

Decision No. 15643

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

Stewart Fruit Company,
Complainant,

vs.

Southern Pacific Company,
Northwestern Pacific Railroad Company,
Sierra Railway Company of California,
Defendants.

ORIGINAL

CASE NO. 2133

BY THE COMMISSION:

O P I N I O N

Complainant, a corporation, is engaged in the business of shipping perishable products between points in the State of California, with its principal place of business at San Francisco. By complaint filed June 12, 1925 it is alleged that the rate of 38½ cents per 100 pounds assessed by defendants for the transportation of ten carloads of box shock moving during the period from July 18, 1923 to September 20, 1923, both dates inclusive, from Standard to Hopland and Ukiah, was unjust, unreasonable, excessive and in violation of Section 13 of the Public Utilities Act to the extent it exceeded 37 cents per 100 pounds.

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

The shipments of box shock involved in this proceeding consisted of four carloads from Standard to Hopland, and six carloads

from Standard to Ukiah. The lawful applicable rate on the date shipments moved, July 18 to September 20, 1923, was 38½ cents, being the full combination over San Francisco. The factor from Standard to San Francisco was 20 cents per 100 pounds, as published in Pacific Freight Tariff Bureau Tariff 48-F, C.R.C. 269, and the factor from San Francisco to Hopland and Ukiah 18½ cents, as published in Northwestern Pacific Railroad Company Tariff No. 12-C, C.R.C. 272. The correct tariff rate of 38½ cents was collected on nine of the shipments, but on the one to Ukiah, moving August 22, 1923, defendants assessed a wrong rate, resulting in a straight overcharge of \$38.31, which should be immediately refunded.

Prior to April 18, 1923 the rate maintained by defendants for the transportation of box shock from Standard to Hopland and Ukiah was 37 cents, the rate here sought by complainant. This rate was made by a combination over San Francisco and the factors, being subject to the provisions of Agent B.T. Jones' Combination Tariff No. 228, C.R.C. No. 1, resulted in a through rate of 37 cents.

On April 18, 1923 the factor from Standard to San Francisco was reduced, but in making that reduction defendants specifically restricted the rate as not being subject to the provisions of Jones' Combination Tariff, hence complainant was assessed the sum of the local rates, or 38½ cents.

Effective June 10, 1924 defendants established in Pacific Freight Tariff Bureau Tariff No. 16-G, C.R.C. 314, a through commodity rate applicable on box shock equal to the combination rate in effect prior to August 18, 1923, namely 37 cents.

This claim was presented to the Commission informally,

Reparation Docket 32537 of March 27, 1925, but since the rate to the basis of the reparation sought was not published within six months subsequent to the dates shipments moved, as required under Rule 102 of Tariff Circular No.2, informal reparation authority could not be granted.

Defendants admit all of the allegations of the complaint and have signified a willingness to make a reparation adjustment; therefore, under the issues as they now stand a public hearing will not be necessary.

Upon consideration of all the facts of record, we find that the rate of 38½ cents assessed by defendants for the transportation of ten carloads of box shock involved in this proceeding, moving from Standard to Hopland and Ukiah was unreasonable to the extent it exceeded the subsequently established rate of 37 cents.

We further find that complainant paid and bore the charges on the shipments in question and has been damaged to the extent of the difference between the charges paid and those that would have accrued at the rate herein found reasonable and that it is entitled to reparation in the sum of \$70.15.

ORDER

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 the

conclusions contained in the opinion which said opinion is hereby referred to and made a part hereof,

IT IS HEREBY ORDERED that defendants, Southern Pacific Company, Northwestern Pacific Railroad Company and Sierra Railway Company of California, according as they participated in the transportation, be and they are hereby authorized and directed to refund to complainant, Stewart Fruit Company, \$70.15 as reparation account unreasonable rate collected for the transportation of four carloads of box shock from Standard to Hopland, and six carloads of box shock from Standard to Ukiah, involved in this proceeding, shipped during the period from July 18, 1923 to September 20, 1923, both dates inclusive.

Dated at San Francisco, California, this 14th day of November, 1925.

H. B. Brundage

Chas. J. ...

George D. ...

Leon Whipple
Commissioners.