

ORIGINAL

Decision No. 69250

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Petition of)
THE RIVER LINES, INC.)

for suspension of certain rates)
contained in Local Pipeline Tariff)
No. 6-B of Southern Pacific Pipe)
Lines, Inc., a wholly-owned subsi-)
diary of Southern Pacific Company.)

(I&S) Case No. 8191

ORDER OF INVESTIGATION AND SUSPENSION

By petition filed June 1, 1965, The River Lines, Inc., seeks suspension and investigation of rates of 6½ and 8½ cents per barrel of 42 gallons, minimum tender 5,000 barrels, filed by Southern Pacific Pipe Lines, Inc., to become effective June 17, 1965. The rates would apply for the transportation of petroleum products in bulk from Richmond and Concord, in Contra Costa County, to Southern Pacific Pipe Lines' terminals at Stockton and Bradshaw Road, the latter point located on the outskirts of the City of Sacramento.

Petitioner is engaged in the transportation of petroleum products in bulk by barge on San Francisco Bay and the Sacramento and San Joaquin Rivers and their tributaries as a common carrier under tariffs on file with this Commission. Southern Pacific Pipe Lines, Inc., is a corporation operating in California under the jurisdiction of the Commission for the transportation of petroleum products in bulk by pipe line under tariffs also on file with the Commission.

According to the petition respondent's initial rates to Stockton and Sacramento of 8.5 cents and 10.5 cents, respectively,

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These rates are set forth in Southern Pacific Pipe Lines, Inc., Local Pipe Line Tariff 6-B, Cal.P.U.C. 18. Current rates of 8½ and 10½ cents to Stockton and Bradshaw Road are published in Southern Pacific Pipe Lines, Inc., Local Pipe Line Tariff 6-A, Cal.P.U.C. 8.

were found to be reasonable by the Commission in Decision No. 66695. Petitioner recites, that the above decision was upheld by the California Supreme Court on January 21, 1965. The new and reduced rates herein sought to be suspended were issued and filed by respondent Pipe Lines less than four months after the Commission's order upholding the prior rates became final. The petition alleges that, under respondent's initial rates, more than 35 percent or about 3,500,000 barrels per year, of petitioner's bulk oil business was diverted from petitioner to respondent Pipe Lines and that, from the time that respondent's initial rates were issued, respondent has actively sought to capture petitioner's bulk oil business and succeeded in capturing a substantial portion thereof.

Petitioner avers that the present reduction represents a predatory effort to take away what remains of petitioner's bulk oil business by means of a rate war and is intended to and will result, if permitted to stand, in the complete and final elimination of respondent's principal competitor. The predatory nature of the reduced rates, it is asserted, is established by the fact that the rates are below the level of fully distributed costs as computed by respondent itself. These costs, the petition recites, as shown in Decision No. 66695 (at p. 23) are as follows:

Richmond to Stockton	9¢ per barrel
Richmond to Bradshaw Road	10.9¢ per barrel

Petitioner states that to its knowledge, respondent has not reduced its rates to points other than those served directly or indirectly by petitioner, and the reduced rates herein are wholly disproportionate to the rates to other points served by respondent.

Petitioner further alleges that respondent's reduced rates:

- (1) are unjust and unreasonable in violation of Section 451 of the Public Utilities Code;
- (2) are less than the charges of competing carriers and not justified by transportation conditions in violation of Section 452 of the Code;

- (3) are lower than a reasonable or sufficient rate and not justified by actual competitive transportation rates of competing carriers, in violation of Section 731 of the Code;
- (4) are insufficient, unlawful, unjust, unreasonable, discriminatory and preferential in violation of Section 728 of the Code; and
- (5) are contrary to the policy of the State as set forth in Section 727 of the Code.

Petitioner also alleges that respondent's Tariff No. 6-B fails to conform and comply with Section 487 of said Code in that it fails to state separately all terminal charges and storage charges assessed by respondent with respect to bulk oil transported through its pipeline.

According to the petition, the bulk oil traffic handled by petitioner to Stockton and Sacramento represents 75 percent of its total petroleum business and 54 percent of its total business. If the reduced rates are permitted to go into effect, petitioner expects rapidly to lose most of its remaining bulk oil business and, without a substantial quantity of bulk oil traffic, it will not be able to continue in business. Petitioner further states an order by the Commission forthwith suspending these rates and initiating an investigation is essential if waterborne transportation on the Sacramento and San Joaquin Rivers is to survive.

