

Decision No. 12481

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation)
and Suspension, by the Commission)
on its own motion, of reduced rates)
published by Southern Pacific)
Company and Santa Maria Valley)
Railroad Company, for the trans-)
portation of sugar, in packages,)
carloads, from Betteravia to)
Bakersfield, Sacramento, Stockton)
and other points.)

Case No. 4566

BY THE COMMISSION:

Appearances

James E. Lyons, for respondents
J. Richard Townsend and Francis L. Cross
for Union Sugar Company
R. F. Walker, for Spreckels Sugar Company
and Western Sugar Refinery
Lowe P. Siddons, for Holly Sugar Company
Marvin Handler and Roy B. Thompson, for
Truck Owners Association of California

O P I N I O N

In this proceeding the Commission has suspended and has under investigation reduced rates filed by Southern Pacific Company and Santa Maria Valley Railroad Company for the transportation of sugar in carloads from Betteravia (a point on the line last mentioned eight miles west of Santa Maria) to points in the San

Joacuin, Sacramento and Salinas valleys.¹ The rates in question were suspended and the investigation entered into upon consideration of a protest filed by The Truck Owners Association of California alleging, among other things, that said rates are unjust, unreasonable, insufficient and discriminatory in violation of Sections 13, 13½, 19, 32 and 32½ of the Public Utilities Act. The matter was submitted at a public hearing had at San Francisco before Examiner Mulgrew.

The sugar involved is produced by Union Sugar Company and is marketed in competition with sugar produced by five other refiners.² Heretofore it has been disposed of in San Francisco and Los Angeles. In 1938 and succeeding years, however, the Company doubled its output and is now no longer able to dispose of its production in those two cities. The development of new markets is, therefore, imperative. Respondents, supported by Union Sugar Company, claim that under

¹ The suspended rates, filed in Item No. 580-Y of Southern Pacific Company Joint and Proportional Freight Tariff No. 707-G, C.R.C. No. 2810, and the rates they are proposed to replace are shown below. (Rates are stated in cents per 100 pounds throughout this opinion.)

Destinations	Suspended Rates Minimum Weight 40,000 Lbs.	Present Rates Minimum Weight 36,000 Lbs.	Destinations	Suspended Rates Minimum Weight 40,000 Lbs.	Present Rates Minimum Weight 36,000 Lbs. Except As Indicated
Bakersfield	17	21	Sacramento	25	31
Visalia	19	25½	Gridley	27	39
Hanford	19	24	Oroville	27	39
Armona	19	24	Willows	27	39
Fresno	19	25½	Chico	27	39
Pinedale	25	27	Red Bluff	30	42
Merced	23	30	Goldtree	7	10
Los Banos	23	30	Bradley	12	16
Turlock	23	30	Gonzales	15	* 18
Modesto	23	30	Monterey	15	25½
Stockton	23	26	* Minimum Weight 40,000 Lbs.		

² The other refiners and the points where their plants are situated are: American Crystal Sugar Company at Oxnard and Tasco; California & Hawaiian Sugar Refining Corporation at Crockett; Holly Sugar Corporation at Alvarado, Dyer, Hamilton and Tracy; Spreckels Sugar Company at Manteca, Spreckels and Sugarfield; and Western Sugar Refining Company at San Francisco.

these circumstances the establishment of the suspended rates is necessary to develop rail movement of sugar from Betteravia and to forestall handling of the traffic by proprietary trucks.

An investigation conducted by respondents disclosed, it is said, that the present rates from Betteravia are "out-of-line" with those from other producing points situated in northern and central California. Shippers at these other points enjoy commodity rates lower than the corresponding class rates. So long as the movement from Betteravia was confined to San Francisco and Los Angeles there was no occasion for establishing corresponding commodity rates to other points. Upon being informed of the prospective movement the proposed rates were filed chiefly to accord the Betteravia refinery a rate basis comparable to the bases maintained from other shipping points. The suspended rates from Betteravia, it is claimed, are based upon the needs of Union Sugar Company and, like other commodity rates on sugar between California points, are not constructed on a mileage basis. Counsel for respondents explained that the principal purpose of the suspended rates is to get business and that helping the sugar company get into new markets is incidental to that purpose.

