

Decision No. 28663.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

WILMINGTON CHAMBER OF COMMERCE,
THE TEXAS COMPANY,

Complainants,

vs.

THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY,
CITY OF LOS ANGELES,
HARBOR BELT LINE RAILROAD,
LOS ANGELES & SALT LAKE RAILROAD
COMPANY,
PACIFIC ELECTRIC RAILWAY COMPANY,
SOUTHERN PACIFIC COMPANY,

Defendants.

ORIGINAL

Case No. 3086.

L. H. Stewart, Buford W. Max, G. E. Moore and Joseph P. Quigley, for complainants.
James F. Collins, C. E. Barry and Chas. A. Bland, for the Board of Harbor Commissioners of the City of Long Beach.
Ray O. Baldwin, for the Long Beach Chamber of Commerce.
Frank Karr, Richard Wedekind and George F. Squires, for Pacific Electric Railway Company.
J. M. Souby, A. S. Halsted and E. E. Bennett, for the Union Pacific System.
E. W. Camp, Gerald E. Duffy and E. C. Pierre, for The Atchison, Topeka and Santa Fe Railway Company.
George F. Squires, for the Harbor Belt Line.
J. R. Bell, G. H. Muckley, James E. Lyons and A. Burton Mason, for the Southern Pacific Company and other defendants.

BY THE COMMISSION:

O P I N I O N

This proceeding was filed July 2, 1931. A similar complaint was filed with the Interstate Commerce Commission (Docket No. 24434), and joint hearings were conducted at Los Angeles October 13, 14 and 15, 1931, before Examiners J. P. McGrath of the Interstate Commerce Commission and W. P. Geary of the California

Railroad Commission. Because they involve the same matters and seek the same relief the proceedings will be disposed of on one joint record. The first complainant, the Wilmington Chamber of Commerce, is a non-profit corporation under the laws of the State of California and represents firms, corporations and individuals dealing in numerous commodities which are line-hauled by defendant carriers between the Wilmington district and various points within the State and also in intra- and inter-switching services between industrial plants within the switching limits of the Los Angeles Harbor and industrial plants in the territory sought to be included in the Los Angeles Harbor switching limits.

The second complainant, The Texas Company, is a California corporation buying, selling, producing, manufacturing and storing petroleum, the products thereof and various supplies incidental thereto. Its packing and marine terminal plants are located in the Los Angeles Harbor switching limits while its refinery and warehouses are at Thehard, approximately one mile north of the Harbor switching limits.

Petitions in intervention were filed by the Republic Supply Company of California and the Board of Harbor Commissioners of the City of Long Beach. The latter intervener however introduced no testimony.

The gravamen of the complaint is substantially to the effect that Anaheim Boulevard in Wilmington is not a correct or adequate northern boundary line for the Los Angeles Harbor switching limits; that it excludes lands in the City of Wilmington or adjacent thereto, which lands take in the facilities of a number of industries; that these industries ship freight by defendants' lines between their plants and points in California and also to and from the industrial plants, docks and wharves in the Los

Angeles Harbor, and that they are paying charges in excess of those paid by the industries located within the switching limits of the Los Angeles Harbor. It is also claimed that the operating freight train services between the different districts is slow and irregular. In other words the contention is that certain line-haul rates and the total charges for moving carload shipments between the local industries in the terminal territories involved, are unjust and unreasonable, in violation of Section 13 of the Public Utilities Act and are prejudicial in violation of Section 19 of the Act. We are asked to provide just and reasonable rates for the future, to enlarge the switching limits of Los Angeles Harbor and to require defendants to provide better train services in the local territory.

The Harbor Belt Line Railroad (hereinafter referred to as the Harbor Belt) filed its Terminal Tariff No. 1, April 23, 1929, effective June 1, 1929. This tariff was pursuant to a contract dated February 1, 1928, entered into between all of the rail lines serving the Los Angeles Harbor, and was for the purpose of effecting a unified operation of the railroad terminal facilities within the Los Angeles Harbor district. The tariff was issued under authority of the Interstate Commerce Commission, Finance Docket No. 6878, "Unified Operation of Railroad Facilities at Los Angeles Harbor", dated March 16, 1928 (150 I.C.C. 649), in which proceeding the details of the situation were carefully set forth and the facts as recited in the report were by stipulation made a part of the instant case. The Harbor Belt operations now include all of the tracks within the Harbor district formerly operated individually by the four trunk line railroads, The Atchison, Topeka and Santa Fe Railway Company, Los Angeles & Salt Lake Railroad Company, Pacific Electric Railway Company and Southern Pacific Company, also the tracks owned by the City of Los Angeles.

