

Decision No. 17450

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA  
- - - - -

Charles Harley Company,  
Complainant,

vs.

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

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CASE NO. 2261

ORIGINAL

BY THE COMMISSION:

O P I N I O N

Complainant, a corporation, organized under the laws of the State of California, with its principal place of business at San Francisco, is engaged in buying and selling junk and scrap metal.

By complaint filed August 6, 1926 it is alleged that the rate assessed and collected on two carloads of scrap copper, lead and rags moved during January, 1925 from Fresno to San Francisco was unreasonable to the extent it exceeded a rate of 35½ cents per 100 pounds, minimum carload weight 50,000 pounds on the scrap copper and lead and a rate of 65 cents per 100 pounds on the actual weight of the rags.

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

Charges on the shipments involved were assessed on the basis of the lawfully applicable fifth class rate of 44 cents as published in Atchison, Topeka & Santa Fe Railway Tariff 9885-E, C.R.C.504. Defendant contemporaneously maintained a rate of 35½ cents per 100 pounds, minimum carload weight 50,000 pounds, on scrap metal from Los Angeles to San Francisco, but this rate was nonintermediate in application. Effective September 10, 1925 defendant voluntarily established a rate of the same volume from Mojave, Bakersfield and Fresno to San Francisco. Complainant bases its plea for reparation upon the lower rate subsequently established.

Defendant admits the allegation of the complaint and has signified a willingness to make reparation adjustment, 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 of 44 cents assessed on the scrap metal was unreasonable to the extent it exceeded the subsequently established rate of 35½ cents, minimum weight 50,000 pounds. The less than carload quantity of rags is subject to the current second class rate of 65 cents. We further find that complainant paid and bore the charges on the shipments involved and has been damaged to the extent of the difference between the freight charges paid and those that would have accrued at the rates herein found reasonable and that it is entitled to reparation.

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

IT IS HEREBY ORDERED that the defendant, Atchison, Topeka & Santa Fe Railway Company, be, and it is, hereby authorized and directed to refund to complainant, Charles Harley Company of San Francisco, in connection with the shipments involved in this proceeding moving from Fresno to San Francisco during January, 1925, all charges it may have collected in excess of 35½ cents per 100 pounds, minimum weight 50,000 pounds, on the scrap metal, and 65 cents per 100 pounds on the rags.

Dated at San Francisco, California, this 13<sup>th</sup>  
day of October, 1926.

W. B. Brundage  
W. B. Brundage  
Leon White  
Thos. S. Powell  
Commissioners.