

Decision No. 18411.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

E. H. TRYON,
Complainant,

vs.

SACRAMENTO NORTHERN RAILWAY,
THE WESTERN PACIFIC RAILROAD
COMPANY,
Defendants.

ORIGINAL

Case No. 2332.

BY THE COMMISSION:

O P I N I O N

Complainant is a co-partnership composed of L. H. and A. I. Tryon, doing business under the firm name and style of E. H. Tryon, with its principal place of business at San Francisco. By complaint filed March 2, 1927, and as amended May 2, 1927, it is alleged that the rate charged on four carloads of wool moved from Colusa to Stockton during March, 1926, was excessive to the extent that it exceeded a rate of 32 cents.

Reparation only is sought. Rates are stated in cents per 100 pounds. Colusa is on the Sacramento Northern; Stockton is on the Western Pacific and the distance via route shipments moved is 111 miles. Both points are also on the Southern Pacific Company. The distance via that line is 119 miles.

The applicable charges were based on a combination rate of 41 cents, made 11½ cents to Marysville plus 29½ cents beyond. Concurrently there was a rate of 32 cents maintained by the Southern Pacific Company and published in its Tariff 730-C, C.R.C.2904, applicable from and to the points involved. Effective January 17,

1927, defendants established a joint commodity rate of 29½ cents published in Supplement 24 to Pacific Freight Tariff Bureau Tariff 34-K, C.R.C. 372. This same rate was published by the Southern Pacific Company. Complainant bases its plea for reparation upon the rate of 32 cents in effect via the Southern Pacific Company at time of movement, which rate is admitted to be reasonable, distance and operation conditions considered.

Defendants admit the allegation of the complaint and have signified a willingness to make 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 are of the opinion and find that the rate assailed was unreasonable to the extent it exceeded a rate of 32 cents. We further find that complainant paid and bore the charges on the shipments involved in this proceeding and has been damaged to the extent of the difference between the freight charges paid and those that would have accrued at the rate 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 defendants, Sacramento Northern Railway and The Western Pacific Railroad Company according as they participated in the movement be and they are hereby authorized and directed to refund to complainant, E. H. Tryon, all charges they may have collected in excess of 32 cents per 100 pounds on the shipments involved in this proceeding and forwarded from Colusa to Stockton during March, 1926.

Dated at San Francisco, California, this 25th day of May, 1927.

Emmett
J. P. Rindiga
C. Sweeney
Thos. S. Rindiga
Commissioners.