

Decision No. 25973.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

HOLLY SUGAR CORPORATION,

Complainant,

vs.

THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY, CHRISTENSON-HAMMOND
LINE, LOS ANGELES STEAMSHIP COMPANY,
LOS ANGELES AND SALT LAKE RAILROAD
COMPANY, LUCKENBACH STEAMSHIP COM-
PANY, LUCKENBACH GULF STEAMSHIP COM-
PANY, INC., MCCORMICK STEAMSHIP COM-
PANY, NELSON STEAMSHIP COMPANY, PAC-
IFIC ELECTRIC RAILWAY COMPANY, PAC-
IFIC STEAMSHIP COMPANY and SOUTHERN
PACIFIC COMPANY,

Defendants.

ORIGINAL

Case No. 3438.

Earl & Hall, by Chaffee E. Hall, for complainant.

F. W. Dorr and R. K. Hunter, for the Luckenbach Steam-
ship Company, Incorporated, and the Luckenbach Gulf
Steamship Company, Incorporated.

Joseph J. Geary, for Christenson-Hammond Line, McCor-
mick Steamship Company, Nelson Steamship Company,
Pacific Steamship Company, and Los Angeles Steam-
ship Company, defendants.

James E. Lyons, M. G. Smith and A. L. Whittle, for
Southern Pacific Company, Pacific Electric Railway
Company, and Los Angeles and Salt Lake Railroad
Company, defendants.

BY THE COMMISSION:

O P I N I O N

Complainant, a corporation of the State of New York with
offices in Stockton, operates sugar refineries at Tracy and Alva-
rado and distributes refined beet sugar throughout California. It

alleges by this proceeding, first, that the rates applying to sugar maintained by defendants in Pacific Coastwise Freight Tariff Bureau Local, Joint and Proportional Freight Tariff No. 1-B, C.R.C. No. 4, Item 870-C, between San Francisco and Long Beach-Los Angeles Harbor, Los Angeles and San Diego, of 15 cents and 20 cents respectively; second, that the proportional rates (Item 1158-C) applying from San Francisco (only when shipments originate at Crockett) to Long Beach-Los Angeles Harbor of 12½ cents, and to Los Angeles and San Diego of 17½ cents; and third, that the absorption allowance as per Item No. 15 Terminal Tariff No. 3-E, C.R.C. 13, of 50 cents per ton when the sugar originates at refineries located at San Francisco, grants preference and advantage and subject complainant to prejudice and disadvantage, in violation of Section 21 Article XIII of the State Constitution and Section 19 of the Public Utilities Act.

A public hearing was held before Examiner Geary at San Francisco on March 14, 1933, and the matter submitted.

The volume of the rates per se was not called into question, and complainant submitted the proceeding without any sustaining testimony or exhibits upon a declaration by its witness that there was a violation of the law because the rates applying from San Francisco were higher when the tonnage originated at the refineries located at Tracy and Alvarado than were the rates from San Francisco when the tonnage originated at Crockett. Defendants' witnesses testified to the effect that the proportional rates from San Francisco to Los Angeles Harbor, Los Angeles and San Diego applying only on shipments originating at Crockett, were published and were necessary by reason of the fact that competing ocean-going vessels and railroads may pick up the tonnage at the Crockett wharf,

and also that the competing ocean-going vessels and railroads do likewise serve the sugar refinery wharves at San Francisco, and for the same reason an absorption of 50 cents per ton at San Francisco was made necessary to meet this competition. These forced proportional rates and absorptions make for lower operating costs and better net incomes than would accrue were defendants' vessels compelled to assemble the sugar tonnage on the refinery wharves at either Crockett or San Francisco instead of allowing the tonnage to come to the vessels at San Francisco. Both Tracy and Alvarado are interior points, having no direct contact with the ocean-going vessels, and therefore the shipping points involved in this proceeding are in two entirely distinct classes for transportation purposes. It was further shown that since the commencement of this action the railroads published a rate of 17 cents from Tracy to Los Angeles Harbor and Los Angeles. Under this 17-cent rate complainant could not now profitably move the Tracy sugar tonnage through the port of San Francisco even were the sought for 12½-cent rate established, because the local charge from Tracy to San Francisco plus the proportional steamer rate would make a charge higher than the existing all-rail rate from Tracy to Los Angeles. Thus the Tracy complaint appears to have been adjusted.

It is obvious that actual differences in rates or discriminations do exist when sugar can be transported from the San Francisco wharves to the Los Angeles Harbor at a less rate when the tonnage originates at Crockett and San Francisco than is assessed for a like tonnage originating at the interior points of Tracy and Alvarado and moving over the same San Francisco wharves.

Section 19 of the Public Utilities Act prohibits unreasonable differences in rates, and it further provides that the Com-

mission shall have the power to determine the questions of fact arising under this Section. It must therefore be shown, to prove unlawful discrimination, that the rates at the preferred points have not been justified, and that the circumstances and conditions are the same at the points alleged to be placed at a disadvantage. The facts of record very clearly prove that the transportation conditions surrounding a movement of sugar from either Crockett or San Francisco, points served as they are by competing ocean-going vessels and railroads, have shipping advantages entirely different from those existing at Tracy and Alvarado, where the same railroad and steamer competition does not exist. A mere showing that the charges accruing from shipping points in a certain selected territory are higher than those accruing from other points in the same territory, whether the rates be maintained by the same carrier or by different carriers, does not of itself establish unlawful prejudice or preference. This Commission cannot by rate adjustments equalize geographical disabilities created by reason of the factory locations.

We are of the opinion and find that complainant has not sustained its contentions. Defendants have not violated the law by the rates in effect, and have not established any unlawful preference or advantage to any corporation or person, or subjected any corporation or person to any prejudice or disadvantage. The proceeding will be dismissed.

O R D E R

This case having been duly heard and submitted, full investigation of the matters and things involved having been had,

and basing this order on the findings of fact and the conclusions contained in the preceding opinion,

IT IS HEREBY ORDERED that Case 3438 be and it is hereby dismissed.

Dated at San Francisco, California, this 29th day of May, 1933.

W. L. Leary

W. A. Lee

W. B. Harris

W. H. Moore

Commissioners.