

Decision No. 21126.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

THE DIAMOND MATCH COMPANY,

Complainant,

vs.

THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY,
CENTRAL CALIFORNIA TRACTION COMPANY,
SACRAMENTO NORTHERN RAILWAY,
SOUTHERN PACIFIC COMPANY,
THE WESTERN PACIFIC RAILROAD COMPANY,

Defendants.

Case No. 2596.

ORIGINAL

A. Larsson, for complainant.
James E. Lyons, A. L. Whittle and M. G. Smith,
for Southern Pacific Company, defendant.
L. N. Bradshaw and J. F. Bon, for The Western
Pacific Railroad Company and Sacramento
Northern Railway, defendants.
Platt Kent and E. C. Pierre, for The Atchison,
Topeka and Santa Fe Railway Company, de-
fendant.

BY THE COMMISSION:

O P I N I O N

Complainant is a corporation having factories and retail lumber yards at various points in California. By complaint filed August 27, 1926, and as amended September 5, 1926, it is alleged that the rates assessed and collected on three carloads of steel sheets and on three mixed carloads of steel sheets and nails moving from Pittsburg to Woodland during the period extending August 28, 1926, to January 4, 1927, were unjust and unreasonable, inapplicable under the tariffs, and unjustly discriminatory, in

violation of Sections 13, 17 and 19 of the Public Utilities Act. Reparation, or a direction to refund the alleged overcharges, is asked. Rates will be stated in cents per 100 pounds.

A public hearing was held before Examiner Geary at San Francisco March 5, 1929, and the case having been submitted is now ready for an opinion and order.

Pittsburg is located on The Atchison, Topeka and Santa Fe Railway Company, hereinafter referred to as the Santa Fe, and on the Southern Pacific Company, hereinafter referred to as the Southern Pacific, 42 and 45 miles east of Oakland respectively. Woodland is on the Sacramento Northern Railway 18 miles west of Sacramento and on the Southern Pacific 9 miles north of Davis. One of the shipments was routed Santa Fe to Stockton, Central California Traction Company to Sacramento, thence Sacramento Northern; four were routed Santa Fe to Stockton, Western Pacific to Sacramento, thence Sacramento Northern; and one Southern Pacific to Stockton, Central California Traction Company to Sacramento, thence Sacramento Northern. Charges were assessed on basis of $24\frac{1}{2}$ cents, the fifth class rate named in Pacific Freight Tariff Bureau Tariff 34-K, C.R.C. 372.

At the time these shipments moved there was in effect via the first two routes mentioned above, a rate of 18 cents applying on iron and steel articles, viz., angle, band, plate and structural, straight or mixed carloads (Pacific Freight Tariff Bureau Tariff 34-K, C.R.C. 372; Southern Pacific Tariff 730-C, C.R.C. 2904). It is upon the basis of this 18-cent rate on the commodities named, which complainant also contends applied to the steel sheets, that the refund of alleged overcharges, or reparation, is sought. The record shows that there is a definite distinction between steel plates and steel sheets, and that the shipments here involved consisted of No. 26 gauge galvanized

steel sheets, both flat and corrugated; also that the Pittsburg structural iron and steel mills do not roll iron or steel plates lighter than 9-gauge. The 18-cent rate on plate and structural iron or steel is therefore clearly not applicable on these shipments, which consisted of No. 26 steel sheets.

The Southern Pacific published the original 18-cent rate effective August 20, 1925, Tariff 730-C, C.R.C. 2904, applying to iron and steel articles, including plate or sheet, black galvanized or long terne, from San Francisco, Oakland and Richmond to Woodland, and this rate held as maximum on a movement from Pittsburg to Woodland. The routing was via the rails of the Southern Pacific, and the rate also applied under the provisions of Item No. 15 of the tariff in connection with the Central California Traction Company via Stockton. The latter routing was discontinued August 21, 1928.

Defendants Santa Fe, Western Pacific, Central California Traction Company and Sacramento Northern, published the 18-cent rate via the various routes heretofore referred to in connection with their respective lines, in Item No. 10770-A, Supplement No. 36, Pacific Freight Tariff Bureau Tariff 34-K, C.R.C. 372, effective July 18, 1927. By this publication they duplicated the 18-cent rate via the Southern Pacific direct, which became effective August 20, 1925. These defendants, Santa Fe, Western Pacific, Central California Traction Company and Sacramento Northern, admitted of record that the 18-cent rate was unreasonable and excessive, in view of a rate of the same volume being in effect by the all-rail route of the Southern Pacific, and expressed a desire that reparation be awarded to the basis of the 18-cent rate subsequently established on the steel sheets, allowing the tariff rate of 25 cents to apply on the less than carload shipments of nails in the same consignments.

Under the circumstances we are of the opinion and find that the rate of $24\frac{1}{2}$ cents was unreasonable, excessive and discriminatory and that reparation should be awarded against the shipments moving via the Santa Fe, Western Pacific, Central California Traction and Sacramento Northern to the basis of 18 cents on the sheet steel and 25 cents per 100 pounds on the less than carload shipments of nails moving with the sheet steel. The complainants specifically waived the payment of interest.

The charges in connection with Car SP 88870, forwarded from Pittsburg to Woodland October 2, 1926, and completely routed by consignor on the bill of lading via Southern Pacific, Central California Traction Company and Sacramento Northern, were assessed at a rate of $24\frac{1}{2}$ cents, but this rate was in error and so admitted by defendant Southern Pacific. The legal rate was $22\frac{1}{2}$ cents, made up of a commodity rate of 11 cents to Sacramento via Southern Pacific and Central California Traction Company (Item 10770 of Pacific Freight Tariff Bureau Tariff 34-K, C.R. C. 372), plus the 5th class rate of $11\frac{1}{2}$ cents applicable via the Sacramento Northern from Sacramento to Woodland. The Southern Pacific Company should refund, with interest at 6%, charges against this car to the basis of $22\frac{1}{2}$ cents per 100 pounds. The record however does not warrant us in finding that the legally applicable rate of $22\frac{1}{2}$ cents was unreasonable or discriminatory to the extent it exceeded 18 cents, for the route over which this shipment actually moved was 79% in excess of the short line distance via the Southern Pacific direct route.

O R D E R

This case being at issue upon complaint and answers on file, full investigation of the matters and things involved having been had, and basing the 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, Central California Traction Company, The Western Pacific Railroad Company and Sacramento Northern Railway, according as they participated in the transportation, be and they are hereby authorized and directed to refund, without interest, to complainant, The Diamond Match Company, all charges collected in excess of 18 cents per 100 pounds on the steel sheets and 25 cents per 100 pounds on the less than carload shipments of nails in the same consignments for the transportation from Pittsburg to Woodland of the shipments of five carloads of steel sheets and nails involved in this proceeding and moving exclusively via the lines of the defendants just named.

IT IS HEREBY FURTHER ORDERED that defendants, Southern Pacific Company, Central California Traction Company and Sacramento Northern Railway, according as they participated in the transportation, be and they are hereby authorized and directed to refund to complainant, The Diamond Match Company, with interest at six (6) per cent. per annum all charges collected in excess of 22½ cents per 100 pounds for the transportation from Pittsburg to Woodland of the shipment of one carload of steel sheets involved in this proceeding routed Southern Pacific Company, Central California Traction Company and Sacramento Northern Railway.

Dated at San Francisco, California, this 20 day
of May, 1929.

Thos D. Lott
C. J. Seamy
Ernest A. ...
Leon Whalley
W. H. ...
Commissioners.