

ORIGINAL

Decision No. 18039

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

White Pine Products Company, Inc.,)
Complainant,)

vs.

The Atchison, Topeka & Santa Fe)
Railway Company,)
Southern Pacific Company,)
Defendants.)

CASE NO. 2305

BY THE COMMISSION:

O P I N I O N

Complainant is a California corporation engaged in the manufacture and sale of lumber and its products, with its principal place of business at Alameda.

By complaint filed January 4, 1927 it is alleged a switching charge of \$2.70 per car assessed and collected on various shipments of box shooK moved from Alameda on the Southern Pacific to Antioch on the Santa Fe during the period from July 28, 1924 to July 10, 1926 was unreasonable, discriminatory and in violation of sections 13 and 19 of the Public Utilities Act. Upon shipments which moved more than two years prior to the filing of the formal complaint the statute of limitation has been tolled by registering with this Commission September 15, 1925, under informal complaint No. 33443.

The line haul rates are not involved and reparation only is sought in the amount of the switching charge of \$2.70 per car.

Alameda is within the switching limits of Oakland, and Item 2080-series of Southern Pacific Terminal Tariff 230-I, C.R.C.2826, provides a \$2.70 switching charge from industries located on the Southern Pacific at Alameda to interchange tracks with the Atchison, Topeka & Santa Fe Railway at Oakland, when incidental to a line haul of the latter line. On competitive traffic the Santa Fe absorbs the switching charge. Item 5-series of Atchison, Topeka & Santa Fe Railway Tariff 8117-J, C.R.C.542, defining competitive traffic, excluded Antioch and, therefore, at the time these shipments moved there was no tariff authority for the absorption of any switching charge on shipments destined Antioch. Effective July 30, 1926 Item 5 series of Atchison, Topeka and Santa Fe Tariff 8117-J, C.R.C.542, was amended so as to provide that Antioch would be considered a competitive point with the Southern Pacific, and the switching charge is now absorbed by the Santa Fe.

Defendants admit the allegations set forth in the complaint and express themselves as agreeable to making reparation, 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 assessing and collecting

of a \$2.70 per car switching charge in addition to the line haul rates was unreasonable and discriminatory as alleged; that complainant paid and bore the charges and is entitled to reparation, and that defendants should refund to complainant the \$2.70 per car switching charge against the shipments here involved. Complainant will submit statement of shipments to defendants for check. Should it not be possible to reach an agreement as to the amount of reparation due, 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 by reference made a part hereof,

IT IS ORDERED that defendants, Southern Pacific Company and The Atchison, Topeka & Santa Fe Railway Company, according as they participated in the transportation, be and they are hereby authorized and directed to refund to complainant, White Pine Products Company, Inc., \$2.70 per car on the shipments involved in this proceeding.

Dated at San Francisco, California, this 2nd day of March, 1927.

Ernest G. Scott
W. B. Brundage
C. Sealey
Leon S. Whipple
Thos. S. Ransom
Commissioners.