

Decision No. 25701

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

Van Landingham Western Sales, Inc.,
formerly Canada Dry Western Sales, Inc.,

Complainant,

vs.

Union Terminal Warehouse,
Jennings-Nibley Warehouse Co. Ltd.,

Defendants.

ORIGINAL
Case No. 3456.

C.L. Mc Gaughey of Overton, Lyman & Plumb,
for Complainant.

R. E. Wedekind for Defendant Union Terminal Warehouse.

George Martinson of Williamson and Musick for
Defendant Jennings-Nibley Warehouse Co., Ltd.

CARR, Commissioner:

O P I N I O N

This case is an aftermath of Re Allen Brothers, Inc., et al. Decision No. 25024, dated August 1, 1932, in which the Commission finding that various warehousemen in Los Angeles and vicinity, including the defendant here, had been departing from their published tariffs, ordered such warehousemen promptly to proceed to collect all undercharges. The complainant is one of the customers of the defendant which was charged off-tariff rates and which now claims that the tariff rates were unreasonable, to the extent they exceeded the charges actually paid, and asks the Commission to authorize the waiving of the undercharge. The defendants admit the allegations of the complaint and in effect join in the prayer for relief.

A public hearing was held at Los Angeles on February 28, 1933, and the case was submitted.

This is a companion case with Canada Dry Ginger Ale, Inc. v. Union Terminal Warehouse, Case No. 3451, decided concurrently herewith, the only points of difference being that here the storage was by the complainant instead of Canada Dry Ginger Ale, Inc., and that a portion of the storage was with Jennings-Nibley Warehouse Co. Ltd. The record in Case 3451 was by stipulation made a part of the record here. The same order as in the prior case logically follows, and the following form of order is recommended:

O R D E R

This proceeding having been duly heard and submitted,
IT IS HEREBY ORDERED that defendants, Union Terminal Warehouse and Jennings Nibley Warehouse Co., Ltd., be, and they are, hereby ordered to cease and desist from demanding from complainant, Van Landingham Western Sales, Inc., formerly Canada Dry Western Sales, Inc., charges for the storage and handling of the lots of ginger ale involved in this case in excess of those herein found reasonable.

IT IS HEREBY FURTHER ORDERED that defendants, Union Terminal Warehouse and Jennings-Nibley Warehouse Co., Ltd., be, and they are, hereby authorized and directed to waive the existing undercharges on complainant's merchandise involved in this case.

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 7th day of

March 1953.

Al Lewis
Leon E. White

W. H. C. C.
M. B. Lewis

W. H. C. C.
Commissioners.