

Decision No. 15052

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

Lassen Lumber & Box Company,
Complainant.

vs.

Southern Pacific Company,
Defendant.

CASE NO. 2060

ORIGINAL

Red River Lumber Company,
Complainant.

vs.

Southern Pacific Company,
Defendant.

CASE NO. 2077

A. Larsson, for Complainants
F.W.Mielke, C.N.Bell, and L.B.Young, for Defendant.

BY THE COMMISSION:

O P I N I O N

These cases being related were, by agreement, consolidated and heard at the same time and will be disposed of in one report.

The complainants, Lassen Lumber & Box Company (Case 2060) and Red River Lumber Company (Case 2077), are corporations engaged in the manufacture and sale of lumber and its products.

In complaint No. 2060, filed October 30, 1924, it is alleged that the rates assessed for the transportation of lumber and lumber products during the years 1922 and 1923 from Susanville

to Facht, Juniper, Peg Leg, Lasco and New Campsite, were unjust, unreasonable, discriminatory and in violation of Sections 13 and 19 of the Public Utilities Act.

The complaint in Case No.2077, filed December 4,1924, and amended at the hearing, alleges that the rate assessed for the transportation of lumber and lumber products moved during the years 1922, 1923 and 1924 from Westwood to Susanville, Leavitt, Litchfield and intermediate points, was unjust, unreasonable, discriminatory and in violation of Sections 13 and 19 of the Public Utilities Act.

We are requested to prescribe reasonable rates for the future and to award reparation.

A public hearing was held before Examiner Geary February 27,1925 and the cases having been duly submitted are now ready for an opinion and order.

Rates will be stated in cents per 100 pounds.

The points involved in this proceeding are located on the Fernley Branch of defendant's Salt Lake Division, extending from Fernley to Westwood, a distance of 135 miles. The distance from Susanville to Lasco is 20 miles and to Facht 25 miles. From Westwood the distance to Facht is 5 miles; to Susanville 29 miles; to Leavitt 36 miles and to Litchfield 44 miles. The station Lasco has from time to time been known as Juniper, Peg Leg and New Campsite and as the official name is now Lasco reference will severally be made to the latter point only.

Prior to July 1, 1922 complainants forwarded 6 carloads of lumber from Susanville to Facht. The balance of the shipments moved subsequent to that date from Susanville to Lasco and Facht (Case 2060). From Westwood to Susanville, Leavitt and Litchfield all shipments moved subsequent to July 1, 1922 (Case 2077). The

record does not disclose whether the complainants made shipments from Westwood to points intermediate to Litchfield other than to Susanville and Leavitt. The applicable rate from Susanville to Facht prior to July 1, 1922 was the Class B rate of 17½ cents. Subsequent to that date the lawful rate from Susanville to Facht and Lasco was the Class B rate of 16 cents, and from Westwood to Susanville, Leavitt and Litchfield a commodity rate of 14 cents. These rates were subject to a carload minimum weight of 30000 pounds. An examination of defendant's Tariff C.R.C. No. 2848, and prior issues, indicates that during the period shipments moved from Westwood to Susanville, Leavitt and Litchfield there were concurrently in effect in the intermediate territory, on lumber and its products, minimum carload weight 30000 pounds, rates of 7 cents and 11½ cents from Westwood to Facht, 5 miles, and to Westwood Junction, 11 miles, respectively. Defendant also maintains in its Tariff C.R.C. No. 2848 rates on rough lumber of 7 cents from Susanville to Facht, 25 miles, minimum carload weight 80000 pounds, except when loaded to full capacity, when actual weight would apply, and rate of 6 cents from Westwood to Susanville, 29 miles, minimum weight 80000 pounds, except when loaded to full capacity, actual weight, but not less than 60000 pounds. The 7 cent rate from Susanville to Facht, 25 miles, was established November 7, 1922, and the 6 cent rate from Westwood to Susanville, 29 miles, became effective May 20, 1923.

Complainants compare the rates assailed with rates maintained by defendant in the Weed and Klamath Falls districts and in the territory contiguous to Truckee, Boca and Colfax; also in the territory adjacent to Blinzig, Merlin and Keddie on the Western Pacific Railroad.

Complainants lay stress on the rate of 14 cents contemporaneously in effect in defendant's C.R.C. No.2848 from Westwood to Sacramento, a distance of 323 miles, as compared with rates assessed by defendant.

In Case No.1951, Los Angeles Lumber Products Company vs. Southern Pacific Company, the Commission said, in reviewing the lumber rates in Northern California:

"These lumber rates were established in the first instance and have been changed from time to time over this period of thirty years to meet the varying conditions created by reason of the grouped and contiguous location of the producing mills, competition of the carriers by water and the contest between defendants, Southern Pacific Company and Western Pacific, for the lumber tonnage to California consuming points, all of these elements being strong factors in the making of the rates. * * * * * The Westwood-Sacramento rate of 10 cents in 1913 (now 14 cents) blankets from Newcastle, a point 31 miles east of Sacramento, or for 292 miles. * * * * * Much of complainant's testimony was grounded on a proposed mileage scale of rates measured, in part, by the adjustment now in effect from Westwood to Sacramento, 323 miles, but apparently without sufficient regard for the blanketed area, of which such rate is only a part, and of the circumstances and conditions under which it was established." (underscoring ours).

