

Decision No. 25055.**ORIGINAL****BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Joint Application )  
of carriers by F. W. Gomph, Agent, for )  
authority to amend Items 330-A and 340 ) Application No. 17579.  
of Pacific Freight Tariff Bureau Excep- )  
tion Sheet No. I-N, C.R.C. No. 448. )

James E. Lyons, A. L. Whittle, Corald E. Duffy, E. C. Pierre, L. N. Bradshaw and J. P. Haynes, for applicant F. W. Gomph and all carriers parties to the application.

Edwin G. Wilcox, for Oakland Chamber of Commerce.

W. S. Everts, for Canners' League of California and California Dried Fruit Association.

C. S. Connolly, for Albers Bros. Milling Company.

Hal. M. Remington, for San Francisco Chamber of Commerce.

V. O. Conaway, for Continental Can Company, Incorporated, of California.

W. D. Wall, Traffic Bureau of the San Jose Chamber of Commerce.

M. J. McCarthy and Stanton Berry, for Pacific Coast Canners.

W. J. Lane, for Guggenlime and Company.

BY THE COMMISSION:

**OPINION**

This is an application filed by F. W. Gomph under Section 63 of the Public Utilities Act requesting authority to amend Item 330-B in Supplement No. 15 to, and Item 340 of, Pacific Freight Tariff Bureau Exception Sheet No. I-N, C.R.C. No. 448, by restricting the ratings and the bases for making rates therein to specifically provide a minimum rate of 15 cents per 100 pounds on shipments of second-hand empty carriers returning, as described in the Items.

Public hearings were held at San Francisco before

Examiner Geary and the matter submitted.

This proceeding was filed following the Commission's decision in Albers Bros. Milling Co. vs. Southern Pacific Co., 34 C.R.C. 899. There we held that on two shipments of empty drums, carloads, returning from Sacramento to Oakland after having been transported under load via the line of the Southern Pacific Company from Oakland to Sacramento the charges assessed were inapplicable to the extent they exceeded one half of the fourth class rate, subject to a minimum weight of 12,000 pounds. Refund of overcharges amounting to \$10.45 was ordered.

The carriers parties to the Exception Sheet allege that it was never their intention to apply on such shipments a rate less than 15 cents when the less than carload rate is used, and are now asking authority to amend the Exception Sheet accordingly.

In view of the Commission's Decision No. 25064 of August 15th, 1932., In Re Gompf, etc., Case No. 3195, it will not be necessary to further consider this application. By our decision in Case 3195 we held that the conclusion reached in the Albers case was in error and that the present items in the Exception Sheet permitted a minimum charge of not less than 15 cents when the less than carload rate was used.

The application will be dismissed.

#### O R D E R

This application having been duly heard and submitted, 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 the above application be  
and it is hereby dismissed.

Dated at San Francisco, California, this 15<sup>th</sup> day  
of August, 1932.

C. Seaver  
Leon A. Wiley  
M. J. Cunn  
W. B. Harris  
Frederic A. Stewart  
Commissioners.