

ORIGINAL

Decision No. 41274

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of) SOUTHERN PACIFIC COMPANY and THE) WESTERN PACIFIC RAILROAD COMPANY for) an order authorizing cancellation of) certain tariff provisions covering) payment for switching carload freight) at Westwood, California.)	Application No. 28027
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Appearances

J. E. Lyons and John E. Hennessy, for applicants.
Robert C. Neill, for Fruit Growers Supply Company.

O P I N I O N

Applicants are common carriers by railroad serving Westwood. Fruit Growers Supply Company is the principal shipper and receiver of carload freight at that point. It maintains extensive industrial trackage. Applicants do not perform any switching service within the plant. Inbound cars are delivered on applicants' yard tracks. The industry switches them to the desired plant locations. Outbound cars are switched by the industry to its wye track directly connecting the plant facilities with applicants' main line tracks. The east leg of the wye is used in delivering cars to Southern Pacific; the west leg is used in delivering them to Western Pacific. Tariffs on file with the Commission provide that applicants will pay Fruit Growers \$1.50 per car on logs and \$2.70 per car on other freight for switching carloads between the industry's hold, loading or unloading tracks and applicants' main line tracks.¹ Applicants seek authority to cancel these provisions.

¹ The tariff items setting forth these provisions are Nos. 5 and 10 of Southern Pacific Company's Local Freight Tariff No. 1425-A, C.R.C. No. 3744 and 804-C of Western Pacific Railroad Company's Terminal Tariff G.F.D. No. 35-J, C.R.C. No. 245.

A public hearing was had at San Francisco before Examiner Mulgrew.

The transportation involved consists almost entirely of logs inbound and lumber and lumber products outbound. The movement of logs is intrastate exclusively. It is handled by Western Pacific. Outbound shipments of lumber and lumber products move in intrastate and interstate commerce and are handled by both applicants. Shipments to California points via Western Pacific are transported over intrastate routes; those via Southern Pacific are, with few exceptions, transported over interstate routes.²

The industrial trackage includes rails which are too light, curves which are too sharp and clearances which are inadequate for safe switching operations with applicants' locomotives. In connection with the forwarding of fully loaded cars, plant operations involving other cars in various stages of loading require that partly loaded and empty cars be moved and replaced. On an average, 50 carloads of logs a day are handled. The platform used for unloading the log shipments will accommodate only 7 cars at one time. This requires further switching and adds to the difficulties already enumerated.

The industry and the carriers agree that it is impracticable to use existing industrial trackage, other than the wye track described at the outset of this opinion, for the interchange of loaded and empty cars. In these circumstances, applicants do not and cannot provide switching service from and to industrial plant locations such as is ordinarily provided under carload line-haul

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In Ex Parte No. 104, Practices of Carriers Affecting Operating Revenues or Expenses - Part II, Terminal Services and in Investigation and Suspension Docket No. 5335, Terminal Allowances at Westwood (263 I.C.C. 483), the Interstate Commerce Commission held that the same allowances as those here under consideration were unlawful on interstate traffic and tariff provisions covering the interstate allowances accordingly were cancelled.

rates. By reconstruction of certain of its trackage so as to permit safe operations with applicants' locomotives, the industry could make suitable interchange tracks available within its plant. The construction and maintenance of industrial trackage is not a carrier responsibility. However, applicants join with the industry in the view that if cars were interchanged on suitable plant facility tracks it would be cheaper for applicants to pay the present allowances than to switch the cars.

Fruit Growers contends that under the present arrangements applicants are relieved of their ordinary switching obligations in connection with line-haul traffic, that the allowances are not in excess of reasonable sums for the services performed, and that there is no impropriety involved in the practices now being followed.

It is clear that the condition of the industrial trackage and other circumstances surrounding operations within the industry's plant prevent applicants from operating over its tracks. In such circumstances, applicants have no obligation to provide switching service to points beyond the present interchange points. Their full obligations under the line-haul rates being thus discharged, applicants may not properly continue to pay allowances for any additional service which they might be obligated to provide under different circumstances.

Upon consideration of all the facts and circumstances of record we are of the opinion and hereby find that the proposed cancellation of the allowances involved in this proceeding has been justified. The application will be granted.

O R D E R

Based upon the evidence of record and upon the conclusions and findings set forth in the preceding opinion,

IT IS HEREBY ORDERED that Southern Pacific Company and The Western Pacific Railroad Company be and they are hereby authorized and directed to cancel, within sixty (60) days from the date of this order, the switching allowances provided in Items 5 and 10 of Southern Pacific Company's Local Freight Tariff No. 1425-A, C.R.C. No. 3744, and in Item 804-C of The Western Pacific Railroad Company's Terminal Tariff G.F.D. No. 35-J, C.R.C. No. 245.

This order shall become effective twenty (20) days from the date hereof.

Dated at San Francisco, California, this 2nd day of March, 1948.

P. J. [Signature]
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Commissioners