joint application of the interested carriers for a rehearing in the above entitled cases.

The Commission's Decisions Nos. 9674 and 9786 ordered the defendant carriers to establish milling, cleaning, storing and otherwise treating in transit arrangements on carload shipments 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 125 miles and prescribed a schedule of charges which the Commission determined were just and reasonable for such out-of-line haul and which were to become effective on or before December 15, 1921.

Several reasons are urged by the petitioners as to why a rehearing should be granted. One of the contentions of the appellant is that no discrimination between Stockton and Southern

California was shown. The original decision clearly sets forth that discrimination exists and therefore does not require repeating here.

On page 3 of the Petition it is stated that the San Francisco-Sacramento Railroad has no transit arrangements on grain.

The investigation in this proceeding was on the Commission's own motion and that line was made a party to the case and is therefore governed by the decision and order.

The Petitioner's contention that the intermediate routing at Stockton and Los Angeles does not result in any unjust discrimination is clearly covered in the original opinion and order, which requires defendants to simply extend to all territory similarly situated the same service as is provided at these points.

Relative to the ambiguity of the provisions of the original order regarding out-of-line hauls, the Commission used practically the same language as is used in the defendant's tariffs. The out-of-line haul is the difference in the distance required to travel via a direct route or route authorized in carrier's routing circulars and the distance via a circuitous route which may also entail a back haul. There is no provision made in the order for a strictly back haul movement, therefore a movement from a point of origin to a milling point and back to the point of origin as referred to in the petition is not authorized and was not dealt with in the opinion and order.

"Intermediate routing" is an out-of-line haul authorized in carrier's routing circulars, such as that of the Southern Pacific Company, in the case of Stockton and Los Angeles on the line of the Santa Fe - viz: the making of a point intermediate by routing instructions which point would not be intermediate via a natural or direct route.

Relative to petitioner's contention that the record is silent as to the conditions existing on any lines other than the Southern Pacific and the Santa Fe, except as to the Northwestern Pacific to the extent that it participates jointly in traffic with the Southern Pacific Company is not of importance, for all carriers parties to the proceeding were cited to appear and their failure to do so does not affect our findings.

The contention that the order is indefinite in that it does not provide whether the out-of-line hauls apply only upon one line or over two or more lines is not well taken, for the reason that joint rates were not in issue in this proceeding.

Petitioner's contention that certain lines not party to this proceeding would be put to a disadvantage over lines party to the proceeding is not well taken, for the reason that any line not party to this case can cure any such disadvantage by establishing the same transit privileges as are required by the decision and order in this case.

We have given careful consideration to each of the defendants' reasons as set forth in the petition for a rehearing, and have also considered the offer of the defendants to produce further evidence, but find nothing referred to which was not given full consideration prior to the rendering of the decision in the proceeding. The petition for a rehearing, being without merit, should be denied.

O R D E R

The defendants having filed a joint petition for a

rehearing in the above entitled proceedings and consideration having been given thereto, and no good reason appearing why such petition should be granted,

IT IS HEREBY ORDERED that said petition for rehearing be and the same is hereby denied.

IT IS HEREBY FURTHER ORDERED that the transit privileges rates, rules and regulations prescribed in Decision Nos. 9674 and 9786 be established, effective on one day's notice, but not later than January 15, 1922.

DATED AT SAN FRANCISCO, CALIFORNIA THIS 29th DAY OF
December 1921

H. C. Brundage
A. S. Cleveland

Charles H. Brown
W. H. Quinn
COMMISSIONERS.