The Harbor Belt tariff cancelled on June 1, 1929, all terminal and other charges contained in the tariffs of the railroads mentioned applying at East San Pedro, San Pedro and Wilmington. At the same time switching limits for Los Angeles Harbor were established and can best be described by reproducing Tariff Item No.820:

SWITCHING LIMITS AT LOS ANGELES HARBOR, CAL.

Switching limits at LOS ANGELES HARBOR, CAL., include all railroad tracks owned by City of Los Angeles, The Atchison, Topeka and Santa Fe Railway Company, Los Angeles & Salt Lake Railroad Company, Pacific Electric Railway Company, and Southern Pacific Company (Pacific Lines), located within the following described boundaries:

NORTHERN BOUNDARY: Bounded on the north by Anaheim Boulevard.

SOUTHERN BOUNDARY: Bounded on the south by the southerly boundary line of the City of Los Angeles, Cal.

EASTERN BOUNDARY: Bounded on the east by a line extending southerly from Anaheim Boulevard along the easterly line of Badger Avenue to its intersection with the boundary line between the Cities of Los Angeles and Long Beach; and thence southerly along said boundary line to the southerly boundary line of the City of Los Angeles.

WESTERN BOUNDARY: Bounded on the west by the westerly boundary line of the City of Los Angeles.

Within this major zone subordinate zones were created for East San Pedro, San Pedro and Wilmington, and switching charges published for all of the movements between points within the Los Angeles Harbor. The switching charges in the unified harbor are for the most part the same as or lower than those in effect in the individual terminal tariffs prior to June 1, 1929.

Complainants take the position that there should be included within the Los Angeles Harbor switching limits lands north of Anaheim Boulevard to Reyes Street and easterly paralleling Reyes Street to a point near Eobson Avenue, thence southerly to the intersection of Anaheim Boulevard. This enlarged area would extend the

present boundary approximately $1 \frac{1}{3}$ miles to the north and add about $5 \frac{1}{2}$ square miles to the Harbor switching limits and would include the Southern Pacific station of Thenard, where is located the industrial plant of The Texas Company (complainant). The excluded territory is served by the Southern Pacific, the Pacific Electric and the Santa Fe. The Harbor Belt has no trackage rights and does not operate in the territory, neither does the Los Angeles and Salt Lake Railroad.

The present Harbor switching limits are irregular in shape, being nearly $3 \frac{1}{2}$ miles long at the northern boundary of Anaheim Boulevard, $1 \frac{1}{2}$ miles on the eastern side, 4 miles on the southern side and 5 miles on the western side, including in all some $1 \frac{1}{2}$ square miles.

Following five years of negotiations between the City of Los Angeles, the railroads serving the Harbor and all other interests, the present unification of facilities was perfected and now the line-haul rates of the four railroads apply to all points within the Harbor switching limits regardless of track ownership, thus eliminating switching charges against line-haul traffic. The switching limits as now existing take in 126 miles of tracks, including two classification, four auxiliary and six freight train yards. Defendants contend that Anaheim Boulevard is the proper northern boundary and that the existing switching limits embrace all of the industrial areas directly connected with the Harbor district.

WILMINGTON SWITCHING LIMITS

The zonal switching limits at Los Angeles Harbor, as heretofore stated, comprise three independent districts, East San Pedro, San Pedro and Wilmington. The Wilmington zone, the only one involved in this proceeding, is completely outlined in Item No. 850 of Harbor Belt Terminal Tariff C.R.C. No. 1, and may be roughly described as

follows: Along Anaheim Boulevard to Badger Avenue, thence along Badger Avenue to Long Beach Channel, thence to West Basin draw-bridge on the San Pedro-Wilmington line to Channel Street. The Harbor switching boundaries because of the many dividing waterways represent distances much greater than the air line measurement and require in some cases unusually long hauls to move cars between points apparently but short distances apart.

