

ORIGINAL

Decision No. 88788 MAY 2 1978

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

PACIFIC READY-MIX, INC.,

Complainant,

v.

SOUTHERN PACIFIC TRANSPORTATION COMPANY, a railroad corporation, and PACIFIC SOUTHCOST FREIGHT BUREAU, the publishing agent for said railroad corporation,

Defendants.

Case No. 10316
(Filed April 22, 1977)

RHODES-JAMESON, a California corporation,

Complainant,

v.

SOUTHERN PACIFIC TRANSPORTATION COMPANY, a railroad corporation, and PACIFIC SOUTHCOST FREIGHT BUREAU, the publishing agent for said railroad corporation,

Defendants.

Case No. 10343
(Filed June 1, 1977)

Ray Greene, Attorney at Law, for Pacific Ready-Mix, Inc; and John F. Buono, Jr., Attorney at Law, for Rhodes-Jamieson; complainants.

John MacDonald Smith, Attorney at Law, for Southern Pacific Transportation Company, defendant.

Michael J. Stecher, Attorney at Law, for Granite Rock Company, interested party.

O P I N I O N

By their complaints, Pacific Ready-Mix, Inc. (Pacific) and Rhodes Jamieson (R-J) allege that a rate of \$1.92 per ton for shipments, in 10-car lots, of rock, sand, and gravel ("aggregates") from Logan, (near Watsonville) to Redwood City, which was established by Southern Pacific Transportation Company (SP) on March 15, 1977, is preferential to Granite Rock Company (Granite) and discriminatory as to themselves in violation of the Public Utilities Code. Complainants request that the rate be found preferential and discriminatory and that they be awarded reparations to compensate for damages sustained.

Public hearing was held before Administrative Law Judge Daly in San Francisco and the matter was submitted on December 7, 1977, upon the receipt of concurrent briefs, which were filed on February 16, 1978.

The record discloses that in March 1977, SP published new rates for the rail transportation of aggregates from East Pleasanton and Logan to San Francisco peninsula points between San Francisco and San Jose. All of the rates constituted an increase with the exception of the 10-car rail rate from Logan to Redwood City, which was reduced from \$1.96 per ton to \$1.92. Granite is the only shipper of aggregates at Logan and the only receiver of aggregates at Redwood City.

Pacific is engaged in the sale of ready-mix concrete and building materials and has plants located in San Mateo, San Carlos, Redwood City, Palo Alto, Mountain View, San Jose, Concord, Sacramento, and Roseville. The plant involved in this proceeding is located at San Carlos, four miles north of Redwood City. The newly published rates of SP increased the 10-car rate on shipments of aggregates moving from Logan to San Carlos from \$2.74 to \$3.00 (the single-car rate was increased from \$2.92 to \$3.19). Pacific contends that the \$1.92 rate to Granite provides an unfair business advantage to Cap Concrete (Cap), a competitor of Pacific, which leases four acres of Granite's Redwood City property and pursuant to the terms of the lease is required to

purchase 50 percent of its aggregates from Granite, as long as Granite remains competitive. According to Pacific, the rate reduction was specifically geared and designed to benefit Cap to the competitive disadvantage of ready-mix producers on the peninsula, particularly those located north of Redwood City.

R-J ships aggregates from East Pleasanton to peninsula points including Redwood City and is actively competitive with Granite. The distance from East Pleasanton to Redwood City is 31 miles, and from Logan to Redwood City is 64 miles. The new 10-car rate of \$1.92 per ton from Logan to Redwood City is identical to the rate for shipments of aggregates from East Pleasanton to Redwood City. According to R-J, the identical rates places it in a competitive disadvantage with Granite, particularly because of the low-shrink characteristics of the Granite aggregates, which makes it more desirable in certain instances for concrete producers, as it allows them to use less cement to obtain the same strength. Although no such aggregate is produced in any of the East Bay quarries, a comparable "low-shrink" aggregate is produced by Kaiser Cement Company at its Mountain View plant.

According to SP the 10-car rate of \$1.92 from Logan to Redwood City was based upon a request of Granite, and is subject to several special conditions which restrict the amount of service which the railroad provides. The reduced rate assertedly was published for the purpose of gaining additional rail tonnage at the expense of truck transportation from off-rail gravel pits in the Niles-Centerville area and from the Kaiser Cement Company plant at Mountain View. SP claims that rate reductions were not feasible from the on-rail gravel pits in the East Pleasanton area to meet truck competition because the East Pleasanton rail rates were already on a very depressed level. The reduced rate, SP believes, was successful. During the seven-month period following publication of the \$1.92 10-car rate in 1977, SP generated 40,000 tons of new rail business. All of this new

business was diverted from the Mountain View plant of Kaiser Cement Company. No new business was generated from the East Bay quarries which are basically served by truck.

