

Decision No. 19321.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ESSEX LUMBER COMPANY

Complainant,

vs.

YOSEMITE VALLEY RAILROAD COMPANY,
ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY,
CENTRAL CALIFORNIA TRACTION COMPANY,
SACRAMENTO NORTHERN RAILWAY,
SAN FRANCISCO-SACRAMENTO RAILROAD COMPANY,

Defendants.

Case No. 2459.

ORIGINAL

BY THE COMMISSION:

O P I N I O N

Complainant is a corporation with its principal place of business at Swanston, North Sacramento, California. It alleges by complaint filed December 15, 1927, that the rates charged for the transportation of approximately 96 carloads of cedar pencil slabs shipped from Merced Falls to Swanston during the period from December 15, 1925, to April 20, 1927, were unjust and unreasonable to the extent they exceeded 17½ cents.

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

Merced Falls is on the Yosemite Valley Railroad, 24 miles from Merced, the junction point with the Southern Pacific and Atchison, Topeka & Santa Fe Railway; Swanston is on the Sacramento Northern Railway and Southern Pacific and is included within the industrial and manufacturing district of Sacramento.

Of the shipments, 83 moved over the Yosemite Valley

Railroad to Merced, the Atchison, Topeka & Santa Fe Railway to Stockton, Central California Traction Company to Sacramento, thence Sacramento Northern Railway. The other 13 shipments moved over the Yosemite Valley Railroad to Merced, Atchison, Topeka & Santa Fe Railway to Bay Point, San Francisco-Sacramento Railroad to Sacramento, thence Sacramento Northern Railway. Charges were collected on the shipments moving via the first route at the applicable combination rate of 19 cents, made $17\frac{1}{2}$ cents to Sacramento and $1\frac{1}{2}$ cents beyond. On the shipments moving via the second route, charges were collected at the applicable combination rate of 21 cents, made 7 cents to Merced and 14 cents beyond. The contemporaneous rate from Merced Falls to Sacramento over the Yosemite Valley Railroad, Atchison, Topeka & Santa Fe Railway, and Central California Traction Company, also over the Yosemite Valley Railroad and Southern Pacific Company, was $17\frac{1}{2}$ cents. Complainant contends and defendants admit it is the usual practice of the carriers to maintain the Sacramento rates at Swanston.

Effective January 22, 1928, in Supplement No. 17 to Pacific Freight Tariff Bureau C.R.C. 394 the Sacramento rate was established to apply at Swanston via all of the routes the shipments involved in this proceeding moved.

Complainant bases its plea for reparation upon the subsequently established rate. Defendants admit the rates charged were unreasonable to the extent they exceeded $17\frac{1}{2}$ cents and have 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 rates assailed were unreasonable to the extent they exceeded $17\frac{1}{2}$ cents per 100 pounds; that complainant made the shipments as described, paid and bore the charges thereon and is entitled to reparation.

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 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 Yosemite Valley Railroad Company, Atchison, Topeka & Santa Fe Railway Company, Central California Traction Company, Sacramento Northern Railway and San Francisco-Sacramento Railroad Company according as they participated in the transportation, be and they are hereby authorized and directed to refund to complainant, Essex Lumber Company, all charges they may have collected in the amount of the difference between the freight charges paid and those that would have accrued at the rate herein found reasonable on the shipments involved in this proceeding and moved from Merced Falls to Swanston during the period from December 15, 1925, to April 20, 1927, inclusive.

Dated at San Francisco, California, this 6th day of February, 1928.

Leon Whaley
Clarence
Emmert
Thor & Loutin
W. J. Cur
Commissioners.