

Decision No. 23787.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

E. J. STANTON & SON,)
)
 Complainant,)
)
 vs.)
)
 THE ATCHISON, TOPEKA AND SANTA FE)
 RAILWAY COMPANY,)
 SOUTHERN PACIFIC COMPANY,)
)
 Defendants.)

Case No. 2843.

BY THE COMMISSION:

O P I N I O N

Complainant is a corporation engaged in the manufacture and sale of lumber and forest products. Its principal place of business is at Los Angeles. By complaint filed March 24, 1930, it is alleged that the charges assessed and collected on one car-load of lumber shipped from Los Angeles to Wildasin March 26, 1928, were unjust and unreasonable, inapplicable, unduly prejudicial and disadvantageous in violation of Sections 13, 17 and 19 of the Public Utilities Act and in violation of the long and short haul provision of Section 24 of the Act. Reparation only is sought.

By stipulation this case was submitted in writing under the shortened procedure plan by complainant and defendants submitting memoranda of facts.

Complainant's shipment consisting of one car of lumber and weighing 56,600 pounds, was loaded on an industry track on the Southern Pacific Company's rails at Los Angeles and was moved from

Los Angeles to Wildasin, a distance of 8 miles, via The Atchison, Topeka and Santa Fe Railway Company, hereinafter referred to as the Santa Fe. A line haul charge of \$22.64 (4 cents per 100 pounds) was assessed and collected, plus a switching charge of \$2.70 for the movement from the Southern Pacific industry track to the interchange with the Santa Fe.

At the time the shipment moved as well as now defendant Southern Pacific Company in Item 4260 of its Tariff 730-C, C.R.C. 2904 and reissues thereof, provided a charge of \$4.50 per car on freight regardless of classification from Industrial, a station on the line of the Southern Pacific Company just outside of the Los Angeles switching limits, to Los Angeles. This rate applied only as a proportional rate on shipments originating at or destined to points beyond Los Angeles via either the Southern Pacific Company or foreign lines. There was also in effect concurrently in Item 2530 of Santa Fe's Tariff 12375-J, C.R.C. 595, from Los Angeles to Wildasin a per car charge of the same volume which was likewise applicable only on shipments originating at or destined to points beyond Los Angeles. Under the tariffs these two proportional per car charges may be combined, subject to the minimum per car charge of \$15.00 provided in the current Western Classification. (In Re Application of A.T.& S.F.Ry. et al., 34 C.R.C. 167.) The \$15.00 per car charge was lower for a longer haul over the same line or route than assessed on complainant's shipment and was in violation of the long and short haul provision of Section 24(a) of the Public Utilities Act. Complainant is therefore entitled to reparation in the amount of the difference between the charges collected and those in effect for the longer haul. (Chamberlain Co., Inc. et al. vs. A.T.& S.F.Ry.Co. et al., 35 C.R.C. 63.) Our jurisdiction to award damages because of violations of the long

and short haul restrictions of the Constitution and the Act has been upheld by the California Supreme Court in A.T. & S.F. Ry. et al. vs. Railroad Commission et al., 81 Cal. Dec. 667.

The record does not support complainant's allegations that the rates were in violation of Sections 13, 17 and 19 of the Act.

Upon consideration of all the facts of record we are of the opinion and find that the assailed charges have not been shown to have been unjust, unreasonable, inapplicable or unduly discriminatory, in violation of Sections 13, 17 and 19 of the Public Utilities Act but that they were collected in violation of the long and short haul provision of Section 24 of the Act to the extent they exceeded \$15.00 per car. We are of the further opinion and find that complainant made the shipment as described, paid and bore the charges thereon and is entitled to reparation with interest at six (6) per cent. per annum.

The exact amount of reparation due is not of record. Complainant will submit to defendants for verification a statement of the shipment made and upon the payment of the reparation defendants will notify the Commission the amount thereof. Should it not be possible to reach an agreement as to the reparation award 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 answers 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 and Southern Pacific Company, according as they participated in the transportation, be and they are hereby authorized and directed to pay unto complainant with interest at six (6) per cent. per annum all charges collected in excess of \$15.00 per car for the transportation from Los Angeles to Wildasin of the shipment of lumber involved in this proceeding.

Dated at San Francisco, California, this 15th day of June, 1931.

O. L. Jensen
Leon O'Quinn
M. A. Linn
W. B. Harris
Fred G. Stewart.
Commissioners.