Manifestly the conditions which measured the volume of the 14 cent rate from Westwood to Sacramento have not been in the past, nor are they now, applicable to the assailed rates.

Defendant alleges that the lumber rates shown in complainants' exhibits are on an unusually low basis, were put into effect some years ago to assist in the development of the lumber industry, and that this basis was predicated on the heavy volume of traffic and the assumption that defendants would receive a subsequent haul.

Defendant also maintains that the cost of operations for the branch lines of its Salt Lake Division is 235 per cent greater than the cost of operation on the main line of the same Division. No segregation was made for the Fernley Branch alone. They also point out that the territory between Susanville and Westwood is undulating and for every mile of track there is .50 of a mile of curve. From the testimony it was shown that from Westwood to Westwood Junction, a distance of 11.2 miles, the haul is generally on an upgrade of one per cent or over, with a maximum of 2.29 per cent; from Susanville to Westwood Junction, a distance of 18 miles, the maximum upgrade is 1.73. Thus, on eastbound traffic the grades mainly favor the haul, while on westbound traffic the opposite is true. The testimony indicates no helper service is now required on either eastbound or westbound traffic.

Exhibits were presented by defendant comparing the applicable rates with commodity rates on lumber and other commodities, such as beans, peas, canned goods, machinery, etc. between selected California points for comparable distances. Defendant's exhibits of the commodities other than lumber are of little probative value, as no attempt was made to show what relationship such commodities bear to lumber.

Upon consideration of all of the facts of record, we are of the opinion and find that the rates on lumber and its products from Susanville to Lasco and Yacht, and from Westwood to Susanville, Leavitt and Litchfield, were, subsequent to July 1, 1922, and in the future will be, unreasonable to the

extent that they have exceeded, or may exceed, the following rates. in cents per 100 pounds, minimum carload weight 30000 pounds:

FROM	TO	RATE
Susanville	Lasco	7
Susanville	Facht	8
Westwood	Susanville	9
Westwood	Leavitt	11
Westwood	Litchfield	13

Upon the present record we do not find that the rates assailed were discriminatory, or that the rates assessed for the transportation of complainants' shipments moving from Susanville to Facht prior to July 1, 1922 were unjust, unreasonable, discriminatory or in violation of the provisions of the Public Utilities Act.

We further find that complainants paid and bore the charges on certain shipments moving subsequent to July 1, 1922; that they have been damaged to the amount of the difference between the charges paid and those herein found reasonable and are entitled to reparation, with interest, on such shipments coming within the purview of Section 71(b) of the Public Utilities Act. The statute of limitation was stayed against these claims by informal actions, in Case No. 2060, our file I.C. 30148, dated May 1, 1924, and in Case No. 2077, our file I.C. 30702, dated June 30, 1924 and I.C. 31027, August 19, 1924. The complainants should submit statements of the shipments to defendant for check. Should it not be possible to reach an agreement as to the amount of reparation due, the matter may be referred to this Commission for further attention and the entry of a supplemental order, should such be necessary. Details of shipments made subsequent

to the filing of the complaint and to the hearing herein may be included in the reparation statement, if accompanied by appropriate proof, in the form of an affidavit, that the shipments were made and the freight charges thereon were paid and borne by the complainants.

O R D E R

These cases being at issue upon complaint on file, full investigation of the matters and things having been had, and basing this order on the findings of fact and the conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof,

IT IS HEREBY ORDERED that defendant, Southern Pacific Company, be, and it is hereby, notified and required to desist on or before July 30, 1925, and thereafter to abstain from publishing, maintaining and applying rates not in accordance with the opinion which precedes this order.

IT IS HEREBY FURTHER ORDERED that defendant, Southern Pacific Company, be, and it is hereby, notified and required to establish on or before July 30, 1925, upon notice to this Commission and to the general public, by not less than fifteen (15) days' filing and posting in the manner prescribed in Section 14 of the Public Utilities Act, and thereafter to maintain and apply to the transportation of lumber, in carloads, the rates prescribed in the opinion which precedes this order.

IT IS HEREBY FURTHER ORDERED that defendant, Southern Pacific Company, refund with interest to complainants, Lassen Lumber & Box Company and Red River Lumber Company, according as their interests may appear, all charges collected in excess of the rates herein found reasonable for the transportation of lumber and its products moving subsequent to July 1, 1922 from and to the points involved in this proceeding, provided this reparation award shall not apply on shipments not within the purview of Section 71(b) of the Public Utilities Act.

Dated at San Francisco, California, this 15th
day of June, 1925.

H. B. Brundage

C. Seavey

George D. Squires

James H. [unclear]
Commissioners.