

Decision No. 15083

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

Sperry Flour Company,
Complainant,

vs.

The Atchison, Topeka & Santa Fe
Railway Company.
Defendant.

ORIGINAL

CASE NO. 2115

BY THE COMMISSION:

O P I N I O N

The Sperry Flour Company, a corporation, with offices and principal place of business at San Francisco, California, filed complaint April 6, 1925 alleging that the rates assessed and collected for the transportation of wheat from Riverbank, California, milled in transit into flour at Stockton and shipped to Blythe, California, and the rate on flour and articles taking the same rate, from Stockton to Blythe, were unjust, unreasonable and in violation of Section 13 of the Public Utilities Act to the extent they exceeded $74\frac{1}{2}$ cents per 100 pounds from Stockton to Blythe, plus the applicable out-of-line haul charge, Riverbank to Blythe.

Reparation only is sought and rates will be stated in cents per 100 pounds.

This shipment moved November 6, 1923 and consisted of 37988 pounds of transit commodities originating at Riverbank.

milled in transit at Stockton, and 8001 pounds of non-transit commodities originating at Stockton. A rate of \$1.02½ was assessed and collected on the non-transit commodities, and \$1.02½ cents, plus out-of-line haul charge, for milling in transit at Stockton on the transit portion. The out-of-line haul charge or milling in transit arrangements are not involved.

The Commission, under its Informal Reparation Docket No. 31958, authorized the defendant herein to refund to Sperry Flour Company various sums of shipments to Blythe, California, which were milled in transit at Stockton, but was unable to authorize refund in the instant case for the reason the rate to the basis of which reparation is sought was not published within six months subsequent to the date the shipments moved.

Effective June 30, 1924 defendant established a rate of 74½ cents from Stockton to Blythe, and 74½ cents, plus out-of-line haul charge on traffic originating at Riverbank, milled in transit at Stockton. These rates were as shown in Supplement 9 to The Atchison, Topeka & Santa Fe Tariff 11988-D, C.R.C. 506, and The Atchison, Topeka & Santa Fe Circular 2297, C.R.C. 412.

Defendant, by formal answer duly filed, admit the allegations of the complainant, and under the circumstances a formal hearing will not be necessary.

We find the rates assessed on shipments as described in the complaint were unreasonable to the extent they exceeded rate of 74½ cents from Stockton to Blythe on the non-transit commodities, and 74½ cents, plus the applicable out-of-line haul charge on transit commodities originating at Riverbank, milled in transit at Stockton, destined Blythe.

We further find that complainant made the shipment as described and paid and bore the charges thereon; that complainant has been damaged to the amount of the difference between the charges paid and those that would have accrued at the rates herein found reasonable, and is entitled to reparation. The complainant should submit statement of shipment to defendant for check. Should it not be possible to reach an agreement as to the amount of reparation, the matter may be referred to the Commission for further attention and the entry of a supplemental order should such be necessary.

O R D E R

This case being at issue upon complaint and answer on file, full investigation of the matters and things involved having been had and basing this order on the findings of fact and conclusions contained in the opinion which precedes this order,

IT IS HEREBY ORDERED that the defendant, The Atchison, Topeka & Santa Fe Railway Company, be, and it is hereby, authorized and directed to refund to complainant, Sperry Flour Company, all charges it may have collected in excess of $74\frac{1}{2}$ cents per 100 pounds on flour and articles taking the same rate, as shown in The Atchison, Topeka & Santa Fe Tariff No. 11988-D, C.R.C. 506, from Stockton to Blythe, and $74\frac{1}{2}$ cents per 100 pounds, plus the applicable out-of-line haul charge on traffic moving from Riverbank, California to Blythe, California, milled in transit at Stockton, involved in this proceeding.

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

H. B. Brundage
C. P. Serrett
Ernest Shore
George D. Squires
Brundage
commissioners.