Rate and revenue studies were submitted by respondents to show that the existing rates from Betteravia are, in the main, materially higher than other sugar rates for like distances, and that earnings under the proposed rates would generally compare favorably with those under the rates from other refineries. It is conceded, however, that the proposed rates to Visalia, Hanford, Armona and Fresno are lower, distance considered, than the rates published to the other points in issue. This lower basis is said to be necessary to meet cross-country truck movement involving substantially shorter hauls than over the rail routes. Examples of rates and earnings from Betteravia and other refinery points for comparable mileages taken from the witness's studies follow:

From	To	Miles	Rates, Minimum Weight 40,000 Pounds, Except As Otherwise Indicated		Minimum Revenue		Ton Mile Earnings in Mills
			Present	Proposed	Per Car in Dollars	Car Mile in Cents	
Better-avia	Bradley	86	16 *	--	\$ 57.60	67	37.2
			--	12	48.00	56	27.9
Spreckels	Nacimi-ento	84	12	--	48.00	57	28.5
Better-avia	Bakers-field	315	21 *	--	75.60	24	13.3
			--	17	68.00	22	10.7
San Francisco	Bakers-field	303	17 *	--	61.20	20	11.2
Better-avia	Sacra-mento	351	31 *	--	111.60	32	17.6
			--	25	100.00	28	14.2
Spreckels	Los Angeles	355	25	--	100.00	28	14.0
Better-avia	Fresno	413	25½ *	--	91.80	22	12.3
		422#	--	19	76.00	18	9.0
Better-avia	Red Bluff	460	42 *	--	151.20	33	18.4
			--	30	120.00	26	13.0
Sugar-field	Los Angeles	472	25	--	100.00	21	10.5
* Minimum Weight 36,000 pounds. # Via Saugus.							

That the proposed rates are compensatory for the rail service in question is said to be demonstrated by a study submitted by a cost engineer employed by respondent Southern Pacific Company. According to the study the direct costs of transporting sugar in carloads of 40,000 pounds from Betteravia to representative destinations involved herein are materially lower than the suspended rates. Pro rata operating costs based upon system averages and including taxes, the study indicates, are also less than these rates. The results of the study are portrayed by the following tabulation. (Costs and rates are stated in cents per 100 pounds.)

Destinations	Suspended Rates	Direct Costs	Pro Rata Costs Plus Taxes
Bakersfield	17	9.66	15.14
Fresno	19	11.11	17.23
Stockton	23	7.96	12.69
Modesto	23	7.61	12.19
Merced	23	8.07	12.85
Sacramento	25	9.12	14.36
Chico	27	11.30	17.51
Red Bluff	30	9.97	15.59

Studies prepared by Union Sugar Company's traffic supervisor, the results of which are reproduced below, show that rates from other refineries are not made on a mileage basis:

R a t e	From	To	Miles	From	To	Miles	Excess of Longest over Shortest Distance	
							Miles	Per Cent
10	Sugarfield	Willows	68	San Francisco	Modesto	103	35	51.5
11	Alvarado	Stockton	70	Tracy	Fresno	123	53	75.7
12	Alvarado	Monterey	97	Manteca	Gonzales	158	61	62.9
13	Crockett	Sacramento	63	Sugarfield	Fresno	197	134	212.7
15	San Francisco	Sacramento	93	Sugarfield	Hanford	242	149	160.2
17	Crockett	Gridley	114	(San Francisco (Sugarfield	Bakersfield	303	189	165.8

* Shown in the statement as 197.1, error in calculation corrected.

The witness contends that these rates have been made in an endeavor to permit the different refineries to compete in the markets they desired to reach and argues that his company should be accorded similar treatment. Other rate studies prepared by this witness demonstrate, he said, that his company, unlike its competitors, does not enjoy commodity rates lower than prevailing class rates and that the proposed rates, mileage considered, compare favorably with the

existing rates maintained from competing refineries.³

The Board of Directors of Union Sugar Company is said to have decided, tentatively, that if the suspended rates are not allowed to become effective the company will reach valley markets by operating its own trucks. If forced to do so, a witness for the company stated, it will also use these trucks for transportation to San Francisco and Los Angeles, thus not only depriving for-hire carriers of the new business which the proposed rates were expected to attract, but also of the San Francisco and Los Angeles traffic. Respondents assert that they cannot afford to consider such threats made by responsible people as "idle gestures" and that they are justified in acting before the threatened competition becomes a reality and the business is irretrievably lost.

