

BEFORE THE RAILROAD COMMISSION  
OF THE STATE OF CALIFORNIA.

.....	:	
F. GAMES COMPANY, et al.,	:	
Complainants,	:	
vs.	:	Case No. 226
.....	:	
SOUTHERN PACIFIC COMPANY,	:	
Defendant.	:	
.....	:	

APPEARANCES.

J. O. Bracken, for Complainants,  
George D. Squires, for Defendant,  
A. B. Roehl, representing the Railroad Commission.

SUPPLEMENTARY DECISION.

GORDON, Commissioner.

The complaint in this action is for a recovery of alleged overcharges collected by the defendant on livestock shipments over its line between two points within this state. The complaint is based upon the fact that the through commodity rate collected by defendant was in excess of the combination of intermediate class and commodity rates.

The Commission rendered its decision in this case on January 29, 1912, and stated therein that the parties to the action should determine the specific claims of reparation which were allowed by the decision, or in case an agreement was not possible, that the parties should again appear before the Commission and that the Commission would thereupon determine the specific claims of reparation which were allowed.

The parties were unable to agree upon the application of the Commission's decision to certain shipments hereafter mentioned, and the Commission thereupon directed that a rehearing be had to settle this dispute.

The shipments in question were made from various points of origin to San Francisco. The exact routing of the shipments between these points was not disclosed, the assumption being made, however, both in the pleadings and at the hearing, that the shipments were so routed that provided a combination of rates is allowable to attack the through rate which was charged, such combination may be made upon Richmond as an intermediate point in these shipments. The only question presented at the hearing was whether or not Rule 7-a C.R.C. Tariff Circular No. 1, when considered with reference to the provisions of defendant's livestock tariff applicable to these shipments prevents combinations being made to defeat the through rate charged upon these shipments, which through rate exceeded the class rate from the point of origin to Richmond, plus the commodity rate to San Francisco.

It would seem that reparation should be allowed upon such of the shipments as occurred subsequent to November 21, 1910, at which date Rule 7-a, C.R.C. Tariff Circular No. 1 was amended to read as follows:

"In every instance where a class or commodity rate is named in a tariff between specified points the lowest of such rates is the lawful rate; provided, that if some combination of class or commodity rates, or class and commodity rates is found to be lower than the through rate, the lower combination of rates shall apply and the carrier shall immediately make its through rate correspond to the lower combination of rates. It being the intention to give the shipper the advantage of the lowest possible rate."

The defendant company, however, objects to the application of this rule to the shipments in question for two reasons:

(1) The Commission has already recognized, both in the case of B.J. McCullough vs. Southern Pacific Company, Case No. 225, and in the original decision in the present case, that according to the provisions of defendant's tariff, as applicable to the facts of said two cases, the publication of a specific commodity rate upon livestock shipments between two points supersedes the class rate upon such shipments. The defendant contends that accordingly the class rate from the point of origin to Richmond was superseded by the commodity rate from the point of origin to San Francisco, the destination. There is no merit in this contention. The class rate which is superseded is the class rate applicable between the same points to which the commodity rate is also applied.

The commodity rate does not supersede nor prevent a combination of intermediate class and commodity rates, in accordance with Rule 7-a, C.R.C. Tariff Circular No. 1, quoted above.

(2) It appeared at the rehearing that defendant has no facilities at Richmond for loading and unloading livestock.

Defendant's livestock circular No. 2, C. R. C. No. 1212, Item No. 2, provides that in such cases the shipper must himself furnish the facilities for loading and unloading. These facilities are furnished by the defendant on through shipments from the point of origin to San Francisco. Defendant contends, therefore, that the class rate to Richmond contemplates a lesser and different kind of service than that performed for the through commodity rate to San Francisco, and for this reason should not be used in a combination to attack that through rate. The Commission can see no merit in this contention as applied to the facts of the case.

It is obvious that the service performed for the through rate to San Francisco is no greater than the combined services represented by the two intermediate rates. While, as a matter of fact, stock shipments are rarely, if ever, made to Richmond, nevertheless, the defendant has published this class rate to Richmond, and in so doing has opened the way for the combination rate set forth in the complaint, and such combination is the rate which should have been charged by the defendant.

Considering now all the claims set forth in the complaint, the Commission finds that excessive rates were collected by the defendant on carload shipments of livestock and moving for consignees, and in the amounts of overcharges as follows:

F. Cames Company,-----	\$17.98
Cames & Casalet,-----	6.32
Grayson-Owen Co.,-----	3.06
William Taafe & Co.,-----	14.35
E. Moffatt,-----	100.99
J. B. Horan,-----	15.30
Knierr, Allen & Pyle,-----	1.35
Roth-Blum Packing Co.,-----	34.17
South San Francisco Packing & Provision Co.,	83.13
J. G. James Company,-----	23.50

The defendant is hereby ordered and directed to pay to the complainants the sum of Three Hundred and 15/100 Dollars (\$300.15), with interest at the rate of seven (7) per cent per annum from the date of payment of said charges.

The above decision is hereby approved and ordered filed as the decision of this Commission.

Dated at San Francisco, California, this 10<sup>th</sup> day of September, 1912.

John M. Eschleman  
 J. S. Loveland  
 J. G. Gordon  
 Max Thelen  
 Commissioners.