

Decision No. 26606.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

GLOBE GRAIN AND MILLING COMPANY,
Complainant,

vs.

SOUTHERN PACIFIC COMPANY,
THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY,

Defendant.

ORIGINAL

Case No. 3550.

E. J. Forman, for the complainant.

James E. Lyons and Burton Mason, for the
defendants.

BY THE COMMISSION:

O P I N I O N

By complaint filed March 24, 1933, it is alleged that the rates maintained by defendants (1) on the non-transit portion of numerous carloads of grain, grain products, animal and poultry feed from Los Angeles to Paso Robles and San Luis Obispo; (2) on articles taking grain rates from Calexico to Paso Robles, with transit privileges at Los Angeles, and (3) the transit balance rates on articles taking grain rates from Los Angeles to Paso Robles and San Luis Obispo applied when Imperial Valley points billing is surrendered, were, are now and for the future will be unjust and unreasonable in violation of Section 13 of the Public Utilities Act.

Reparation on shipments transported during the two-year period immediately preceding the filing of the complaint and during the pendency of this proceeding is sought. Rates are stated in cents per 100 pounds.

A public hearing was held before Examiner Geary at Los Angeles. Complainant offered no evidence in support of its allegation that the transit balance rates from Los Angeles to Paso Robles and San Luis Obispo applied when Imperial Valley point billing is surrendered were unreasonable and this allegation will therefore be deemed to have been abandoned.

Representative points of origin and destination, mileage, the local rates charged and those sought are set forth in the following tabulation:

<u>From</u>	<u>To</u>	<u>Mileage</u>	<u>Charged</u>	<u>Sought</u>
Los Angeles	Paso Robles	257	26½	15
" "	San Luis Obispo	221	21½	15
Calexico	Paso Robles	484	38	25

Above rates are subject to an emergency charge of 1 cent.

Complainant rests its case upon a comparison of the rates charged (a) with rates on grain and grain products between points in California prescribed by the Interstate Commerce Commission in Grain and Grain Products, 164 I.C.C. 619, 173 I.C.C. 511 (Docket 17000, Part 7), (b) with rates under a scale prepared by complainant from the point to point rates prescribed in Grain and Grain Products, supra, and (c) with a rate of 15 cents on grain from Hanford and Visalia to Los Angeles, from San Luis Obispo to Los Angeles, from Sunland to Los Angeles and from Los Angeles Harbor to Santa Maria.

The decision of the Interstate Commerce Commission in Grain and Grain Products, supra, was set aside by the United States

Supreme Court in Atchison, Topeka and Santa Fe Railway Co. vs. United States, 284 U.S. 248. Subsequently the case was reopened and further hearings are now being held. Under the circumstances no weight can be given to rates prescribed therein and relied on here by complainant.

The other rates used by complainant for comparative purposes were established to meet the competition of unregulated motor trucks and cannot be used as a measure for a maximum reasonable rate.

The rates claimed to be unreasonable are now lower than those prescribed by this Commission in Albers Bros. Milling Co. vs. Southern Pacific Co., 30 C.R.C. 866, for similar distance hauls in the Sacramento and San Joaquin Valleys in a territory where defendants claim the operating conditions are more favorable than between the points involved in this complaint.

The general level of rates on grain and grain products in California and elsewhere is now before the Interstate Commerce Commission in Grain and Grain Products, supra, and before this Commission in Case No. 2323. The findings made herein are without prejudice to any different conclusions which may be reached in these proceedings.

Upon this record we are of the opinion and so find that the assailed rates have not been shown to be unjust or unreasonable and the complaint should accordingly be dismissed.

O R D E R

This case having been duly heard and submitted,

IT IS HEREBY ORDERED that the proceeding be and it is hereby dismissed.

Dated at San Francisco, California, this 4th day of December, 1933.

W. L. Leary

W. H. A. ...

M. B. ...

W. L. ...
Commissioners.