

DECISION NO.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

Macey Leake, Nick Tsarnas,
P. W. Manassif, E. N. Fisher,
Nick Pomor, George Longland,
E. S. Williams, Robert
Williams, Mrs. E. Bartow,
and John E. Tsarnas.

Complainants,

vs.

Northwestern Pacific Railroad
Company,

Defendant.

ORIGINAL

Case No. 614

Decision No. 1765

J. C. Ewing for complainants.
Lilienthal, McKinstry & Raymond and Albert Raymond for defendant
LOVELAND, Commissioner.

O P I N I O N

The complainants in this case attack as unreasonable and excessive the rates on pine and rough oak wood from Willits, Outlet, Arnold and Longvale to San Francisco, Petaluma and Santa Rosa.

The rates alleged to be excessive on pine and rough oak wood from the points mentioned are as follows:

<u>From</u>	<u>To</u>	
Willits Outlet Arnold Longvale	San Francisco	\$3.25 per cord
Willits Outlet Arnold Longvale	Petaluma	2.50 " "
Willits Outlet Arnold Longvale	Santa Rosa	2.00 " "

The rates which the complainants allege to be reasonable are:

<u>From</u>	<u>To</u>	
Willits Outlet Arnold Longvale	San Francisco	\$2.00 per cord
Willits Outlet Arnold Longvale	Petaluma	1.75 " "
Willits Outlet Arnold Longvale	Santa Rosa	1.50 " "

The defendant enters a general denial of the allegations contained in the complaint and prays for a dismissal.

The burden of the complaint is to the effect that the rates on wood from points on the Northwestern Pacific Railroad set forth in the complaint are greatly in excess of the rates on wood from points on the Western Pacific Railway and for this reason the purchasers of wood along the Western Pacific Railway have a monopoly of the business of San Francisco and the cities around San Francisco Bay.

Some testimony was given concerning the rate on peeled oak which is 25¢ per cord higher to San Francisco than rough oak and pine but no allegation in the complaint is made concerning the unreasonableness of this rate.

One of the complainants testified that the demand for wood had materially decreased, which he attributed to competition from other sources of supply due to lower freight rates maintained by other railroads. Defendant, however, contended that this decrease in the demand for wood was largely due to the use of fuel oil which had supplanted wood in many industries. These several contentions may or may not be true but they have little material bearing in this proceeding.

The sole question before the Commission is whether or not the rates maintained by the defendant carrier are in and of themselves excessive and unreasonable.

Some discussion was indulged in at the hearing concerning other wood rates and because of numerous informal complaints which have been received from time to time regarding the same I notified the officials of the defendant company that the Commission would expect them to justify the general adjustment of wood rates on the line of the Northwestern Pacific Railroad at a subsequent hearing, otherwise, the Commission would institute an investigation on its own motion into the reasonableness of these rates.

I realize that an order cannot be entered at this time with reference to any rates other than those specifically called into question by the complaint but will recommend such adjustments as I believe should be made between those points not specifically complained of.

One witness for the complainants testified that the present rate adjustment from Willits to Alameda prevented him from competing with wood from points on the Western Pacific Railway. It appears that the wood of this witness is forwarded from Willits to Tiburon, where it was loaded on to a barge owned by the witness and towed to a point near his yard at Alameda. The testimony of this witness was to the effect that it costs \$1.25 per ton to barge the wood from Tiburon to Alameda. The freight rate, however, from Willits to Tiburon is \$2.50 per cord and was not alleged in the complaint to be excessive or unreasonable.

The same may be said of the testimony of another witness who is in the wholesale wood business shipping to Berkeley. The rates to Berkeley, like Alameda, depend on the rates to Tiburon and, as stated before, the rates to Tiburon were ^{not} attacked as unreasonable in the complaint. Therefore, we can enter no order concerning the rates to Tiburon whatever.

This whole controversy and all of the evidence introduced by complainants and witnesses in behalf of complainants results from lower rates to consuming markets via other lines of railroad, thereby subjecting the plaintiffs to the competition of wood producing points over which the defendant has no control whatever.

The Northwestern Pacific Railroad is not responsible for the rates on wood published by the Southern Pacific Company and the Western Pacific Railway Company. If the Western Pacific Railway Company has published a lower scale of rates on wood from points on its line than obtains for similar distances on the Northwestern Pacific Railroad so that shippers from points on the Western Pacific Railway Company have an advantage in competing markets, this is not the fault of the defendant in this proceeding and the only value of the rates of the Western Pacific Railway Company is for comparative purposes to determine whether or not those of the Northwestern Pacific Railroad are excessive or unreasonable. Likewise, the rates of the Southern Pacific Company from points a much greater distance from San Francisco than are Willits, Outlet, Arnold and Longvale are lower than the rates charged by the Northwestern Pacific Railroad from these points. Again, as in the case of the Western Pacific Railway Company's rates, we must reiterate that the defendant is not responsible for these lower rates of the Southern Pacific Company and they are only valuable for comparative purposes.

