

Decision No. 19808.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

P. B. ENGEL,

Complainant,

vs.

THE ATCHISON, TOPEKA AND SANTA FE  
RAILWAY COMPANY,  
SACRAMENTO NORTHERN RAILWAY, and  
CENTRAL CALIFORNIA TRACTION COMPANY,

Defendants.

**ORIGINAL**

Case No. 2498.

BY THE COMMISSION:

O P I N I O N

Complainant is a dredging contractor, with his principal place of business at Los Angeles. By complaint duly filed and amended it is alleged that the rate assessed and collected on two carloads of fabricated or structural steel shipped June 16, 1923, from Blythe to Marke was unreasonable to the extent it exceeded \$1.11 per 100 pounds.

This claim was registered with this Commission within the two-year statutory period by informal complaint filed May 1, 1925, our file I.C. 32823.

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

Blythe is located on the Ripley branch of The Atchison, Topeka and Santa Fe Railway Company 42 miles south of Rice, and Marke is on the Sacramento Northern Railway 60 miles north of Sacramento. The shipment moved via The Atchison, Topeka and Santa Fe Railway to Stockton, Central California Traction Company to Sacramento, and Sacramento Northern Railway to destination.

The applicable rate assessed and collected was \$1.58½ per 100 pounds, made by a combination of fifth class rates over Los Angeles and Sacramento. The factors were \$1.06 per 100 pounds from Blythe to Los Angeles, as shown in Atchison, Topeka and Santa Fe Railway Tariff C.R.C. 504; 38½ cents per 100 pounds from Los Angeles to Sacramento, as shown in Pacific Freight Tariff Bureau Tariff C.R.C. 290; 14 cents per 100 pounds from Sacramento to Tarke, as shown in Sacramento Northern Railway Tariff C.R.C. 31. At the time the shipments moved defendants maintained a commodity rate of 77 cents per 100 pounds from Minnequa, Colorado, to Tarke, California, which if held as maximum at Rice, California, and used in conjunction with the local fifth class rate of 34 cents per 100 pounds of Atchison, Topeka and Santa Fe Railway from Blythe to Rice, would have produced a rate of \$1.11 per 100 pounds, and it is upon the basis of this combination rate that complainant seeks reparation.

Defendants admit the allegation of the complaint and have signified a willingness to make a 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 assailed rate was unreasonable to the extent it exceeded \$1.11 per 100 pounds; that complainant made the shipments as described, paid and bore the charges thereon and is entitled to reparation in the sum of \$783.95. Complainant specifically waived the payment of any interest on the charges found unreasonable.

#### 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 precedes this order,

IT IS HEREBY ORDERED that defendants, The Atchison, Topeka and Santa Fe Railway Company, Sacramento Northern Railway, and Central California Traction Company according as they participated in the transportation, be and they are hereby authorized and directed to refund to complainant, P. B. Maga, an individual, reparation in the amount of \$783.95 on account of unreasonable freight charges collected on two carloads of structural steel here involved, moved June 16, 1923, from Blythe to Tarke.

Dated at San Francisco, California, this 29<sup>th</sup> day of May, 1928.

Leon Whitell

Thos. S. Loutch  
M. J. Kim  
Commissioners.