The \$1.92 rate applies only on shipments of one unit consisting of ten or more cars shipped on one calendar day from one consignor on one track at one location at origin on one bill of lading to one consignee at one destination on one track at one location at that destination; the cars must be tendered coupled together as a single unit and no additional switching at either origin or destination is provided by SP. The effect is to shift a large portion of the terminal expense, which would ordinarily be provided by SP, to Granite.

Granite, which is engaged in mining, processing, and shipping rock and sand, and is in the production and shipping of ready-mix and asphaltic concrete, has been supplying a portion of the rock need for San Francisco peninsula from its rock quarry and processing plant at Logan for many years. Its Redwood City plant is located on a 40-acre piece of property and is actively competitive with truck-served sand pits and rock quarries. Because of the company's transportation policy of rail orientation, Granite, upon the advice of a transportation specialist, made capital expenditures in excess of one million dollars at its Redwood City and Logan facilities to reduce the overall cost to the railroad in moving traffic from Logan to Redwood City. Improvements at Logan included changing Granite's track configuration; putting in nine connections with SP's main line; improving the efficiency of weighing; reconditioning the switch engine to expedite the movement of the cars; and increasing washing and loading capacities. At the Redwood City plant the track facility was increased and larger belts were installed. The effect of the improvements has enabled Granite to accommodate a train in excess of 22 cars at its Logan and Redwood City plants. In further pursuance of a recommendation by the transportation specialist, Granite purchased its own rail cars and is able to avail itself of a special 22-car rail rate published by SP.

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Although SP applies the same \$1.92 10-car rate from East Pleasanton to Redwood City as well as from the further distant Logan to Redwood City, it contends that the best yardstick to measure differences in transportation conditions is the comparative difference in the cost of providing the service. Following a comprehensive study of the actual conditions under which the compared movements take place and employing a new profit measurement system to ascertain the costs in the San Francisco Bay Area, a representative of SP testified that the adjusted variable costs from Logan to Redwood City were \$180 per car, whereas the costs from East Pleasanton to Redwood City were \$311 per car.

Because Granite performs essentially every function of loading, weighing, switching, preparation of document, blocking, and cleaning at both the Logan and Redwood City terminals, all the SP crew has to do is pick up and deliver the cars as they would a unit train. The entire operation, including the turnaround at Redwood City, requires a single crew and is completed in one day. By comparison the East Bay train must serve four shippers of aggregates. Cars are taken out of the individual shipper's facilities and taken to a scale for weighing. They are then blocked, classified, and taken to Shinn station, which is located 14 miles from East Pleasanton. This phase of the operation requires the service of a crew for an entire shift. The cars are picked up in the evening by another train crew and delivered to the Bayshore station. They are then placed on holding tracks from whence they are delivered to peninsula points by two locals.

R-J contends that it should not be required to subsidize its competitor and SP because of an inefficient rail operation between East Pleasanton and Redwood City. The record indicates that R-J makes very few rail shipments from the East Bay because it owns and operates 25 tractors and trailers. It relies upon its own equipment to make whatever deliveries are necessary to peninsula points. Approximately 95 percent of its business is F.O.B. its plant in East Pleasanton.

SP claims that the reason for terminating the \$1.92 10-car rate to the north of Redwood City was because no company north of there has the facilities to accommodate 10-rail cars and because that is the point where its 22-car rail rate terminates. Pacific admits that its present facilities at San Carlos cannot accommodate 10-rail cars and claims that it would cost approximately \$60,000 to provide such facilities. Pacific contends, however, that Laurie Paving in South San Francisco, as well as Rhodes-Jamieson, Kaiser Sand & Gravel, and Lone Star Industries, all of which are in San Francisco, are all capable of handling the unloading of ten or more rail cars.

After consideration the Commission finds that:

1. In March 1977 SP published new rates for the rail transportation of aggregates from East Pleasanton and Logan to points on the San Francisco peninsula. Included among the published rates was a 10-car rate of \$1.92 per ton from East Pleasanton and Logan to Redwood City. East Pleasanton is approximately 30 miles closer to Redwood City than Logan. As of the same date SP published a 10-car rate of \$3.00 per ton for shipments of aggregate moving from Logan to San Carlos.

