

Decision No 101

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BEFORE THE RAILROAD COMMISSION
OF THE STATE OF CALIFORNIA

Decision No. 101

Grayson-Owen Company, (a corporation),
U. M. Slater, (a corporation),
F. Cames and Joseph Casalet, doing
business under the name and style of
F. Cames Company and
F. Cames and Joseph Casalet, doing
business under the name and style of
Cames and Casalet;

Complainants,

vs.

No. 248.

Southern Pacific Company, (a corporation),
Defendant.

Appearances:

J. O. Bracken for complainants

C. W. Durbrow and G. D. Squires for defendant

DECISION

Loveland, Commissioner.

This case involves a claim for reparation on several carloads of live stock from various points to Stockyards, (near Oakland), California, and its adjudication must rest upon correct tariff construction.

At Stockyards the carriers have provided facilities for loading and unloading stock and to that point have named commodity rates for shipments of stock. West Berkeley, which is north of Stockyards, and Emeryville, which is south of Stockyards, have no facilities for loading or unloading stock and no commodity rates on stock are named to those points.

Complainant contends that 80 per cent of class B, which is the rate applied where no commodity rate is given, would make a less rate on shipments from the north through Stockyards to Emeryville and on shipments from the south through Stockyards to West Berkeley than the commodity rate to Stockyards, and that, therefore, the commodity rate to Stockyards was contrary to the long-and-short-haul provision of the Constitution.

Defendant claims that as Stockyards is the only place where

facilities are provided for loading and unloading stock, the fact that the class rates from points north of Stockyards through Stockyards to Emeryville are less than the commodity rates from the same points to Stockyards and that class rates from points south of Stockyards through Stockyards to West Berkeley are less than commodity rates from the same points to Stockyards should not raise the question of the long-and-short haul prohibition of the Constitution.

We find no allegation in the complaint or proof in the testimony that any shipment moved over the longer distance under the alleged lower rate. Therefore, neither the allegations of the complaint nor the evidence in the case justify any finding by the Commission with reference to this point.

While not unmindful of the duty of common carriers to furnish adequate facilities for the loading and unloading of freight accepted for transportation the Commission will not at this time pass upon the reasonableness of Defendant's practice of providing facilities for loading and unloading stock at some points and not at others as that matter is not at issue in this case.

Defendant further contends - and we find by reference to tariffs mentioned that this contention is correct - that the shipments in question moved under Southern Pacific Tariff No. 1214, which tariff contained the following notice to shippers:

"STATIONS WITHOUT STOCKYARDS

"To or from stations where there are no stockyards or loading chutes, the rates named in the tariffs of the Southern Pacific Company lawfully on file with the Interstate Commerce Commission and state railroad commissions will apply only where shippers furnish the necessary appliances for loading or unloading stock, which must be done at their own expense and risk."

Complainant contends that rates should have been assessed on these movements under

Tariff C.R.C. No. 12,	effective Nov. 9, 1909,
" " " 134,	" Oct. 10, 1909,
" " " 725,	" June 6, 1910

Each of these tariffs carries a reference to the notice on Tariff No. 1214 just quoted.

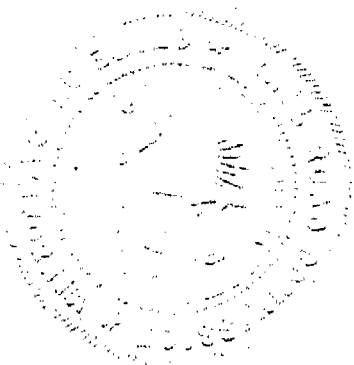
Under all the circumstances of this case we believe that the shipper had due notice that Stockyards was the only place where facilities for loading and unloading stock were provided and that if the rate to West Berkeley or Emeryville were desired, it would be incumbent upon the shipper to comply with the notice as to providing appliances for unloading the stock.

Rates to be properly compared or contrasted should be surrounded by similar circumstances and conditions. On shipments to Stockyards, where the carriers have provided facilities for loading and unloading stock, it is manifest that the carriers perform a different and greater service than they undertake to perform according to their published tariff on shipments to West Berkeley and Emeryville.

For this reason and for the further reason mentioned above - that the complaint contains no allegation that there was any movement to the longer distance under the lower rate and that there was no evidence introduced to show such a movement, - it is held that complainant's claim for reparation on the shipments in question is not sustained and the case is hereby dismissed.

The foregoing decision is hereby approved and ordered filed as the decision of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 14th day of June, 1912.



John M. Eschleman

H. D. Loveland

Max Thelen
Commissioners.