Petitioner prays that the Commission:

- (1) enter upon a hearing concerning the propriety of said Tariff No. 6-B of respondent Pipe Lines pursuant to Section 455 of said Code;
- (2) pending the hearing and decision, suspend said reduced rates for the maximum period permitted by said Section 455;
- (3) following the hearing, find said reduced rates to be in violation of Sections 451, 452, 727, 728 and 731 of said Code;
- (4) following the hearing, (a) determine and fix just, reasonable and sufficient rates to be thereafter observed by respondent Pipe Lines pursuant to Section 728 of said Code, (b) establish new rates pursuant to Section 729 of said Code, (c) prescribe such uniform rates as may be necessary for the preservation of adequate service and as the public interest may demand to be charged, collected and observed by respondent Pipe Lines and petitioner between the points involved pursuant to Section 730

of said Code, (d) prescribe such rates as will provide an equality of transportation rates between respondent Pipe Lines and petitioner pursuant to Section 731 of said Code, and (e) fix minimum rates applicable to respondent Pipe Lines and petitioner pursuant to Section 726 of said Code;

(5) grant petitioner such other relief as may be just.

A reply was also filed by Southern Pacific Pipe Lines, Inc., (SPPL). According to the reply, the reduced rates are urgently impelled by proprietary pipeline competition; will produce substantial additional traffic for SPPL; and will yield a substantial increase in SPPL's net revenues from refined petroleum products business transported to Stockton and Bradshaw, Sacramento County, because of the lesser unit costs incurred in handling the greater volumes.

Further, SPPL asserts that the transportation cost advantages which Standard Oil Company of California and Shell Oil Company will achieve through their completed and planned proprietary systems will inevitably result in encouragement of other proprietary lines, with consequent total loss of traffic for all time to all of the public carriers.

The reply alleges that, because of the economics of the pipeline industry, SPPL's ability to reduce rates and operate profitably depends upon additional volumes of traffic. SPPL reached the conclusion that a reduction in the present rate levels to Stockton and Bradshaw of two cents per barrel would gain a more-than-offsetting amount of new business and its net revenues would, in the overall, be increased, thus improving its own profits

and at the same time materially assisting its customers to meet their competition. SPPL declares that no substantial new investment is required for this additional business and the fully distributed costs for the greater volumes are well below the revenues which will be earned and that the aggregate contribution to net revenue will be greater under the reduced rates than under the old rates.

SPPL states it has received advice from Richfield, Texaco, and Wilshire of their desire to make use of SPPL service under the new rates and that these three oil companies have also furnished estimates of their regular volumes, from which SPPL is now in a position to state definitely that the business which the reduced rates will attract will unquestionably provide far more than enough volume than is required to offset the effect of the per-unit rate reductions.

The reply states the reductions were motivated not by any desire to injure River Lines as a competitor, but rather by an imperative need to protect SPPL's present and future pipeline business, and by a desire to improve its present net revenues and that the rates were reduced only after consultation with, and at the urging and insistence of, the oil companies. The reply alleges that SPPL has also reduced its rates to Chico, California, and Reno, Nevada, as part of its policy of sharing cost savings with the users of its service.

Attached to the reply as Appendices B, C, D, E and F are letters from Richfield Oil Company, Signal Oil and Gas Company, Wilshire Oil Company of California, Mobil Oil Company and Texaco, Inc., respectively, which support the reduced rates of SPPL.

SPPL requests that the rates not be suspended.

The Commission is of the opinion and finds that the effective date of the rates herein in issue should be postponed pending a hearing to determine their lawfulness.

Good cause appearing,

IT IS ORDERED that:

1. The operation of Local Pipe Line Tariff 6-B, Cal. P.U.C. 18, of Southern Pacific Pipe Lines, Inc., filed to become effective June 17, 1965, is hereby suspended and the use thereof deferred until October 15, 1965, unless otherwise ordered by the Commission, and that no change shall be made in said rates during the period of suspension or any extension thereof unless authorized by special permission of the Commission.

2. Copies of this order shall be forthwith served upon Southern Pacific Pipe Lines, Inc., and upon petitioner herein.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 15th day of June, 1965.

Fredrick B. Halaloff
President
Arthur E. Smith
George D. Hoover
Augustor
William H. Brundage
Commissioners