

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

BED TRANSPORTATION COMPANY, INC.,
 GRILEY FREIGHT LINES, CHESLEY
 TRANSPORTATION CO., INC., W. S.
 EMERIAN TRUCKING COMPANY, B & G
 TRUCKING, INC., TRANS-CAL FREIGHT
 WAYS, ART BAKER TRANSPORTATION
 COMPANY, JEROME H. MC LEOD TRUCKING,
 W. E. WHITE, CARL R. BUTLER, WILLIE
 SHEPARD, EDGAR STANFUL TRUCKING,
 TRUCKING UNLIMITED, C & E TRUCKING
 COMPANY, INC., OLIVER F. MILLER
 TRUCKING, LOU ROBERTSON TRUCKING,
 JOE LANE, J & L TRUCKING, SELMER
 BORNEHOLDT, DONALD M. BUNIK, JAMES
 HALL, RICHARD C. HAMILTON, FRANK
 HERNANDEZ, JOHN ROCHER, WILLIAM
 RYLAARSDAM, W. E. SMITH, GEORGE M.
 WINSTON TRUCKING COMPANY, ACME
 GENERAL CORPORATION, AMERON PIPE
 PRODUCTS, CAL-STRIP STEEL CORPORA-
 TION, WESTERN ALLIED CORPORATION,
 WESTERN AIR & REFRIGERATION, INC.,
 VALLEY CITIES SUPPLY COMPANY, MARCH
 PIPE COMPANY, J. C. FABRICATORS, INC.,
 ANGELES METAL SYSTEMS, MAGNA METALS,
 INC., ROYAL MARINE, ROYAL TRUCK
 BODIES, BELL PIPE & SUPPLY COMPANY,
 ENSCO MANUFACTURING COMPANY, INC.,
 STORAGE RACK SYSTEMS, INC., and AIR
 CONDITIONING COMPANY, INC.,

Complainants,

vs.

PACIFIC SOUTHEAST FREIGHT BUREAU,
 KAISER STEEL CORPORATION, UNITED
 STATES STEEL CORPORATION, THE ATCHISON,
 TOPEKA AND SANTA FE RAILWAY COMPANY,
 CENTRAL CALIFORNIA TRACTION COMPANY,
 HOLTON INTER-URBAN RAILWAY COMPANY,
 MC CLOUD RIVER RAILROAD COMPANY, NORTH-
 WESTERN PACIFIC RAILROAD COMPANY,
 PETALUMA and SANTA ROSA RAILROAD COM-
 PANY, SACRAMENTO NORTHERN RAILWAY, SAN
 DIEGO and ARIZONA EASTERN RAILWAY COM-
 PANY, SOUTHERN PACIFIC TRANSPORTATION
 COMPANY, STOCKTON TERMINAL and EASTERN
 RAILROAD, TIDEWATER SOUTHERN RAILWAY
 COMPANY, THE WESTERN PACIFIC RAILROAD
 COMPANY, and UNION PACIFIC RAILROAD
 COMPANY,

Defendants.

ORIGINAL

Case No. 9424
 (Filed August 15, 1972;
 Amended September 22, 1972)

ORDER OF PARTIAL DISMISSAL

By original complaint filed August 15, 1972, against Pacific Southcoast Freight Bureau, Kaiser Steel Corporation and United States Steel Corporation, BED Transportation Company, Inc., and others, assail certain reduced railroad rates on iron and steel articles filed by the Pacific Southcoast Freight Bureau, Agent, in the name of and on behalf of all carriers parties to its Freight Tariff No. 272-B, as being unjust, unreasonable, discriminatory and, therefore, unlawful.^{1/}

Each of the three defendants named in the original complaint has filed a motion to dismiss on grounds of lack of jurisdiction because none are common carriers or public utilities. Defendants, United States Steel Corporation and Kaiser Steel Corporation, also allege failure to state a cause of action.

By amendment to the complaint filed September 22, 1972, complainants included a number of public utility railroads as defendants.

On September 19, 1972, the Secretary of the Commission issued subpoenas duces tecum at the request of complainants to the Southern Pacific Transportation Company and the Union Pacific Railroad Company (participating carriers in Freight Tariff 272-B) and to the two defendant steel companies, commanding them to produce certain transportation documents at depositions to be held in San Francisco prior to the hearing scheduled for October 11, 1972, in Los Angeles and also at the hearing. Subsequently, the defendant steel companies requested that a ruling be made on their motions to dismiss prior to October 5 and 6, the dates they are scheduled to appear for deposition. On September 26, 1972 the defendant steel companies filed motions asking the Commission to restrain and enjoin complainant from engaging in prehearing discovery until their motions to dismiss are decided.

^{1/} The specific commodity descriptions and rates are contained in Supplement 36 to Freight Tariff 272-B, Section 4-A, Items 8500, 8600, 8625 and 8650, applicable between points in California, effective July 26, 1972.

The defendant steel companies are not common carriers or public utilities, and the complaint does not state a cause of action against them before this Commission. Their motions to dismiss should be granted. Their motions for an order to restrain and enjoin complainants from engaging in prehearing discovery or depositions should be denied (see Section 1794 of the Public Utilities Code).

The motion to dismiss filed on behalf of Pacific Southcoast Freight Bureau should be denied. It is not clear on the face of the complaint that this defendant is not subject to the Commission's jurisdiction.

Therefore, good cause appearing,

IT IS ORDERED that:

1. The motion of Pacific Southcoast Freight Bureau to dismiss, filed August 31, 1972, is denied.
2. The above-numbered complaint be, and it hereby is, dismissed as to defendants, United States Steel Corporation and Kaiser Steel Corporation.
3. The motions of defendants United States Steel Corporation and Kaiser Steel Corporation for an order to restrain and enjoin complainants from engaging in prehearing discovery or depositions is denied.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 22nd
day of OCTOBER, 1972.

Yvonne L. Stenger
President
William Symons Jr.

Alvin J. [Signature]
[Signature]
Commissioners

Commissioner J. P. Vukasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.