2. Pacific is engaged in the sale of ready-mix concrete with plants located at various San Francisco peninsula points. Although it has no plant in Redwood City, it does operate an on-rail plant at San Carlos which is approximately four miles north of Redwood City.

3. R-J produces and ships aggregates from its facilities in East Pleasanton to points in the San Francisco peninsula including Redwood City.

4. The primary source of aggregates for cement companies located in the San Francisco peninsula is from quarries located in the East Bay area. Either because of lower rates or because they are located off-rails, said quarries in the main use for-hire carriers, or proprietary equipment, to effect deliveries.

5. Granite, which is a rail oriented company, is the only shipper of aggregates from Logan and the only receiver of aggregates at Redwood City. To meet the competition of the closer situated East Bay quarries, Granite expended approximately one million dollars on improvements of its quarry at Logan and its plant at Redwood City. The result of the improvements has enabled Granite to accommodate as many as 50-rail cars at both terminals and also to substantially reduce many of the services previously performed by SP, including the switching, weighing, blocking, classifying, and documentation of rail cars. Utilizing the services of one crew SP is able to provide service between Logan and Redwood City in a single day.

6. SP serves four shippers of aggregates in the East Bay on a daily basis. The services of a single crew are required for a full day to transport rail cars from the facilities of these shippers to SP's Shinn station a distance of 14 miles. Most of the crew's time is spent in switching, weighing, blocking, and classifying the rail cars. In the evening the cars are picked up and delivered to Bayshore station where they are placed on a holding track pending delivery by two locals the following day.

7. In addition to its own cars, SP also transports a number of cars that are owned by Granite. Excluding the privately owned cars, the average cost to SP for transporting a single car from Logan to Redwood City is \$180 as compared to \$311 for transporting a single car from East Pleasanton to Redwood City.

8. Because of the economies achieved by Granite, SP was able to publish a lower 10-car rail rate from Logan to Redwood City. The lower rate has enabled Granite to more effectively compete with closer situated quarries and has generated new rail business for SP by diverting traffic from its truck competitors.

9. Because Granite produces a low-shrink aggregate, which is becoming more widely used due to the fact that it possesses a hard quality and requires less cement in mixing, the bulk of the new business generated by SP has been diverted from the Kaiser Cement Company's plant at Mountain View, which also produces a low-shrink aggregate.

10. Although Pacific does not have facilities to accommodate 10 cars at its San Carlos plant, there are four companies in the San Francisco - South San Francisco area that have such facilities.

The Commission concludes that the \$1.92 10-car rate published by SP from Logan to Redwood City is reasonable and because of existing transportation conditions does not discriminate as to R-J or Pacific. (San Diego Unified Port District (1964) 62 CPUC 663 and Atchison, Topeka & Santa Fe Rail., et al. (1940) 43 CRC 25.)

The improvements made by Granite have resulted in economies that have substantially reduced SP's cost of operation from Logan to Redwood City as opposed to its cost of operation from East Pleasanton to Redwood City. R-J's use of rail service has been minimal; because of its F.O.B plant policy, it relies primarily on its own equipment to effect whatever deliveries are necessary to San Francisco peninsula points.

Insofar as Pacific is concerned, it does not have the facilities at its San Carlos plant to accommodate 10 cars at the same time and apparently is unwilling to spend the money necessary to expand its facilities. A lower 10-car rate reflecting the economies of the Logan operation should be made available by SP to points north of Redwood City to companies that can presently, or may in the future, accommodate 10 cars.

The Commission further concludes that Pacific and R-J have failed to demonstrate that they have suffered any damages as a result of the \$1.92 10-car rate and their requests for reparation should be denied.

O R D E R

IT IS ORDERED that:

1. Within sixty days after the effective date hereof and on not less than ten days notice to the Commission and to the public Southern Pacific Transportation Company shall amend its tariffs presently on file with this Commission by publishing a 10-car rate for shipments of aggregates moving from Logan to points north of Redwood City to and including San Francisco, reflecting the reduced cost of its operations resulting from facility improvements made by Granite Rock Company at its Logan property.

2. In all other respects the relief requested in Cases Nos. 10316 and 10343 is hereby denied.

The effective date of this order shall be thirty days after the date hereof.

Dated at San Francisco, California, this 2nd day of MAY, 1978.

Robert Bateman
President
William S. Agnew Jr.
Leon L. Sturgen
Philip P. Gervelle
Clair D. Deitch
Commissioners