

Decision No. 21081.

**ORIGINAL**

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

CALIFORNIA PINE BOX DISTRIBUTORS, )  
Complainant, )

vs. )

SOUTHERN PACIFIC COMPANY, )  
HOLTON INTER-URBAN RAILWAY COMPANY, )  
McCLOUD RIVER RAILROAD COMPANY, )  
YOSEMITE VALLEY RAILROAD COMPANY, )  
SAN DIEGO & ARIZONA RAILWAY COMPANY, )  
QUINCY RAILROAD COMPANY, )  
THE WESTERN PACIFIC RAILROAD COMPANY, )  
Defendants. )

Case No. 2403.

A. Larsson, for the complainant.  
J. R. Bell and G. H. Muckley, James E. Lyons and  
A. Burton Mason, for the defendants.  
Chas. E. Blaine and Calvin L. Blaine, for the Arizona Lum-  
ber & Timber Company, the Cady Lumber Corporation and  
the Saginaw & Manistee Lumber Company, interveners.

BY THE COMMISSION:

O P I N I O N

Complainant is a corporation with its principal place of business at San Francisco and is engaged in the buying, selling and marketing of box and crate material for California manufacturers and producers. By complaint filed August 31, 1927, it is alleged that the carload rates on box and crate material from producing points in California north of Bakersfield to points east of Banning, including points in the Imperial Valley south of Niland on the Southern Pacific to Sunset, Meloland and Holtville on the Holton Interurban Railway and to Dixieland on the San Diego and Arizona Railway, are unjust, unreasonable and unduly discriminatory in violation of Sections 13 and 19 of the Public Utilities Act. Just, reasonable and non-discriminatory rates for the future are asked and reparation is sought on shipments moved to Sunset, Meloland and Holtville, points on the Holton Interurban Railway, during the period June 30, 1925, to December 30, 1926.

Complainant's shipments here involved, with the exception of one car shipped June 30, 1925, from McCloud to Meloland, moved within the two-year statutory period immediately preceding the filing of the complaint. The one shipment on which the cause of action accrued more than two years prior to the filing of the complaint was registered with the Commission on June 11, 1927, under Informal Complaint No. 37176 for the purpose of tolling the Statute of Limitations. This shipment, however, is barred from further consideration by reason of the decision of the California Supreme Court rendered April 26, 1929, in Los Angeles & Salt Lake Railroad vs. Railroad Commission et al., S.F. No. 13152.

Interstate Commerce Commission Docket No. 20097, Big Lakes Box Co. et al. vs. Southern Pacific et al., involves similar allegations with respect to rates from points in Nevada, Oregon and interstate producing points in California to the same destinations. By agreement a joint hearing was held at San Francisco April 24, 1928, before Examiner McGrath of the Interstate Commerce Commission and Examiner Geary of this Commission, and the case having been duly heard and submitted, is now ready for our opinion and order.

Rates will be stated in cents per 100 pounds.

Box shook is manufactured from low grades of lumber not readily marketed and from 50% to 75% of this type of lumber is used for box and crate materials. The principal box shook mills are located in the timber belts, representative of which are those at Madera, Pinedale and Merced Falls in the San Joaquin Valley, hereinafter referred to as the Central California mills, and Oroville, Weed, McCloud and Westwood in Northern California, hereinafter referred to as the Northern California mills.

California is the principal territory for the box shook produced by complainant, and about 95% of the shook is marketed and consumed within the state. Complainant sold in California

during the year 1927, 5484 cars of shock, of which 1060 cars moved to points in the Imperial Valley, and 861 cars to points in Southern California other than the Imperial Valley. The major movements were from mills from which a 51¢ rate hereinafter referred to applied. The sale of shock to points east of Banning other than to the Imperial Valley points is comparatively small and complainants are not particularly concerned in the adjustment of the rates to this territory other than incidental to the Imperial Valley adjustment.

The box shock into the Imperial Valley is principally for the manufacture of lettuce and cantaloupe crates and complainant competes with the shock moving by water from Pacific Northwest points through the port of Los Angeles, as well as that from producing points in Arizona, Mexico and New Mexico.

The present rates on shock from the Northern and Central California producing points to destinations involved in this proceeding are group or blanket rates, illustrative of the Northern California grouping being the rate from Weed to El Centro and Calexico of 51¢, which rate embraces main line points on the Southern Pacific bounded by Dorris and Cole on the north and Marysville on the south, an origin blanket in California of approximately 270 miles. These rates also apply from points in Oregon on the Klamath Falls branch of the Southern Pacific, Westwood on the Susanville branch of the Southern Pacific and points east of Roseville, also from points on the Western Pacific east of Marysville. The rates from the Central California mills to the same territory are 45¢ from Madera, 45½¢ from Pinedale, and 46½¢ from Merced Falls, with a relative adjustment from the intermediate points located between the Northern and Central California producing points. The rates to points on the Sandia branch of the Southern Pacific 21.8 miles east of Calipatria and

