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ORIGINAL

Decision No. 78137

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

MARKOVITS & FOX,  
a corporation,

Complainant,

vs.

SOUTHERN PACIFIC COMPANY,  
a railroad corporation,

Defendant.

Case No. 8987  
(Filed December 9, 1970)

OPINION AND ORDER

Decision No. 77797 dated October 6, 1970 in the instant proceeding defendant was ordered to remove certain discrimination set forth in findings 13, 14 and 15 of said decision. On December 9, 1970 defendant filed its "Petition for Modification of Decision, Petition to Authorize Increase in Rates and Charges to Remove Discrimination Pursuant to Commission's Order and to Stay Effective Date Thereof". The petition states that defendant will remove the discrimination set forth in finding 13 of Decision No. 77797 by increasing the rates maintained on ferrous scrap from the involved San Joaquin Valley points to Oakland, San Francisco and related destinations to the same level as rates from the same origin points to complainant at Wayne Station, California.

Defendant alleges that the proposed increase is justified by evidence presented at the hearing in this proceeding which is summarized on page 5 of Decision No. 77797 as follows:

"With respect to M&F's allegation concerning shipments moving from the San Joaquin Valley points, SP presented evidence (Exhibit 33) which shows the estimated variable cost of a car loaded at 16.6 tons from Modesto to Oakland to be \$131.25 and from

Modesto to Wayne Station to be \$136.95. Although the exhibit does not show a comparable figure from Modesto to San Francisco, said cost would be approximately the same as the cost to Oakland. The revenue derived from a car loaded to 16.6 tons from Modesto to Oakland is \$78.02 (33,200 x 235 cwt) or \$53.23 less than the variable cost. The revenue derived from a car loaded to 16.6 tons from Modesto to San Jose and Wayne Station is \$156.00 (33,200 as 40,000 x 39 cwt) or \$19.05 greater than the variable cost."

Defendant further requests that should the Commission deem it necessary to give consideration to the proposed increase that the order in Decision No. 77797 be stayed with respect to ordering paragraph 2.

The Commission finds that:

1. This is not the proper proceeding to seek authority to raise rates.
2. An application to increase rates should be filed in accordance with Article 6 of the Commission's rules of practice and procedure.
3. The time within which defendant is to comply with ordering paragraph 2 of Decision No. 77797 should be extended.

The Commission concludes that the petition should be denied except as provided in the ensuing order.

IT IS ORDERED that:

1. The time within which defendant shall comply with ordering paragraph 2 of Decision No. 77797 is hereby extended to February 28, 1971.
2. In all other respects the "Petition for Modification of Decision, Petition to Authorize Increase in Rates and Charges to

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Remove Discrimination Pursuant to Commission's Order and to Stay Effective Date Thereof" is denied.

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

Dated at San Francisco, California, this 22nd  
day DECEMBER, 1970.

J. P. [Signature]  
Chairman

[Signature]  
William J. [Signature]

[Signature]  
Commissioners