

ORIGINAL

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Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Protest and Request)
of KAISER INDUSTRIES CORPORATION for In-)
vestigation and Suspension of Rail)
Freight Rates Proposed on Rock Products)
from Logan, California, to Richmond,) (I & S) Case No. 8494
California, to Become Effective August 19,)
1966, in Supplement No. 37-F, Item)
3785-F, to Pacific Southcoast Freight)
Bureau Tariff No. 166H, issued by W. O.)
Gentle, Tariff Publishing Officer.)

ORDER DENYING PETITION FOR
SUSPENSION AND INVESTIGATION

By petition filed August 5, 1966, Kaiser Industries Corporation seeks suspension and investigation of a rate of 8 cents per 100 pounds, minimum weight marked capacity of car used but not less than 140,000 pounds (140,000-pound basis), for the transportation of rock and gravel by Southern Pacific Company from Granite Rock Company at Logan (near Watsonville) to Richmond. The rate is published to become effective August 19, 1966.¹

Petitioner is engaged in quarrying, mining, processing and distributing rock products. It has maintained, for more than 25 years, a large rock plant on the line of the Southern Pacific Company at Radum (near Pleasanton, Alameda County) and it has shipped extensive quantities of rock to California points including Richmond. Granite Rock Company is engaged in the production and sale of rock, sand and gravel and has maintained, since 1900, a quarry on the line

¹ The rate is set forth in Item 3785-F of Supplement 37-F to Pacific Southcoast Freight Bureau Tariff 166-H.

of the Southern Pacific Company at Logan. Southern Pacific Company is a corporation operating in California under the jurisdiction of the Commission for the transportation of property by railroad under tariffs also on file with the Commission.

Petitioner alleges that the rates on rock and gravel to Richmond from Logan and Radum have been related for many years with a differential of $4\frac{1}{2}$ cents per 100 pounds in favor of Radum on shipments based on a minimum weight of 100,000 pounds (100,000-pound basis) and that this differential has been maintained due to the geographical location of its plant at Radum with respect to the Richmond Area. Petitioner states that Southern Pacific Company, by publication of the proposed rate, is seeking to reduce the existing differential of $4\frac{1}{2}$ cents per 100 pounds (100,000-pound basis) to a differential of 3 cents per 100 pounds (140,000-pound basis).

Petitioner also compares the differential in rates between single-car 100,000-pound basis and 140,000-pound basis from both Radum and Logan to Bay Area points other than Richmond; this differential is stated as $\frac{3}{4}$ cent per 100 pounds. However, at Richmond it is $\frac{1}{2}$ cent from Radum and $1\frac{3}{4}$ cents from Logan, according to petitioner.

Petitioner avers that Southern Pacific Company has refused to maintain the historical $4\frac{1}{2}$ -cent rate differential in favor of Radum over Logan to Richmond by not granting to it reductions in the rates on rock from Radum to Richmond although a request was made by it to said rail carrier that such rate relationship be maintained. Petitioner asserts that its plant at Radum has been

discriminated against by being deprived of the historical rate relationship heretofore existing from Radum and Logan to Richmond thereby resulting in an undue preference to shippers of rock at Logan to the prejudice of itself at Radum in violation of Section 453 of the Public Utilities Code. Petitioner further asserts that the proposed rate is not justified on any of the grounds mentioned in Section 452 of the above code.

Replies were filed by M. A. Nelson, Chairman, Pacific Southcoast Freight Bureau, for and on behalf of Southern Pacific Company (respondent), and Granite Rock Company.

Respondent states that, although the rates shown in protestant's Exhibit A attached to the petition are correct insofar as presented, they are far from complete and omit the rather important fact that protestant's plant at Radum, instead of having been discriminated against as alleged, has been the recipient of more rate reductions into Richmond than the shipper at Logan. Respondent further states that both Radum and East Pleasanton were afforded reduction of $\frac{1}{2}$ cent per 100 pounds on April 23, 1959, when carriers established a rate of 5 cents per 100 pounds, minimum weight marked capacity of car, 100,000 or 140,000 pounds, but not less than 80,000 or 120,000 pounds, respectively, when car is loaded to full weight carrying capacity and that no corresponding downward adjustment was made in rates from Logan. Respondent avers that, on November 23, 1961, 5-car and 4-car rates of $4\frac{1}{2}$ and $4\frac{1}{2}$ cents per 100 pounds, respectively, were established from Radum and East Pleasanton to

Richmond, both subject to minimum weight marked capacity of car used but not less than 150,000 pounds and that no corresponding multi-car rates were established from Logan.