to Meloland and Holtville, points on the Holton Interurban Railway 6.7 miles and 10.4 miles respectively east of El Centro, are  $1/2\text{¢}$  to  $1\text{¢}$  higher than the main line rates, and to Dixieland, a point on the San Diego and Arizona Railway 13.7 miles west of El Centro, the rates are  $7\text{¢}$  higher than those applicable at the main line junction point. These rates to Southern Pacific destinations in the Imperial Valley were established on December 21, 1925, following decisions in *Madera Sugar Pine Co. and Los Angeles Lumber Products Co. vs. Southern Pacific Co. et al.*, 26 C.R.C. 217; 104 I.C.C. 297, 322, decided November 2 and December 8, 1925, respectively, and the rates to points on the Holton Interurban Railway and San Diego and Arizona Railway became effective on January 5, 1927. Prior to this and during the time the shipments here in question moved the rates which reflected the general increases and reductions of 1918, 1920 and 1922 were  $56\frac{1}{2}\text{¢}$  from the Weed, Oroville and Merced Falls groups to the main line Imperial Valley points on the Southern Pacific. To points on the Holton Interurban Railway and San Diego and Arizona Railway the rates were the applicable combinations based on El Centro, the factors from El Centro being the Class B rate of  $10\text{¢}$  to Sunset and Meloland,  $11\frac{1}{2}\text{¢}$  to Holtville and  $10\frac{1}{2}\text{¢}$  to Dixieland.

Complainant as evidence of the unreasonableness of the rates assailed compares such rates with a  $39\frac{1}{2}\text{¢}$  blanket rate applying on shook from the Northern California mills to Los Angeles and Bryn Mawr and adjacent territory. Defendants aver that this  $39\frac{1}{2}\text{¢}$  rate is greatly depressed and was established to place the Northern California shook mills on a relatively comparable basis with the shook moving by water through the port of Los Angeles from Pacific Northwest points. The movement through that port during the year 1927 was 15,000 tons of shook, the major portion of which was consumed in the territory where

the 39 $\frac{1}{2}$ ¢ rail rate applies. Complainant also submitted in evidence various maps and exhibits setting forth the rates, the extent of the blanketed territory under the rates assailed, and makes comparisons with those applicable from the Pacific Coast points to destinations in transcontinental territory, as well as with the lumber and shock rates between points in Texas. These rates illustrate in many instances a commercial and transportation necessity for their extensive groups at the producing points of origin and in the consuming destination territories, but since conditions are not shown to be the same in the California territory in controversy the adoption of the basis offered by these exhibits is not persuasive and fails to show that the rates to the points here under consideration are unreasonable by virtue of these comparisons.

In Madera Sugar Pine Company and Los Angeles Lumber Products Company vs. Southern Pacific et al., supra, we prescribed the rates on lumber and its products from the Central California mills to points on the Southern Pacific in Southern California and the Imperial Valley. The rates were published effective December 15, 1925, and the following are representative:

TO	FROM					
	Pinedale		Madera		Merced Falls	
	Miles	Rate	Miles	Rate	Miles	Rate
Los Angeles	296	30	298	29	555	34
Colton	354	30	355	29	413	34
Brawley	501	45 $\frac{1}{2}$	502	45	760	46 $\frac{1}{2}$
El Centro	514	45 $\frac{1}{2}$	516	45	773	46 $\frac{1}{2}$
Calexico	523	45 $\frac{1}{2}$	525	45	782	46 $\frac{1}{2}$

(Pinedale is on the Minarets and Western)  
(Merced Falls is on the Yosemite Railway)

Following the establishment of the above rates the carriers made relative adjustments from the Northern California mills by reducing the rates from those points about  $5\frac{1}{2}\%$ . This adjustment became effective on January 16, 1926, and the rates from the Northern California mills are now approximately  $4\frac{1}{2}$  to 6 cents higher than those prescribed by us from the Central California mills and also are practically of the same volume as those established June 25, 1918, by General Order No. 28 of the Director General of Railroads.

Complainant in this proceeding proposes a rate of 40¢ from the Northern and Central California mills to all main line points on the Southern Pacific in the Imperial Valley for a weighted average haul of 885 miles, with a  $1/2\%$  differential to points on the Sandia branch and points on the Holton Interurban Railway and 1¢ to Dixieland on the San Diego and Arizona Railway. Such a basis would materially reduce to Southern Pacific main line points the rates prescribed by us in 1925 in Madera Sugar Pine Company and Los Angeles Lumber Products Company vs. Southern Pacific Company et al., supra, but the record in this proceeding fails to justify any such conclusions.

