

Decision No. 25185

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

NORTHWESTERN PACIFIC RAILROAD COMPANY,
a corporation, and PETALUMA and SANTA
ROSA RAILROAD COMPANY, a corporation,

Complainants,

vs.

SAN RAFAEL FREIGHT AND TRANSFER COMPANY,
a corporation,

Defendant.

Case No. 3150

ORIGINAL

Roy G. Hillebrand, for Complainants.
Toland C. Mc Gattigan, for Defendant.

HARRIS, Commissioner -

OPINION

By its Decision No. 25062 herein, issued on August 15, 1952, this Commission made a finding that defendant San Rafael Freight and Transfer Company, a corporation, had violated the restriction limiting it to the carriage of package merchandise not in excess of sixty (60) pounds per package and that it has also violated its tariffs by assessing rates other than those duly filed and authorized effective. In view of the fact that defendant previously had been ordered to cease and desist transporting packages above the weight limit (Decision No. 23183, 35 C.R.C. 608, December 15, 1930, in Case No. 2652) the Commission cited defendant to appear September 7, 1952, and show cause why its certificates of public convenience and necessity as heretofore granted for the common carriage of property over the highways of this state should not be revoked.

Public hearing thereon was duly held at San Francisco and the matter submitted after oral argument.

After presentation of formal and more or less technical objection to Decision No.25062 herein counsel for respondents stated that, if the Commission felt that punishment was due for the violations found, defendant would not resist the revocation of its right to transport property between San Rafael and Santa Rosa. Counsel for complainants stated that such action by the Commission would satisfy their complaint. Upon these statements the matter was submitted.

Defendant has been a frequent violator of its limitation as to weight and rates in its service between San Rafael and Santa Rosa and has twice previously been brought before the Commission for similar infraction (Decision No.20312, 32 C.R.C. 272, in Case No.2429, dated November 10, 1928; Decision No.22792, 35 C.R.C. 121, in Case No.2652, dated August 13, 1930). Defendant was warned in the last decision that any future infractions would not be treated lightly by the Commission. This warning seems to have been unheeded.

In the instant proceeding the facts, in view of defendant's previous record, justify a penalty but do not justify revocation of all the operating rights possessed by defendant. There has been practically no complaint as to the service rendered between San Francisco and San Rafael, certainly not enough to justify revocation of this right. There is, however, ample justification for revoking all operating rights between San Rafael and Santa Rosa and defendant's attitude of non-resistance to such action furnishes hope that further admonition or punishment by the Commission will be unnecessary.

The following form of order is recommended:

O R D E R

A public hearing having been held in the above entitled matter, the same having been duly submitted and now being ready for decision,

IT IS HEREBY ORDERED that all operating rights possessed by defendant San Rafael Freight and Transfer Company, a corporation, for the transportation by motor vehicle of property as a common carrier between San Rafael and Santa Rosa and certain points intermediate as granted by Decision No. 12519, (23 C.R.C. 807), dated August 22, 1923, or as granted to, or created by virtue of operation in good faith prior to May 1, 1917, by its predecessors, or otherwise, are hereby revoked and annulled; and defendant is ordered to terminate such service not later than thirty (30) days from the date hereof; and

IT IS FURTHER ORDERED that tariffs and time schedules of defendant for operation between San Rafael and Santa Rosa, and such intermediate points are hereby canceled as of a date thirty (30) days from date hereof; and

IT IS FURTHER ORDERED that personal service of a certified copy of this opinion and order be made upon San Rafael Freight and Transfer Company, a corporation.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of

September, 1932.

C. A. ...
Leon ...
W. A. ...
W. B. ...
Jos. G. ...
COMMISSIONERS.