This threat of proprietary operations in the event the suspended rates are not made applicable is said to be based on studies made by the company's traffic supervisor and its president. The traffic supervisor testified it has been concluded that the cost to his company of operating its own trucks would not exceed the proposed rail rates. This conclusion, he explained, is based upon the results of the company's proprietary operations for distances of 100 miles and less and upon the experience of Bradley Truck Company, a for-hire highway carrier that has hauled sugar from Betteravia for

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A study submitted by the witness shows that to San Joaquin valley points San Francisco rates are 2 cents higher than Manteca, a difference of 1 cent for each 43.5 additional miles. Under the suspended rates, the study indicates, the additional mileage from Betteravia as against San Francisco would be compensated for at rates ranging from 1 cent for each 16.8 miles to 1 cent for each 46.5 miles. Suspended rates to Sacramento valley points would yield 1 cent for each 25.8 miles and on the San Francisco-Manteca basis rates would be but 6 cents higher than San Francisco, instead of 10 cents higher as here proposed. To San Joaquin valley points the San Francisco-Manteca basis would produce rates ranging from 8 cents less to 1/2 more than the suspended rates.

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greater distances. He admitted that his company had not engaged in proprietary operations for distances in excess of 100 miles and that no cost study had been made of the contemplated proprietary operations for such distances. However, he stated that Bradley Truck Company had been hauling sugar to San Francisco, a distance of 294.5 miles, at a rate of 19 cents without expressing any dissatisfaction with that rate. A rate of the same volume, he pointed out, is here proposed to Fresno, a distance of but 218.5 miles.⁵ The witness claimed, moreover, that his company's costs of operating its own trucks for short distances is substantially lower than the minimum rates established for for-hire highway carriers and that, consequently, he expected trucks could be proprietarily operated for greater distances at less than the minimum truck rates. He conceded that when truck operations increase in distance relief drivers are required with a resulting increase in operating costs, that he did not know what this cost would be, and that his company would have to purchase additional trucking equipment to handle the traffic involved.

As stated at the outset of this opinion, the rates involved herein were suspended upon protest of The Truck Owners Associa-

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Bradley Truck Company has on file an application (No. 23602) seeking authority to observe rates less than the minimum rates from Betteravia to various points, including Fresno and Selma. At its request this matter is being held in abeyance. Respondents claim that the 19-cent rate they proposed to Visalia, Hanford, Armona and Fresno was filed in consideration of the Bradley proposal to establish a 19-cent rate to Fresno and Selma, and Union Sugar Company's representation that it would resort to proprietary operations if the application to charge less than the minimum rates could not be justified.

5 The minimum rates prescribed for this transportation by highway carriers in Rates of All Common and Highway Carriers, (41 C.R.C. 671), as amended, are 31¢ cents to San Francisco and 24¢ cents to Fresno. Highway carriers are permitted, however, to meet rates of common carriers for the same transportation between the same points. To San Francisco the truck company is meeting the rail rate of 19 cents, minimum weight 20,000 pounds.

tion of California. Its participation in the hearing was confined to cross-examination of witnesses. No affirmative testimony or argument in support of its protest was offered.⁶ Through cross-examination of respondents' witnesses counsel for protestant developed that although certain of the present rail rates are higher than the minimum rates prescribed for for-hire highway carriers, the suspended rates would generally be substantially lower than the highway carrier rate level; and that if the rail rates were permitted to be reduced highway carriers would be authorized to meet the reduced rates under the alternative provision of Highway Carriers' Tariff No. 2 (Appendix "D" to Decision No. 31606, 41 C.R.C. 671, as amended). Union Sugar Company's witnesses, upon cross-examination by counsel for protestant, stated that their company would still be at a rate disadvantage if the suspended rates were allowed to become effective but claimed that the differences involved would enable them to sell at a profit.

Representatives of other sugar refineries also cross-examined these witnesses. Under their questioning it was conceded that if Union Sugar Company sold its sugar in the territory involved it would displace sugar from some other source; that in California sugar was sold on a San Francisco base price requiring

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In the protest it is alleged, as stated at the outset of this opinion, that the suspended rates are violative of Sections 13, 13¹/₂, 19, 32 and 32¹/₂ of the Public Utilities Act. It is also alleged therein that the rates are unduly low, are generally substantially lower than minimum rates prescribed for highway carriers, will not return sufficient revenue for either rail or highway carriers, and are inconsistent with and contrary to the policy of the Commission as enunciated in Decision No. 31606, in Case No. 4246, in re Rates of All Common and Highway Carriers, (41 C.R.C. 671) and Decision No. 33514 in Case No. 4473, in re Investigation and Suspension of Reduced Rates for Alcoholic Liquors (43 C.R.C. 25).

absorption of the 19-cent rate from Betteravia to San Francisco on sugar sold in the market; that, nevertheless, Union Sugar Company competed in the San Francisco market; that at the present time it may sell in Bakersfield by absorbing but 4 cents of the 21-cent rate to that city; and that San Joaquin valley rates from northern California refineries are considered to be in the nature of minimum rates.