To be of any value whatever for comparative purposes we must consider the circumstances surrounding the movement of wood from these points on other railroads and then determine whether the circumstances surrounding the movement of wood on the Northwestern Pacific Railroad are similar to such a degree as would warrant the establishment of a similar scale of rates.

The Southern Pacific Company has in effect from Templeton to San Francisco a rate of \$3.00 per cord for a distance of 218 miles and this based on 3,000 pounds per cord, which is the standard estimated weight adopted by the Southern Pacific Company and some other roads, makes a rate of \$2.00 per ton. The fact that the Southern Pacific Company can afford to haul wood from Templeton to San Francisco a distance of 218 miles, for \$2.00 per ton does not by any means prove that the rate of \$3.25 per cord or \$2.16 per ton based on this same estimated weight from Willits to San Francisco, a distance of 139 miles, is in and of itself unreasonable.

We must consider whether the density of traffic and volume of business of the Northwestern Pacific Railroad compares favorably with that of the Southern Pacific Company, whether trains are operated to the same maximum loading efficiency on one road as on the other, and a multitude of other considerations which enter into the question of whether or not one road may do business as cheaply as another.

The gross earnings of the Southern Pacific Company per mile of road are approximately \$14,000 and the operating expenses about \$8,000 per mile of road, leaving net earnings of about \$6,000 per mile of road, stated in round figures. As against this we have operating revenues per mile of road on the Northwestern Pacific Railroad of \$8681.12, operating expenses per mile of road \$6360.23, or a net operating revenue of \$2320.89. This proves the first point I wish to illustrate that the earnings per mile of line on the Southern Pacific Company are so much greater, both gross and net, than those of the Northwestern Pacific Railroad that it must be the Southern Pacific Company is in a better position to extend low rates than is the Northwestern Pacific Railroad.

The Southern Pacific Company hauls an average of 430 tons of revenue freight on all of its freight trains while the average of the Northwestern Pacific Railroad is but 106 tons. The average earn-

ings per freight train mile of the Southern Pacific Company are \$5.19 while the Northwestern Pacific Railroad are \$3.98. The average loading of a car on the Southern Pacific Company is 17.01 tons while on the Northwestern Pacific Railroad it is 12.64 tons. The Southern Pacific Company receives an average of \$2.69 for each ton of freight handled, the average haul being 220 miles, while the Northwestern Pacific Railroad receives an average of \$1.34 per ton for an average distance of 36 miles. From these figures it must be apparent that because of the heavier loading of cars, the greater amount of traffic to move and the longer distance the freight is handled the Southern Pacific Company is able to afford much lower rates at a reasonable profit than is the Northwestern Pacific Railroad with its smaller tonnage, lighter loading of equipment and shorter distances to haul the freight.

I have illustrated these points with particular emphasis for the reason that complaining parties frequently become confused with lower rates on larger systems and expect as low rates on a comparatively small road as exist on larger roads notwithstanding every element favors the larger system with the greater amount of traffic in making the lower rates.

What has been said with reference to the Southern Pacific Company does not apply with equal force to the Western Pacific Railway for the reason that that line has not yet developed business to the same extent or volume as the Southern Pacific Company but at the same time it must be remembered that the Western Pacific Railway Company was built as a Trans-continental system and to participate in a part of the great Trans-continental tonnage now handled by such roads as the Southern Pacific Company and The Atchison, Topeka and Santa Fe Railway Company.

In order, therefore, to determine the reasonableness of rates of any particular line we must take into consideration all of the elements surrounding the movement of traffic on that line and not be guided solely by the rates of railroads differently situated. A

basis of rates which might be entirely reasonable on the Southern Pacific Company or The Atchison, Topeka and Santa Fe Railway might be entirely too low on a system such as the Northwestern Pacific Railroad. Likewise, rates on the Northwestern Pacific Railroad which might be reasonable would be altogether too low for a still smaller road such as the Ocean Shore Railway and other small lines similarly situated. If the territory through which a railroad runs produces a small amount of traffic it stands to reason that that road must charge rates high enough to support it, otherwise it will go out of existence. We have noticed several instances where small roads notwithstanding they handled all the traffic in the territory through which they operated were compelled to cease operations because no matter how high the rates might be the volume of business could not possibly be sufficient to justify a continuance of operations. For these reasons it must be borne in mind that the Commission must view each proposed freight rate adjustment from the standpoint of its effect on the particular road in question.

