

Decision No. 17002

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

Service Rock Company, a
corporation,

Complainant

vs.

Case No. 2215

The Atchison, Topeka & Santa Fe
Railway Company, a
corporation

Defendant.

BY THE COMMISSION:

O P I N I O N

Complainant, a corporation, with its principal place of business at Fresno, California, is engaged in the production of crushed rock, sand and gravel. By complaint filed February 16, 1926 and as amended, it is alleged that the rate assessed and collected on two carloads of steel rails and angle bars moving during the month of April, 1924 from Needles to Fresno was unjust and unreasonable to the extent it exceeded a rate of \$15.40 per gross ton of 2240 pounds on the rails contained in the shipments and \$15.40 per net ton of 2000 pounds on the angle bars.

Reparation only is sought.

The applicable rate in effect on the date the shipments moved was the 5th class rate of \$1.06 per 100 pounds as published in A.T. & S.F. Ry. Tariff 9885-E, C.R.C. 504. There was, however, concurrently in effect on interstate traffic, rates of \$15.40 per gross ton of 2240 pounds on steel rails and \$15.40 per net ton of 2000 pounds on angle bars from Denver, Colorado and other trans-

continental group "J" points to Fresno, Needles, California is an intermediate point. These rates were subsequently published, effective April 25, 1926 in A.T. & S.F. Ry. Tariff 12375-G, C.R.C. No. 551, to apply to California intrastate traffic from Needles to Fresno. Complainant bases its plea for reparation on these subsequently established rates.

Defendant admits the allegations of the complaint and has signified a willingness to make a reparation adjustment to the basis of the lower rates established April 25, 1926; therefore, under the issues as they now stand a formal hearing will not be necessary.

Upon consideration of all the facts of record we are of the opinion and find that the rate assessed by defendant for the transportation of two carloads of steel rails and angle bars moving during the month of April, 1924 from Needles to Fresno was unjust and unreasonable to the extent it exceeded the subsequently established rate of \$15.40 per gross ton of 2240 pounds on steel rails and \$15.40 per net ton of 2000 pounds on angle bars.

We further find that complainant made the shipments as described, paid and bore the charges thereon and has been damaged to the extent of the difference between the charges paid \$1712.84 and \$1217.71 those that would have accrued at the rates herein found reasonable and is entitled to reparation in the sum of \$495.13.

ORDER

This case being at issue upon complaint, 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 said opinion is hereby referred to and made a part hereof,

IT IS HEREBY ORDERED, that defendant, The Atchison, Topeka & Santa Fe Railway Company, be, and it is, hereby authorized and directed to refund to complainant, Service Rock Company, a corporation, \$495.13 as reparation account unreasonable charges collected on the two carloads of steel rails and angle bars, involved in this proceeding, moving during the month of April, 1924 from Needles to Fresno.

Dated at San Francisco, California this 25th day of June, 1926.

H. R. Brundage
C. Henry
Frank Scott

COMMISSIONERS.