The record indicates that within the Wilmington switching zone there is at present undeveloped industrial property, totalling some 3000 acres. In the excluded territory comprising some $5\frac{1}{2}$ square miles between Anaheim Boulevard and Reyes Street (Reyes St. being more than a mile north of Anaheim Boulevard), the property has been to a great extent subdivided for residential purposes. This is particularly true of the acreage west of the Banning Boulevard to Figueroa Street, a developed residential community. In this same western direction lies a tract of land known as the Sixby Slough, but this property is partly under water at certain times of the year, and having also some hilly sections cannot now be used for industrial purposes. The only lands of any importance available for industrial developments in the excluded area are those in the northeastern part near Reyes Street, and between these lands and the water front there is also a fairly well developed residential community. In the Thenard district, a territory sought to be added to the Wilmington-Los Angeles Harbor switching zone, are located the oil refineries of The Texas Company and several small shippers, but the tonnage offerings of the latter group at this time are not of any considerable volume. If Thenard were included in the Wilmington zone of the Los Angeles Harbor switching limits it would create a situation where the refineries to the north could and probably would demand like treatment. But the mere fact that the extension of a switching limit might result in a demand for the

inclusion of other points within the same limits does not of itself constitute a good reason for refusing to enlarge the terminals if the extension under all of the circumstances and conditions is found proper.

The Los Angeles Harbor embraces all of the industrial area connected with and adjacent to the Harbor and represents one homogeneous community where the sidings are numerous and where many cars may be handled within the same switching group. The territory sought to be annexed, including Thenard, is entirely separate and distinct, and neither the Harbor Belt, City of Los Angeles, nor the Los Angeles & Salt Lake Railroad have tracks within that territory. If belt line railroads were refused the right of existence merely because they failed to include all industries located within certain large domains, shippers would be denied the advantages of better services and rate economies.

Consideration must be given to the fact that there is always a point beyond which switching limits cannot be extended, for their continued enlargement would eventually result in complete elimination of distances. In determining the proper limit we must give thought to the existing limits, the industrial activities and the necessity of the territories. It has not been shown that the industries located north of Alhambra Boulevard are suffering any unlawful prejudice because of the present adjustment, and we find that this part of the complaint has not been justified.

SERVICES TO AND FROM THENARD

Complainants contend that the present freight train services being rendered between Thenard and Los Angeles and between Thenard and Los Angeles Harbor are too irregular and are not sufficient to meet with the requirements, and they filed a number of exhibits intending to show that if Thenard were included within the Harbor

district shipments would move with greater frequency and at a considerable saving of time. The record shows however that the Southern Pacific Company, which at this time renders all of the services at the Thenard station, operates two daily freight trains in each direction between Thenard and Los Angeles Harbor, and that these trains are the same now performing the service between Thenard and Los Angeles. It is also in the record that additional trains are operated when the volume of the tonnage is sufficient to justify special trips. If Thenard were annexed to the Harbor district switching limits cars could then be moved via either the harbor classification yards or via the Los Angeles yards for delivery to the connecting line haul carriers. It is not shown that there could be any saving of time through Los Angeles Harbor instead of Los Angeles, and as a matter of fact via certain lines the time would be lengthened because of longer hauls.

The record does not indicate that train services at Thenard are any different than at other stations similarly situated. The disabilities, if any, complained of are due to the choice of location and not to the services of defendant. We are of the opinion that complainant has not proven that the train services under all of the circumstances and conditions are inadequate.

RATES

The exhibits and testimony of complainants and interveners were devoted in the main to the issues involving the enlargement of the Harbor switching limits and to the charges assessed within those limits, compared with the charges assessed for the movements between Thenard and the Harbor. Since we have concluded that no justification has been shown for enlarging the Harbor switching limits it would serve no good purpose to discuss in detail the relationship of the rates and the differences in the total charges.

The record however does reveal that Thenard and the excluded territory have no different treatment than other shipping points similarly situated and that for the short hauls to the Harbor the greater part of the tonnage is moved either by pipe lines or auto trucks.

Complainants presented several exhibits showing the published rates between Thenard and points within a limited zone in Southern California, but where differences are revealed the higher rates from Thenard are joint via two or more carriers as compared with one-line rates from the Harbor. A carrier witness testified that the differences were due to the fact that the single-line rates were published to meet motor truck competition without consideration being given to a proper adjustment of the joint rates between the same points. Complainants made no effort to show that the rail rates were unreasonable, and relied entirely upon the illustrations that there were certain differences in the volume of the rates but a mere showing of such a situation does not prove unreasonableness.

The Commission will make no order upon this meager record but would suggest to defendants that consideration be given to placing the joint rates on a proper relationship with the one-line rates. Upon this record we find that the rates assailed are not unreasonable or otherwise unlawful. The complaint 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 the order on the findings of fact and the conclusions contained in the preceding opinion,

IT IS HEREBY ORDERED that Case 3086 be and it is here-
by dismissed.

Dated at San Francisco, California, this 18th day
of December, 1933.

C. S. Leary
Leon White
M. J. Con
W. B. Harris
W. M. ...
Commissioners.