As before stated, the controversy hinges to a certain extent on the inability of producers of wood on the Northwestern Pacific Railroad to compete with the producers of wood shipped from points located on other railroads. The functions of this Commission are to prescribe just and reasonable transportation rates for the movement over the particular line of railroad involved and in so doing it cannot undertake to equalize market conditions. If the wood shippers have been so unfortunate as to locate along a railroad which by reason of its comparatively small tonnage must charge higher rates than other railroads enjoying more business that is a disability which this Commission is not empowered to remove.

We will now consider whether the rates in effect for the transportation of wood via the line of the Northwestern Pacific Railroad are in and of themselves just and reasonable. Having disposed of the question of comparison of rates with other lines the question

resolves itself into a consideration as to whether or not the rates on wood are fairly adjusted so as to share only a proper burden of the cost of operating this line of railroad in comparison with the other commodities moved. In other words, considering all of the traffic handled by the defendant carrier, are the rates on wood so high as to burden the wood shippers with an unjust proportion of transportation expenses in order that other commodities may be carried at a lower than a reasonable rate? I believe, in some cases, that there is not a proper adjustment in the rates of the defendant carrier and in some instances the rates on wood bear an improper relation to the rates on other commodities; for instance, the defendant carrier handled 2,253 tons of lumber an average distance of 127 miles for which it received an average rate per ton of \$2.22, average car mile earnings of 37 cents for an average load of 21 tons. It handled 4,982 tons of wood an average distance of 132 miles at an average rate of \$1.98 per ton, average car mile earnings of 31 cents with an average load of 20 tons per car.

It cannot be denied that of the two commodities lumber is much the more valuable commodity. The transportation risks are much greater on lumber than on wood and we know of no case where a railroad expects or receives a freight rate on wood almost as great as on lumber.

In the report of the Northwestern Pacific Railroad to the Commission covering the movement of wood and lumber for distances between 151 and 200 miles we find that the average rate per ton on lumber is \$1.89 for a distance of 151 miles and the car mile earnings 23 cents, while on wood the average rate for 152 miles is \$2.16 and the car mile earnings 28 cents. In this latter case the revenue derived by the defendant carrier is even greater on wood than on lumber, a disparity ~~is~~ which we cannot fail to notice. Other commodities such as horses, cattle, feed and mill stuffs, and some others, move at rates and at such car mile earnings as to convince

me that there is not a proper relationship between the rates on the various commodities.

Witness for the defendant admitted that wood is a very low grade commodity; in fact the only commodities moving which might be considered of a lower grade are rock, gravel, sand and fertilizer. When questioned as to why in some cases the rate on some of the higher grade commodities were on a basis of as low or nearly so as wood the witness replied that the rates on the commodities other than wood were undoubtedly too low. When asked the reason why lumber in some cases was moving at a rate which produced lower car mile earnings for approximately the same distance and loading per car than wood the witness testified that it was done in order to permit the producers to compete with lumber moving by water. In other words, it has apparently been the practice of this defendant carrier, and we have noted other cases wherein the same policy is followed by other carriers, to make rates so that producers of a commodity on its particular rails might compete with the producers on the rails of other lines or served by water carriers. This is nothing more or less than so-called market competition and the carriers seem imbued with the idea that they may meet market competition as they see fit in some instances and disregard it in others.

My position in this connection is best illustrated by the following extracts from the Transcript:

MR. SANBORN:Q. Now, generally speaking, your lumber rates should be higher than your wood rates, shouldn't they?

MR. GEARY: A. I think so.

MR. SANBORN:Q. What would you say of the movement on lumber moving at 23 cents per car mile for 151 miles as against wood moving at 28 cents a car mile?

MR. GEARY: A. That would be caused by the fact that our rate on wood lumber is made from the producing points on our line down to this end, and that distance, in order to allow the producers in our territory to compete with water lumber.

MR. SANBORN: Q. But you don't figure the same way when the wood man meets another wood man from another part of the state; it is all right for the lumber man, but how about the wood man?

MR. GEARY: A. Well, the same competition does not exist.

MR. SANBORN: Q. Well, then, are your rates made on the theory of market competition?

MR. GEARY: A. No, not entirely; it does enter into it.

Here is a plain case where, for some reason, the carrier has found it expedient to carry lumber rates on such a basis as will enable the producers of lumber to meet the competition of lumber producers having other means of transportation but when the wood shippers along the line of the defendant carrier complain that they cannot meet competition of wood shippers from other sections served by different carriers the defendant is not willing to afford the complainants the same kind of relief that has apparently been afforded the lumber shippers. But, as I have before stated in this opinion, this Commission is powerless to compel a carrier to meet this so-called market competition although it has the right to prevent discriminatory conditions.

