

Decision No.

16497

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

T.H.Wright, Doing Business Under)  
the fictitious name of  
T. H. Wright Mercantile Company,)

Complainant,)

CASE NO. 2183

vs. )

Trona Railway Company, )

Defendant. )

Glensor, Clewe, Van Dine & Turcotte, by F.W.Turcotte and  
B.H.Carmichael, for Complainant.

O.W.Tuckwood, S.W.Austin and D.E.Staley, for Defendant.

BY THE COMMISSION:

O P I N I O N

Complainant, T.H.Wright, doing business under the  
fictitious name of T.H.Wright Mercantile Company, is engaged in  
the general contracting and construction business and alleges, by  
complaint duly filed, that rate of 20 cents per 100 pounds,  
minimum carload weight 80000 pounds, assessed and collected by  
defendant on 18 carloads of secondhand iron or steel rails and  
fastenings moved from Searles to Magnesium during the period  
February 3, 1923 to December 5, 1923 was excessive, unjust and  
unreasonable and in violation of Section 13 of the Public  
Utilities Act to the extent such rate exceeded, or for the

future will exceed,  $7\frac{1}{2}$  cents per 100 pounds. It is further alleged that the minimum weight of 80000 pounds applied to cars S.P.40668, N.P.65750 and Penn.946404 was excessive, unjust and unreasonable to the extent it exceeded the capacity of the cars furnished. Just and reasonable rates for the future and reparation are asked.

The statute of limitation was tolled on the shipments in question by registration of the claims with this Commission February 4, 1925, under Informal Complaint Docket No. 26635.

The Trona Railway is owned by the American Trona Corporation, hereinafter referred to as the Trona Corporation, and extends from Searles to Trona, a distance of 31 miles. It was constructed during the year 1913 by the Trona Corporation primarily for the purpose of transporting the commercial products of that company from the Searles Lake district; the grades are undulating, but favor the load from Searles to Trona. Magnesium is 24 miles from Searles. Traffic is extremely light, the main source of revenue being derived from the outbound movement of borax, salt and potash furnished principally by the Trona Corporation. At one time some outbound tonnage was developed by other plants located at West End, a point four miles south of Trona, and from Borosolvay, a point two miles south of Trona, but those plants have either suspended operation or have been dismantled. The territory served is a desert country, sparsely populated, with the people almost entirely concentrated at Trona, and if the Trona Corporation should discontinue it would necessitate the abandonment of the Railway, for the Corporation traffic represents practically the only source of revenue.

Complainant compares the rate of 20 cents assessed and collected with the rates on borax, salt and potash from Trona to points in Southern California and with the rates on crude oil and crushed rock from Southern California to points on the Trona Railway. The comparison of these rates is for distances greater than between Searles and Magnesium and while indicating lower rates per ton per mile than applied to the shipments here in question, they are on commodities generally classified lower than steel rails, iron and steel articles. Comparison is also made with the rates applying to iron and steel articles in Northern California via the Southern Pacific, Atchison, Topeka & Santa Fe and Western Pacific, but such rates in many instances reflect the influence of water competition or are in territory where conditions are entirely dissimilar to those served by the Trona Railway.

The reasonableness of the class rates between points on the Trona Railway, or between Southern California points, are not in question, but defendant offered in evidence exhibits indicating the percentage relationship between the commodity rate here assessed and the applicable fifth class rate, also the percentage relationship between published commodity rates on iron and steel articles and the applicable fifth class rates between points in Southern California on the Southern Pacific, Los Angeles & Salt Lake Railroad and Pacific Electric Railway. The commodity rates on steel rails or iron and steel articles, either in this or the other territories, are not established on any given percentage of the applicable class rates, but the exhibits indicate that the relationship between the class rate and the commodity rate on the

Trona Railway compares favorably with the relationship existing between the class rates and the commodity rates offered as a comparison. A comparison is also made by defendant of the rate assessed with the rates on steel rails applicable between points on the Southern Pacific (Keeler Branch), and between points in Nevada, for distances approximating those here under consideration. These rates are mostly class rates and are higher for similar hauls in a territory also sparsely populated, where the traffic is light and the conditions very similar to those of this defendant.

Defendant's Exhibit No.3, consisting of 24 pages, gives complete details of its property investment, the revenues and expenses, the tonnage and traffic conditions and, also, in the same exhibit, comparisons with certain other short line railroads operating within the State of California.

As of October 31, 1925 applicant had a claimed total property investment of \$673,116.11, and for the 10 months period of 1925 a net railway operating income of \$9,611.40, equal to 1.70 per cent. It will be unnecessary to go into extensive statistical details and it is sufficient to say that the rate of return on the book value of the property in 1920 was 5.18; in 1922, 1.61; in 1923, 5.59; in 1924, 4.34 per cent. In the year 1921 the net railway operating income showed a deficit of \$25,210.42. The defendant has a funded debt of \$475,000., with an annual interest charge of approximately \$24,000. During the years 1921-22 the net railway operating income was insufficient to meet the interest on funded debt. The total tonnage originated and received was 79,915 tons in 1920; 29,652 in 1921; 54,422 in 1922; 101,786 in 1923, and 115,105 in 1924. In 1924 approximately 95 per cent of

this tonnage was either the products of the Trona Corporation or materials and supplies used by that corporation.

From the record before us it is clear that the revenue secured from the traffic, consisting almost entirely of freight, has not in the past and is not now sufficient to afford a reasonable profit to the owners of the property. The railroad was built, as heretofore stated, primarily as a plant facility for the parent corporation and to only a limited extent is it a common carrier.

Complainant calls attention to the low commodity rates in effect to the consuming markets and argues that these rates should measure the volume of the rates to be assessed for shipments of iron and steel rails involved in this proceeding. We have given full consideration to this contention, but the adjustment referred to is only illustrative of a common practice in railroad rate making of charging higher rates where the traffic is occasional and limited in volume. When tonnage must move into a competitive consuming market, transportation companies are of necessity required to put in rates less than normal, otherwise they would secure none of the traffic, and this is particularly true in connection with the transportation of borax, salt and potash forwarded from the points on the Trona Railway.

Defendant contends that under the conditions existing, its management has practiced every possible economy and during the past few years has deferred necessary maintenance in order to reduce operating expenses, that the uncertain future of the mineral industry, and failure in the past to realize the proper return upon investment amply demonstrate that the present rates are not excessive.

Complainant calls particular attention to the fact that Cars S.P.40668, N.P.65750 and Penn.946404 could not be loaded to the tariff minimum of 80000 pounds. The statement attached to the application shows, however, that in each case the charges were assessed on the basis of the actual weight only. Car S.P.40668 had a carrying capacity of 100,000 pounds and no testimony was presented nor proof given why this car was not loaded to 80000 pounds, nor is there any testimony to explain why small cars were accepted in view of the tariff provision.

After consideration of all the facts in connection with the financial, traffic and operating elements in this case, we are of the opinion and find that the rate of 20 cents, with minimum of 80000 pounds, is not excessive or unreasonable, and that the case should be dismissed.

### O R D E R

This case being at issue upon complaint and answer on file, having been duly heard and submitted by the parties, 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 opinion is hereby referred to and made a part hereof,

IT IS HEREBY ORDERED that the said complaint be and the same is hereby dismissed.

Dated at San Francisco, California, this 16<sup>th</sup> day of

April, 1926.

H. B. ...  
O. S. ...

Leon ...

Commissioners.