

Decision No. 27982

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ALBERS BROS. MILLING CO.,
a corporation,
Complainant,

vs.

SOUTHERN PACIFIC COMPANY,
a corporation,
Defendant.

ORIGINAL

Case No. 2952.

CALIFORNIA PACKING CORPORATION,
a corporation,
Complainant,

vs.

SOUTHERN PACIFIC COMPANY,
a corporation,
Defendant.

Case No. 3075.

C. S. Connolly, for complainant Albers Bros. Milling Co.
Hugh Fullerton, of Pillsbury, Madison & Sutro; and
Irving Lyons, for California Packing Corporation,
complainant.
James E. Lyons and R. G. Hillebrand, for Southern Pacific Company, defendant.
Hal Remington, for San Francisco Chamber of Commerce.
Carl R. Schulz, for Consolidated Milling Company.
L. N. Bradshaw and J. F. Bon, for The Western Pacific Railroad Company, interested party.
Edwin G. Wilcox, for Oakland Chamber of Commerce.
S. M. Chandler, for Certain-teed Products Corporation.

BY THE COMMISSION:

O P I N I O N

Complainants in the above proceedings allege that a charge of \$1.00 per car assessed, and in certain instances collected, in

addition to the lawfully published line-haul rates for the transportation of carload shipments of various commodities, was, is and for the future will be unreasonable, inapplicable and unduly prejudicial and preferential in violation of Sections 13, 17(a) and 19 of the Public Utilities Act.

Reparation, an order directing the waiving of outstanding charges, and rates for the future were originally sought. The additional \$1.00 per car charge however is no longer assessed, and an order for the future is therefore unnecessary.

Public hearings were held before Examiners Geary and Kennedy and the matters submitted on briefs. The proceedings were heard upon a common record and will be disposed of in one decision.

Complainants' shipments consisted of various commodities moving between numerous points in California and their plants in San Francisco. The plant of complainant Albers Bros. Milling Co. (Case 2952) is located at the southwest corner of Vallejo and Davis Streets; that of complainant California Packing Corporation (Case 3075) at Hyde, Leavenworth, Beach and Jefferson Streets. Both plants are served by tracks owned by defendant. The tracks however are detached from defendant's main line and are reached only via the State Belt Railroad of California (hereinafter referred to as the Belt Line) from Second and King Streets, San Francisco. All of the tracks are outside defendant's established switching limits. The Belt Line furnishes all motive power after the cars leave defendant's main line on inbound shipments and before reaching the main line on outbound movements.

Prior to November 1, 1929, a charge of \$3.50 per car was made for the switching service performed by the Belt Line. This charge was absorbed in its entirety by defendant (subject to

a minimum requirement as to net revenue) on shipments on which it received the line haul. On November 1, 1929, the Belt Line charge was increased to \$4.50, of which amount defendant absorbed \$3.50. Bills for the additional \$1.00 were rendered to complainants. On January 1, 1932, the Belt Line charge was reduced to \$4.00, all of which is now absorbed by defendant.

The facts in these cases are analogous to those in California Packing Corporation vs. The Western Pacific Railroad Company (Decision No. 27527 dated November 13, 1934, in Cases Nos. 3161 and 3162). In those proceedings the Commission found after hearing that no violation of Section 13 of the Public Utilities Act had been shown and that the charge assailed was not in violation of Sections 17(a) and 19 of the Act. The proceedings were dismissed and reparation denied. Similar findings were made by the Interstate Commerce Commission in connection with complaints embracing the same issues with respect to interstate traffic and heard jointly with this Commission. (California Packing Corporation vs. Atchison, Topeka & Santa Fe Railway Company, 204 I.C.C. 741.) Upon this record like findings should be made here.

Upon consideration of all the facts of record and the Commission's decision in California Packing Corporation vs. The Western Pacific Railroad Company, supra, we are of the opinion and find that the charge assailed was applicable, that it was not unduly prejudicial and preferential, and has not been shown to be unreasonable. The complaint will be dismissed.

O R D E R

These cases 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 20th day
of May, 1935.

Leon E. Murphy
M. J. Carr
M. B. Davis
Walter J. Davis
Frank R. Davis
Commissioners.