

Decision No. 59184**ORIGINAL**

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation  
and Suspension by the Commission on  
its own motion of increased rates  
published in Pacific Southcoast  
Freight Bureau, Agent, Tariff No. 300,  
M. A. Nelson, Tariff Publishing Officer,  
for the transportation of acid  
from Dominguez to Seal Beach.

Case No. 6296

Charles W. Burkett, Jr., for Pacific Electric  
Railway Company and Pacific Southcoast Freight  
Bureau, respondents.  
Geoffrey B. Fink, for The Dow Chemical Co.,  
protestant.

O P I N I O N

By Decision No. 58240, dated April 7, 1959, in Application No. 40825, the Commission authorized Pacific Electric Railway Company and Pacific Southcoast Freight Bureau to establish certain increased rates to reflect the longer operational distances resulting from the recent abandonment of approximately three miles of railroad line within the City of Long Beach between the stations of East Long Beach and Seal Beach. The authority was predicated upon applicants' representation that a study of the traffic moved during 1957 and the first eight months of 1958 disclosed that the only traffic which would have been affected was eight carloads of plaster and plasterboard. The increased rates were published by the applicants to become effective July 3, 1959.

Upon representations of The Dow Chemical Company that it frequently shipped acid in tank cars from Dominguez to Seal Beach and that the increased rates would adversely affect it, the Commission,

by order dated June 30, 1959, suspended the increased rate on acid until October 30, 1959.

Public hearing was held on September 16, 1959, at San Francisco before Examiner William E. Turpen.

The record shows that approximately five cars of sulphuric acid move per month from Dominguez to Seal Beach, each car containing about 105,000 pounds of acid; that prior to July 23, 1958, when the line between East Long Beach and Seal Beach was abandoned, the rail distance was 11 miles and since that date has been 42 miles; and that the prior rate was 6 cents per 100 pounds and the increased rate under suspension is 8½ cents per 100 pounds.

An assistant freight traffic manager of Southern Pacific Company testified on behalf of respondents. He stated that in preparing Application No. 40825, supra, the traffic check failed to show the sulphuric acid movements. He further stated that increases were sought only to the levels of the highest rated intermediate points on the new route so as to avoid long and short haul violations.

The assistant to the manager of Southern Pacific Company's Bureau of Transportation Research testified as to the operations involved in transporting the tank cars of acid from Dominguez to Seal Beach and introduced into evidence studies he had made of the out-of-pocket costs of transporting acid from Dominguez to Seal Beach.<sup>1/</sup> The costs were developed from data secured of operations studied in a seven-day period in July 1959, and known cost factors.

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<sup>1/</sup> "Out-of-pocket costs" were defined by the witness as those costs which vary with changes in traffic handled.

Some of the data were developed from records covering a six-month period. These studies show the estimated out-of-pocket cost for the average tank car load of 105,715 pounds of sulphuric acid from Dominguez to Seal Beach to be \$124.68. The studies also show the revenue for that load, under the suspended rate of  $8\frac{1}{2}$  cents per 100 pounds, to amount to \$39.86, and under the prior rate of 6 cents per 100 pounds, amounting to \$53.43.

The traffic manager of the Western Division of The Dow Chemical Company testified in opposition to the increased rate. He stated that the sulphuric acid is used at his company's plant at Seal Beach in the manufacture of iodine. According to the witness, the price of iodine has been driven down by imported iodine and at the same time production costs have risen. The traffic manager's position is that an increase in the rate due to the abandonment of part of the line is unreasonable.

The record is clear that the rate under suspension here produces revenues that are less than the out-of-pocket cost of performing the service. We have consistently held that the lower limits of the zone of reasonableness of rates are fixed by the point at which rates fail to contribute revenue above the out-of-pocket cost of performing the service. It thus follows, and we find, that the increase in the rate from 6 cents to  $8\frac{1}{2}$  cents is justified. The suspension will be vacated and the investigation discontinued.

A rate which is lower than the out-of-pocket cost places a burden on other traffic and may often actually be discriminatory against other shippers. Respondents should re-examine the rate involved in this proceeding, and other rates involved in the area

affected by the abandonment of the rail line between East Long Beach and Seal Beach, with a view towards correcting any unreasonableness found to exist.

O R D E R

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

IT IS ORDERED that the Order of Suspension in Case No. 6296, dated June 30, 1959, be and it is hereby vacated and set aside, and that Case No. 6296 be and it is hereby discontinued.

This order shall become effective twenty days after the date hereof.

Dated at San Francisco, California, this 20th day of October, 1959.

[Signature] President  
[Signature]  
[Signature]  
[Signature]  
Theodore Deussen Commissioners

Commissioner Everett C. McKee, being necessarily absent, did not participate in the disposition of this proceeding.