Respondent declares that protestant has completely disregarded the relationship of rates to Richmond and Oakland from Radum and Logan wherein protestant enjoys volume incentive rates to Richmond that are $\frac{1}{2}$ and $\frac{1}{2}$ cent per 100 pounds over the volume incentive rate to Oakland. Respondent further declares that the protested 8-cent rate from Logan to Richmond is 1 cent per 100 pounds over the corresponding rate from Logan to Oakland and $1\frac{1}{2}$ cents per 100 pounds over the multi-car rate from Logan to Oakland.

According to respondent, protestant now enjoys the same spread to Richmond over Oakland from Radum that it had in 1943 whereas the Logan spread Richmond over Oakland has increased from $\frac{1}{2}$ cent to $1\frac{1}{2}$ cents per 100 pounds. Respondent alleges that protestant has the benefit of same level of rates on rock and sand to all major Bay Area destinations whereas Logan does not enjoy this same relationship.

Respondent indicates that Supplement 1 to PSFB Proposal 3691 covering protestant's "Radum" request has never been declined and that the carriers offered protestant a reduced rate of $4\frac{3}{4}$ cents per 100 pounds (140,000-pound basis), from Radum and East Pleasanton to Richmond but were told that the offer was not satisfactory and that a petition for suspension would be filed. According to respondent, the aforementioned $4\frac{3}{4}$ cent rate was approved at the August 9 meeting of the Pacific Southcoast Freight Bureau, resulting in spread of $3\frac{1}{2}$ cents per 100 pounds Logan over Radum into Richmond. Respondent contends that this related adjustment places protestant in a more advantageous position to Richmond than it now enjoys to other Bay Area points.

Respondent asserts that per ton mile earnings should decrease as the length of the line haul increases and points out that the protested rate from Logan to Richmond produces 17 mills per ton mile for a haul of 94 miles and the corresponding approved rate from Radum to Richmond produces 20.2 mills per ton mile for a haul of but 47 miles - only half the Logan distance. Respondent avers that the rate of 3-3/4 cents per 100 pounds sought by protestant based upon a difference of 4 1/2 cents per 100 pounds would produce less per ton mile revenue for the shorter haul from Radum than produced by the 8-cent rate from Logan.

Respondent states that protestant has not attacked the compensativeness of the protested rate and that the rate involved has been published to reflect an incentive rate on rock and gravel from Logan to Richmond properly related to incentive rates now published from Radum and East Pleasanton to that point, as well as incentive rates published to other Bay Area destinations from all origins. Respondent declares that this action is in line with provisions of Section 452 of the Public Utilities Code.

Granite Rock Company (Granite) asserts that the proposed rate is designed to move large tonnages of rock and gravel in large capacity cars based upon larger loadings and that such rate is essential to its customers at Richmond as they are directly competitive with other firms in Berkeley, Oakland, San Francisco and Redwood City. Granite avers that competitive bidding by its Richmond customers on large projects such as B.A.R.T. system and the University of California campus requires competitive transportation factors. Granite states that it should be free to market its rock and gravel products in Richmond and the San Francisco Bay Area and it must be accorded realistic rail rates based upon volume of movements not essentially related to geographical locations nor rate differentials.

Respondent and Granite request that the rate not be suspended.

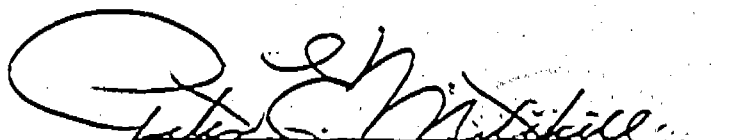
The Commission is of the opinion and finds that the rate herein in issue has not been shown to be one which should be suspended pending a hearing to determine its lawfulness. The petition for investigation and suspension will be denied without prejudice to the consideration of any complaint which may be filed concerning the reasonableness of the rate.

IT IS ORDERED that:


1. The petition of Kaiser Industries Corporation filed on August 5, 1966, in this proceeding, is hereby denied without prejudice.
2. Copies of this order shall be forthwith served upon petitioner, upon Southern Pacific Company and upon Granite Rock Company.
3. This proceeding is hereby discontinued.

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

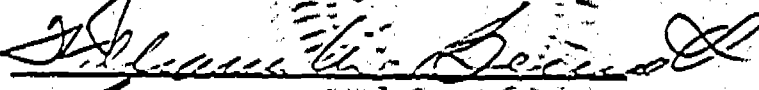
Dated at San Francisco, California, this 17th day of August, 1966.



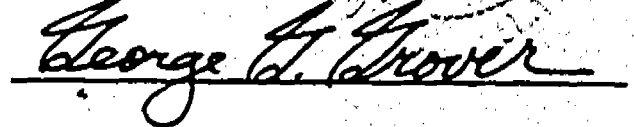
President



Augustus



William W. Beards



George A. Grover

Commissioners

Commissioner Frederick B. Holoboff, being necessarily absent, did not participate in the disposition of this proceeding.