A witness for Holly Sugar Company testified in opposition to the proposed rates in so far as points north of Modesto are concerned. He contended that the rail rates from northern California to San Joaquin valley points were depressed due to market competition with sugar moved by vessel to Los Angeles Harbor and forwarded therefrom to those points. Although he admitted that rates to Oroville, Gridley, Chico, Red Bluff and Willows are the same from his company's Alvarado refinery as from Crockett, 44 rail miles nearer, he stated that rates to Sacramento valley points were established with greater regard to distance. He also claimed that under the suspended rates refineries close to Sacramento valley points would not be given the full advantage to which their location should entitle them.

On this record it is reasonably clear that the proposed rates exceed full costs, including taxes, when indirect expenses are calculated on a pro rata basis. It is not contended that they are maximum rates. Indeed there is substantial evidence tending to show that to some extent at least the present sugar rates from shipping points other than Betteravia are on a subnormal level because of competitive conditions. Since the proposed rates from Betteravia are on a related basis they are in some instances, at least, subnormal for the same reason.

No reason appears or is even suggested why the shipper in Betteravia should not be accorded rates comparable with those

available to its competitors. It is clear from the record that unless it is accorded such rates it is confronted with the alternative of materially curtailing its business or resorting to proprietary competition, the feasibility of which latter alternative may well be questioned. Under these circumstances rates on a basis no lower than those obtaining from competing shipping points are required by the needs of commerce and are in the public interest.⁷

The proposed rates to Visalia, Hanford, Armona and Fresno are admittedly on a lower level than that generally prevailing elsewhere. In support thereof it is asserted that they are necessary to meet proprietary competition over cross-country highway routes. The showing made in support of this contention, in common with the general showing with respect to the cost of proprietary carriage, falls far short of being convincing that, all things considered, the sugar company would experience costs no greater than the charges produced by the proposed rates. Admittedly no cost study has been made of the contemplated operations. Moreover, bare assertions of the results of proprietary hauling for lesser distances are far from sufficient to demonstrate the costs for the greater distances here involved. The suspended rates to the extent they are lower than those established by this Commission for highway carriers have not been shown to be justified by transportation conditions resulting from competition with other means of transportation.

Upon consideration of all the facts of record we are of the opinion and find that the present rates from Betteravia here in issue are improperly related to rates maintained from competing shipping points; that except to Visalia, Hanford, Armona and Fresno the proposed rates will give effect to the needs of commerce by

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See Section 13½ of the Public Utilities Act.

providing a reasonable rate relationship between the shipping points involved; and that establishment of the said proposed rates exclusive of those to Visalia, Hanford, Armona and Fresno is required by the public interest and has not been shown to be unlawful. The suspended rates to Visalia, Hanford, Armona and Fresno, we are of the opinion and find, are not justified on this record. Respondents will be required to cancel those rates without prejudice to the filing of rates reasonably related to rates from other producing points or on a level no lower than those established by this Commission as minimum for highway carriers. Upon their cancellation the order of suspension will be vacated and the proceeding discontinued.

O R D E R


A public hearing having been held in the above entitled proceeding and based upon the evidence received at such hearing and upon the conclusions and findings contained in the preceding opinion,

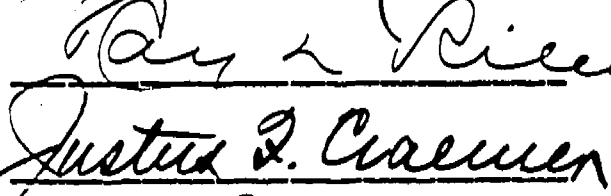
IT IS HEREBY ORDERED that respondents Southern Pacific Company and Santa Maria Valley Railroad Company be and they are hereby ordered and directed to cancel effective not later than September 1, 1941, on not less than one (1) day's notice to the Commission and to the public rates published in Item No. 580-Y of Southern Pacific Company Joint and Proportional Freight Tariff No. 707-G, C.R.C. No. 2810, from Betteravia to Visalia, Hanford, Armona and Fresno, and that upon the cancellation of said rates the Commission's order of suspension and investigation of November 19, 1940, as amended, in the above entitled proceeding, suspending the


operation of said item, be and it is hereby vacated and this proceeding discontinued.


This order shall become effective on the date hereof.

Dated at San Francisco, California, this 12th day of August, 1941.



Arthur L. Rice


Justus D. Craemer


Francis D. Havens


Commissioners.