

Decision No. 27058

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

STOCKTON PORT DISTRICT,

Complainant,

vs.

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

Defendants.

Case No. 3664.

ORIGINAL

STOCKTON PORT DISTRICT,

Complainant,

vs.

SOUTHERN PACIFIC COMPANY and
TIDEWATER SOUTHERN RAILWAY COMPANY,

Defendants.

Case No. 3665.

J. Richard Townsend, Thomas S. Louttit and
B. C. Allin, for Complainant.
J. R. Bell, G. E. Muckley, James E. Lyons and
Burton Mason, for Southern Pacific Company,
defendant.
Gerald E. Duffy, A. M. Reinhart and E. W. Camp,
for The Atchison, Topeka and Santa Fe Railway
Company, defendant.
L. N. Bradshaw, for Tidewater Southern Railway
Company, defendant.
J. Leroy Johnson, for City of Stockton, intervener.
Markell C. Baer, G. B. Hegardt and M. D. McCarl,
for City of Oakland.
Hal Remington, for San Francisco Chamber of Commerce.
Edwin G. Wilcox, for Oakland Chamber of Commerce,
intervener.
J. P. Ventre, for Howard Terminals, intervener.
S. M. Graham, for Encinal Terminals, intervener.

BY THE COMMISSION:

O P I N I O N

The above named complainant is a public corporation
organized and existing under the laws of the State of California,
engaged as a wharfinger in operating docks, wharves and other

structures and facilities in the City of Stockton.

The complaints, involving the same issues except as to points of origin and the commodities, were heard upon the one record, submitted after the filing of consolidated briefs, and will therefore be decided in the one opinion and order.

Petitions in intervention were filed on behalf of the City of Oakland, City of Stockton, San Francisco Chamber of Commerce, Oakland Chamber of Commerce, Encinal Terminals and Howard Terminals.

Joint hearings were held at Stockton October 31 and November 1, 1933, before Interstate Commerce Commissioner W. E. Lee and Examiner W. P. Geary. Interstate proceedings were Dockets Nos. 26162 and 26163 and embrace the same issues. Rates will be stated in cents per hundred pounds.

It is alleged (Case No. 3664, Docket No. 26163) that the existing rate of 15 cents, minimum weight 30,000 pounds, on dried fruit from Fresno to Stockton, and (Case No. 3665, Docket No. 26162) the existing rate of 10 cents, minimum weight 36,000 pounds, on canned goods from Turlock to Stockton, are so high that no traffic moves thereunder by rail and that therefore defendants fail to furnish, provide and maintain adequate, efficient, just and reasonable freight services to the shipping public, in violation of Section 13(b) of the Public Utilities Act.

There is no contention that the assailed rates per se are either unjust or unreasonable in violation of Section 13(a) or preferential or prejudicial in violation of Section 19 of the Statute.

Complainant's prayer is for rates on dried fruit from Fresno to Stockton, minimum weight 30,000 pounds, of 9 cents including unloading and $7\frac{1}{2}$ cents without the unloading; and for canned goods from Turlock to Stockton, minimum weight 36,000 pounds, of 6 cents including unloading and $4\frac{1}{2}$ cents without the unloading.

Fresno is served by defendants Southern Pacific Company and The Atchison, Topeka & Santa Fe Railway Company; Turlock is furnished services by Southern Pacific Company and Tidewater Southern Railway Company. The distance from Fresno to Stockton is 122 miles; from Turlock to Stockton 42.7 miles. The Port of Stockton is approximately 80 miles east of San Francisco and the existing freight rates are the same to both ports - Stockton and San Francisco - regardless of the differences in mileage. Defendants contend that the parity of rates now in effect to San Francisco and Stockton are less than reasonable, were forced into the tariffs by the severe competition encountered from contract truck operators hauling into San Francisco and the East Bay region for trans-shipment and that the truck rates are not published and are apparently without any bottom when the rail carriers attempt to meet the truckers' prices. Defendants are now absorbing the unloading costs at San Francisco to meet this truck competition and have signified their willingness to make the same absorption allowance at Stockton, thus placing the two ports on an absolute rate equality.

Complainants have placed great stress upon the fact that the United States Government, the State of California and City of Stockton recently expended approximately \$5,170,000. in improving the Stockton deep water project and that another million dollars will be spent by the Federal Government in deepening the channel. The Federal Government in 1925 favorably reported authority for the construction of a 26 foot waterway but later it became apparent that changes were required to accommodate the ocean-going steamer and, as a result, the channel is now being widened and deepened. This record would indicate that the Stockton Port is attracting many ocean-going vessels but it has not yet reached the required magnitude to compete satisfactorily with other nearby harbors. Defendants contend that the failure of shippers to send their

dried fruit and canned goods from Fresno and Turlock to Stockton is not due to the today's rail rates or services but to the fact that the desired ocean-going vessels are not always available at Stockton.

Defendants' efforts to hold the tonnage to its rails are clearly demonstrated by Exhibit No.40, where it is shown that the dried fruit rate Fresno to Stockton was 27 cents August 10, 1926, reduced to 25 cents September 13, 1927, and to the present rate of 15 cents September 21, 1930.

Rates by unregulated trucks are much lower than by rail and the trucks have hauled all of the canned goods from Turlock and a percentage of the dried fruit moving from Fresno.

A witness testified that of the dried fruit practically all sent to ports was destined to either Europe, the Orient, New Zealand or the Pacific Northwest, and of the tonnage afforded for the years 1930 to 1932, the total export movement represented 56 per cent, intercoastal 42 per cent and Pacific Northwest 2 per cent. The same is true with reference to canned goods from Turlock, which segregates as follows: foreign 15 per cent, intercoastal 70 per cent. gulf ports 9 per cent and Pacific Northwest 5 per cent; all of which indicates that the major portion of the tonnage in controversy is interstate or foreign traffic.

Complainants introduced exhibits purported to show the line haul and terminal costs for moving tonnage between Fresno-Turlock and Stockton but the line haul figures were based almost entirely upon the average operating statistics obtaining on the Valley Division of the Santa Fe for the year 1931 and the cost for terminal handling was also not secured from actual figures. The outline of costs, while indicative of an approximate charge, cannot be accepted as controlling in a proceeding of this kind. However, because of our conclusions, it will not be necessary to make careful

analysis of the formula by which the complainant endeavors to prove that defendants should be required to perform the service demanded at the proposed rates.

As stated, complainants made no pretense that the published rates were either unjust, unreasonable or discriminatory nor did it present any controlling proof by exhibits or testimony that the rates it suggested would be lawful or even reasonably compensatory.

Defendants have never refused to accept freight offered at Fresno or Turlock destined to Stockton nor does the record suggest that ~~it~~^{they} cannot furnish immediately upon demand all of the instrumentalities, equipment and facilities necessary to perform the transportation services.

We find that the rates, services and practices involved in these proceedings are not shown to be in any respect unlawful.

The proceeding will be dismissed.

O R D E R

This case having been duly heard and submitted,

IT IS HEREBY ORDERED that the above entitled proceedings be and they are hereby dismissed.

Dated at San Francisco, California, this 14th day of May, 1934.

CL Leary
Leon Whidby
AM A. Linn
W B Lamm
W. H. Lamm
Commissioners.