Defendants compare the 51¢ rate from the Northern California mills to Imperial Valley points with a weighted average haul of 956 miles, with a  $47\frac{1}{2}\%$  rate from San Pedro to Lordsburg, New Mexico, for 692 miles, prescribed by the Interstate Commerce Commission in Lumbermen's Exchange vs. Southern Pacific et al., 104 I.C.C. 538, decided December 8, 1925. They also submitted in evidence statements showing the earnings for the years 1926 and 1927 on box shock moved from and to all points under the rates assailed. During the year 1926 the average rate on box shock moved from and to all points here involved was 50.334 cents for a weighted average haul of 883 miles, an average revenue per

ton mile of 11.44 mills and an average revenue per car mile of 27.38 cents, based on an average loading of box shock of 47,818 pounds. The exhibit also shows that for the year 1926 the average revenue per ton mile under the 51¢ rate from the Northern California mills from which points the heaviest movement prevails was 10.66 mills, the per car mile revenue 25.89 cents and the average weighted haul 956 miles. Similar data for 1927 are of record which are approximately the same as for the year 1926. These figures clearly demonstrate that the earnings under the 51¢ rate from the Northern California mills to Imperial Valley points compare favorably with the average earnings under rates from and to all points in the same general territory. The average revenue per ton per mile under the 51¢ rate from the Northern California mills is 10.66 mills, while the average from and to all other points for a slightly less average haul is 11.44 mills.

The through published rates to points on the San Diego and Arizona Railway are 7 cents over those applying to El Centro, the main line junction, for an additional haul of 13.7 miles. Complainant contrasts the through rates to points on the San Diego and Arizona Railway and the earnings thereunder with those applicable at Westmorland and Sandia, branch line points on the Southern Pacific. Westmorland is 12.6 miles from Calipatria, the main line junction, and the rates to this point are the same as those applying to the main line, while to Sandia, a point 21.8 miles from Calipatria, the rates are 1/2-cent higher than those applying to the main line points.

Upon consideration of all the facts of record we are of the opinion that the present rates here assailed to points on the Southern Pacific and Holton Interurban Railway are not

unjust, unreasonable or unduly discriminatory; but that the present rates to Dixieland on the San Diego and Arizona Railway are and will be for the future unjust and unreasonable to the extent that such rates exceed or may exceed by more than 2 cents per 100 pounds rates contemporaneously in effect to El Centro.

Reparation on the basis of the rates now in effect is sought on shipments moved from Weed, Montague, McCloud, Lamoine, Oroville, Placerville, Merced Falls and Madera to points on Holton Interurban Railway prior to January 5, 1927, the date the present rates became effective. The rates prior to January 5, 1927, were made the full combination of locals based on El Centro. Defendants contend this was necessary, due to the poor financial condition of the Holton Interurban Railway, it not being feasible to join with the Southern Pacific in establishing through joint rates less than the combination of locals. By decision January 2, 1926, CONTROL OF THE HOLTON INTERURBAN RAILWAY, 105 I.C.C. 382, the Interstate Commerce Commission authorized the Southern Pacific to acquire the Holton Interurban Railway, thus enabling the former to shape the traffic policy and absorb the financial losses of the latter.

The record does not warrant us in awarding reparation to the basis of the subsequently established rates on shipments moving prior to January 5, 1927. We are of the opinion however and so find that the full combination of local rates assessed against the shipments involved in this proceeding were unjust and unreasonable to the extent they exceeded 60 cents from Weed, Montague, Lamoine, Oroville, Placerville and Merced Falls, 61 cents from McCloud and 55½ cents from Madera to Sunset, Meloland and Holtville on the Holton Interurban. We further find that complainant made the shipments as described, paid and bore the charges thereon and is entitled to reparation with



interest in the amount of the difference between the charges paid and those that would have accrued at the rates herein found reasonable.

O R D E R

This case being at issue upon complaint and answers on file, having been duly heard and submitted by the parties, 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 HEREBY ORDERED that the defendants according as they participate in the transportation, be and they are hereby notified and required to cease and desist on or before July 31, 1929, and thereafter abstain from publishing, maintaining and applying from the points of origin here involved to Dixieland, rates on box and crate material in carloads in excess of those set forth in the opinion which precedes this order.

IT IS HEREBY FURTHER ORDERED that the defendants according as they participate in the transportation, be and they are hereby notified and required to establish on or before July 31, 1929, upon notice to this Commission and to the general public by not less than thirty (30) days' filing and posting in the manner prescribed in Section 14 of the Public Utilities Act and thereafter to maintain and apply to the transportation of box and crate material in carloads from the points of origin here involved to Dixieland, rates not in excess of 2 cents per 100 pounds over rates contemporaneously in effect to El Centro.

IT IS HEREBY FURTHER ORDERED that defendants according as they participated in the transportation, be and they are hereby authorized and directed to refund, with interest at the

rate of six per cent. (6%) per annum, to complainant, California Pine Box Distributors, all charges they may have collected for the transportation of the cars of box and crate material here involved, moving prior to January 5, 1927, from Weed, Montague, McCloud, Lamoine, Oroville, Placerville, Merced Falls and Madera to Sunset, Meloland and Holtville in excess of 60 cents from Weed, Montague, Lamoine, Oroville, Placerville and Merced Falls, 61 cents from McCloud and 55½ cents from Madera, subject to the condition that this reparation award shall apply only to the shipments here involved on which the cause of action accrued within the period of two years immediately preceding the filing of this complaint.

Dated at San Francisco, California, this 11<sup>th</sup> day of May, 1929.

David L. Lott  
E. J. Scamper  
Edmund Cato  
Leon Whiteley

Commissioners.