

Decision No. 24459.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

POULTRY PRODUCERS OF CENTRAL CALIFORNIA,  
a corporation,

Complainant,

vs.

NORTHWESTERN PACIFIC RAILROAD COMPANY,  
a corporation,

Defendant.

ORIGINAL

Case No. 2875.

C. R. Schulz and J. E. McCurdy, for complainant.

J. E. Lyons and E. H. McElroy, by E. H. McElroy,  
for defendant.

BY THE COMMISSION:

O P I N I O N

Complainant is a corporation engaged in the buying, selling and marketing of eggs and the buying, selling and milling of grain, grain products and feeds. By complaint filed June 13, 1930, it is alleged that the charges assessed and collected for the transportation of numerous carload shipments of grain, grain products and feeds from Petaluma to Penngrove were in violation of the long and short haul provisions of Section 24 of the Public Utilities Act and Section 21 Article XIII of the State Constitution.

Reparation only is sought. Except where otherwise stated rates are in cents per ton of 2000 pounds.

Complainant's shipments originated at various points in

California on the rails of the Southern Pacific Company, Sacramento Northern Railway, Central California Traction Company and The Atchison, Topeka and Santa Fe Railway Company and were transported to Petaluma via the line of the originating carrier and that of defendant Northwestern Pacific Railroad. At Petaluma they were switched to West Petaluma on the Petaluma and Santa Rosa Railroad Company for milling in transit, after which they were returned to Petaluma on the Northwestern Pacific Railroad and line hauled by that carrier to Penngrove. In some cases a certain amount of non-transit material was added. The charges assessed and collected on the transited articles were the line haul charges from point of origin to Penngrove named in the applicable tariffs, plus a switching charge of 25 cents per ton for movement from Petaluma to West Petaluma on shipments originating at non-competitive points of origin and a like charge on all shipments for the movement from West Petaluma to Petaluma. Where non-transit articles were included at West Petaluma the 25-cent switching charge was likewise applied to those articles and a local rate of  $4\frac{1}{2}$  cents per 100 pounds assessed for the line haul from Petaluma to Penngrove. The line haul charges and the switching charges from Petaluma to West Petaluma are not here in issue; the complaint is directed against the 25-cent switching charge from West Petaluma to Petaluma.

From Petaluma to Santa Rosa, a point on the Northwestern Pacific Railroad 11 miles beyond Penngrove, the rate is the same via the Petaluma and Santa Rosa Railroad as via the Northwestern Pacific. These points therefore are competitive<sup>1</sup> and the 25-cent switching charge made at the transit point is absorbed on shipments moving between them.<sup>2</sup> Item 355 of Northwestern Pacific Terminal

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<sup>1</sup> Item 250 of N.W.P. Terminal Tariff 4-M, C.R.C. 343.

<sup>2</sup> Item 35 of N.W.P. Terminal Tariff 4-M, C.R.C. 343.

Tariff 4-M, C.R.C. 343, provides that the transit station will be considered as point of origin on transited outbound carload shipments,<sup>3</sup> therefore the switching charge from West Petaluma to Petaluma assessed on complainant's shipments would have been absorbed had these same shipments been destined to Santa Rosa.

At the time complainant's shipments moved the rates from the points of origin were the same to Santa Rosa as to Penn-grove; the local rate from Petaluma to Santa Rosa was one half cent higher than from Petaluma to Penngrove. Thus the charges collected on complainant's shipments exceeded those applicable at the more distant point by the amount of the absorbed switching charge on the transited items and by a like amount less the one half cent per 100 pounds difference in the local rate on the non-transit portion, creating departures from the long and short haul provisions of the Public Utilities Act and the State Constitution. At the time complainant's shipments moved these departures from the long and short haul provisions were unauthorized.<sup>4</sup>

Defendant originally denied the material allegations of the complaint. The matter was set for hearing at San Francisco on October 5, 1930, and partially heard. Before submission of the proceeding defendant made a formal admission of the allegations of the complaint and stipulated that complainant was entitled to reparation amounting to \$1,158.16.

Upon consideration of all the facts of record we are

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<sup>3</sup> Item 355 reads: "In the authorized absorption of connecting line switching charges, the transit station will be considered as the final destination on carload shipments from points of origin to transit stations, and as point of origin on transited outbound carload shipments."

<sup>4</sup> The long and short haul departures were subsequently authorized by Authority No. 24(a)-2572 of August 25, 1930.

of the opinion and find that the charges on complainant's shipments were assessed and collected in violation of the long and short haul provisions of Section 24 of the Public Utilities Act and Section 21 Article XIII of the State Constitution to the extent they exceeded the charges contemporaneously applicable to like shipments moving from the same points of origin to Santa Rosa. We further find that complainant made the shipments as described, paid and bore the charges thereon and is entitled to reparation in the amount of \$1,153.16 with interest at six per cent. per annum.

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 defendant Northwestern Pacific Railroad Company be and it is hereby authorized and directed to refund with interest at six (6) per cent. per annum to complainant Poultry Producers of Central California all charges collected for the transportation to Penngrove of the shipments of grain, grain products and feeds involved in this proceeding which exceeded those contemporaneously applicable to like shipments destined to Santa Rosa.

Dated at San Francisco, California, this 27th day of February, 1932.

C. C. Seaman  
Leon Whitely  
W. J. C.  
M. B. Harris  
James G. Stewart  
Commissioners.