On shipments of wood from the points involved the defendant maintains rates to San Francisco which are 75 cents per cord in excess of the rate to Tiburon, in explanation of which witness for the defendant stated that all wood originally moved to Tiburon and was barged from that point to San Francisco and that when demand was made for deliveries by car to San Francisco direct an additional rate of 75 cents per cord was added to cover this service.

No satisfactory explanation was made as to why the rates on many other commodities moved are the same from and to San Francisco as Tiburon. All of the class rates are on the same basis from both points. The carload rate on wine apparently has not taken into question the additional service from Tiburon to San Francisco for the rates are the same to both points. From and to points north of Cloverdale the rates on lumber are the same to and from Tiburon as San Francisco. On movements of hay between San Francisco and points south of San Rafael the rate ranges from 20 to 40 cents per ton higher to San Francisco than to Tiburon but north of San Rafael the difference diminishes and the rates between Cotati and Bellview are only 5 cents per ton greater from San Francisco than Tiburon while north of Bellview the rates are the same to both points. On shipments of grain the rates are the same to San Francisco and Tiburon from all points except from Healdsburg where but a 5 cent differential obtains. Other commodities transported by the defendant could be mentioned in a similar manner but I think enough have been shown to illustrate the point I make.

Why, then, does this defendant single out wood shipments to pay an additional rate to cover the ferry movement and apparently waive it on many other commodities?

Witness for the defendant gave certain figures supposed to represent the cost of transporting freight from Tiburon to San Francisco which, if we accept as accurate, indicates that either the rates to San Francisco are too low or the rates to Tiburon are too high. The Railroad certainly performs less service to Tiburon than to San Francisco and, in my opinion, is not entitled to as great revenue on freight destined or transported from Tiburon as from or to San Francisco. I do not venture the opinion which of the two may be too high or too low for such facts can only be determined by a complete investigation into the entire rate structure.

Sufficient evidence has been introduced to convince me that the wood rates of the Northwestern Pacific Railroad are badly out of line when due consideration is given to the rates covering the movement of all commodities handled by this line.

I am of the opinion and find as a fact from all of the evidence in this case that the rates on pine and rough oak wood from Willits, Outlet, Arnold and Longvale to San Francisco, Petaluma and Santa Rosa are and each of them is excessive, unjust and discriminatory and should not exceed the following:

<u>From</u>	<u>To</u>	<u>Per cord</u>
Willits Outlet Arnold Longvale	San Francisco	\$2.75
Willits Outlet Arnold Longvale	Petaluma	2.00
Willits Outlet Arnold Longvale	Santa Rosa	1.75

I believe a general adjustment should be made in the wood rates of the Northwestern Pacific Railroad from and to points not covered by the pleadings in this case but which have been called to the attention of the Commission by informal complaints.

In my judgment, the rate to Tiburon from Willits, Outlet, Arnold and Longvale should not exceed \$2.25 per cord.

A corresponding adjustment should be made from points on the Sherwood Branch.

Informal complaint had been made concerning the rate from Farley which is based on \$1.25 per cord over Longvale. This adjustment is unreasonable and the rates herein found to be reasonable from Longvale should be extended on a normal basis from points beyond.

Attention is also directed to the necessity of some adjustment in the rates from Cloverdale and we will expect the

defendant to submit a new schedule of wood rates which will eliminate the inconsistencies mentioned.

I submit the following order:

O R D E R

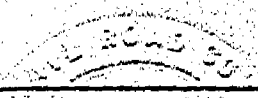
Macey Leake, Nick Tsarnas, P.W. Manassi, E. N. Fisher, Nick Pomon, George Longland, E.S. Williams, Robert Williams, Mrs. E. Bartow and John E. Tsarnas having filed a complaint with this Commission alleging that rates on wood between various points on the line of the Northwestern Pacific Railroad are unreasonable and a regular hearing having been had and basing its order on the findings of fact which appear in the opinion which precedes this order

IT IS HEREBY ORDERED that the Northwestern Pacific Railroad publish and file with this Commission within twenty (20) days from the date hereof a schedule containing rates on pine and rough oak wood from Willits, Outlet, Arnold and Longvale to San Francisco of \$2.75 per cord, Petaluma \$2.00 per cord and Santa Rosa \$1.75 per cord which rates are hereby found to be reasonable and established as just and reasonable rates to be charged by the Northwestern Pacific Railroad.

IT IS FURTHER ORDERED that the Northwestern Pacific Railroad present to this Commission within twenty (20) days from the date hereof proposed readjustment of wood rates in line with the recommendations contained in the opinion which precedes this order.

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 25th day of November, 1914.



A. S. ...

Max ...

Edwin O. Edgerly
Commissioners.