

BY
Decision No. _____

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

Decision No. 2927

Montague Creamery,)

Complainant.)

vs.)

Wells Fargo & Company,)

Defendant.)

Case No. 825.

B. K. Collier, for Complainant.

Alfred Sutro, for Defendant.

GORDON, Commissioner.

O P I N I O N

Montague Creamery, a corporation, is engaged in the business of manufacturing butter at Montague; its product is transported by the defendant carrier from Montague to San Francisco at an any-quantity rate of \$1.50 per 100 pounds. Complainant alleges that the present any-quantity rate on butter is unlawful and excessive in that it exceeds the defendant's any quantity rates in effect between other points in California for similar distances and asks that the Commission prescribe rates for the future which are not in excess of the rates contemporaneously in effect between Los Angeles and Keyes, Modesto and Watsonville. The following table shows the "open" or any-quantity rates and the distances between the points aforementioned; also between San Francisco and Los Angeles and Tehachapi:

BUTTER RATES IN CENTS PER 100 POUNDS

Distance Between	And	Open or Any Quantity	Lots of 1000 Pounds and less than 2000 pounds	Lots of 2000 Pounds and over	
350.1	Montague	San Francisco	150		
349.2	Tehachapi	"	125		
470.6	Los Angeles	"	125		
361.0	Keyes	Los Angeles	125	115	105
368.7	Modesto	"	125	115	105
374.6	Watsonville	"	125		

The distances are to be found in Southern Pacific Company's Distance Table No. 420-B, C.R.C. No. 1857, over which line the defendant operates. It will be noted that with one exception the distances range from 10.9 miles to 120.5 miles in favor of the points complained of. The present rates between Montague and San Francisco became effective March 15, 1914. Prior to this date the rate on butter, voluntarily established by carrier between the same points, was \$1.75 per 100 pounds and the rates, likewise voluntarily established between the other points indicated, were the same as at present. From this it will be seen that the present "open" or any-quantity rate between Montague and San Francisco is 25 cents per 100 pounds higher than between the other points shown and in the absence of quantity rates the disparity varies from 35 cents to 45 cents per 100 pounds, the differentials prior to March 15, 1914, being considerably in excess of these figures.

The records disclose that complainant's individual butter shipments to San Francisco exceed 1000 pounds per shipment and that the total tonnage from Montague will approximate 200,000 pounds annually.

Defendant, in its answer, denies that the rate of \$1.50 per 100 pounds on butter between Montague and San Francisco is excessive and unlawful, but on the contrary avers that where similar traffic conditions exist the rate is just and reasonable. During the hearing at San Francisco, October 4, 1915, counsel laid great stress upon the fact that as the present rate of \$1.50 per 100 pounds between Montague and San Francisco was established by the Commission it follows that the rate is just and reasonable and therefore should not be disturbed.

We desire in this connection to quote from our Decision No. 2149, dated February 11, 1915, as follows:

"With a complete readjustment of all the express rates and the substitution of an entirely new system of rate making, some conditions are bound to arise which require modification from time to time.

***** It is expected that such adjustment as will be necessary from time to time will be made by the defendant without contest, it appearing that such adjustment can be made and the carrier be in the same position as was contemplated under the original order of the Commission."

While the Commission considered defendant's entire rate structure collectively in prescribing rates for the future, it at the same time drew attention to the fact that some of the individual rates would probably be out of line and require adjustment.

A number of exhibits were introduced in support of defendant's contention that the rate complained of is just and reasonable. Exhibits "A", "B" and "C" undertake to show that as the average "open" or any-quantity express rate per mile on butter between certain points is .0046 cents, the rate of .0043 cents per mile between Montague and San Francisco is not out of line. The distances between the points specified range from 78 to 369 miles and the rate per mile from .0034 cents to .0059 cents. These exhibits can be given but little consideration, for the reason that the rate per mile for shorter distances is greater than for longer distances;

consequently an average rate is not comparable. Only four points shown are of substantially the same distance as the distance under consideration and if the average rate per mile between these points is used as a basis the open rate between Montague and San Francisco would not be in excess of \$1.25 per 100 pounds.

Defendant's Exhibit "D" purports to indicate that by reason of density of population the territory between Los Angeles and Modesto, inclusive, and between Los Angeles and Watsonville, inclusive, is entitled to lower rates on butter than is the territory between Montague and San Francisco, inclusive. It shows that between the last named points there are two routes, one via Tehama, Willows and Davis; the other via Tehama, Chico, Roseville, Sacramento and Davis. The former route passes through ten counties, the population of which is 800,228, or an average population per county of 80,022. The latter route passes through thirteen counties, the population being 915,038, or an average population of 70,387 per county. Between Modesto and Los Angeles there are two routes, one passing through Fresno, Mojave and Saugus, the other through Fresno, Mojave and San Bernardino, via the Southern Pacific Company and via the Atchison, Topeka and Santa Fe Railway Company, respectively, the former route serving seven counties with a total population of 698,987, or an average population of 99,855, the latter route serving nine counties, the population of which is 771,923, an average of 85,769 per county. Between Watsonville and Los Angeles via the Southern Pacific Company, six counties are served, the total population being 619,885, or an average of 103,314 per county. The exhibit instead of supporting defendant's contention appears to have a contrary effect. While the average population per county is greater between Los Angeles and Modesto and Los Angeles and Watsonville than between Montague and San Francisco the fact remains that the total population served between the latter points via either

route is considerably in excess of the number of persons served between the other points.

Defendant's Exhibit "E" shows the production of butter in counties served by the routes mentioned in the preceding exhibit for the years ending September 30, 1913 and 1914, and indicates that a greater quantity was produced between Los Angeles and Modesto and Los Angeles and Watsonville than between Montague and San Francisco. Further, that the production of butter during the year 1914 exceeded the year 1913. This is illuminating, but in no way tends to prove that the tonnage transported between Montague and San Francisco is less than between the other points between which any quantity and quantity rates are named.

Exhibit "F" demonstrates that twice as much butter was transported from Montague to San Francisco from November 1914 to June 1915, inclusive, as for a similar period during years 1913 and 1914, and it is urged that upon this showing butter is freely moving under the existing rate and is therefore reasonable. This exhibit, as it stands, is not properly compiled. If it is intended to show that a greater tonnage moved under the present rate of \$1.50 per 100 pounds, effective March 15, 1914, than under the rate of \$1.75 per 100 pounds previously in effect, data should have been submitted accordingly; however, it would appear from the exhibit that 16,900 pounds moved under the old rate from November 1913, to February 1914, inclusive, and 27,753 pounds under the new rate during the same months, years 1914 and 1915, an increase in tonnage of 10,853 pounds. Is it to be admitted that because of the increase in tonnage the present rate is reasonable? Might it not be due to the fact that the rate had been reduced? It is found that the additional traffic during the latter period increased the defendant's revenue \$120.55, notwithstanding the lower rate was in effect and suggests the question: Does a reduction in rate necessarily diminish a utility's income? May it not be possible that a reduction in rate will in-

crease the amount of business and therefore the earnings?

The transportation conditions surrounding butter shipments between Montague and San Francisco are no different than between the other points shown in the table; therefore, if shippers at producing points in the one territory are accorded any-quantity and quantity rates it is unreasonable to charge shippers at producing points in the other territory different rates for like distances, under similar circumstances and conditions.

From the facts of record in this case I find that the rate on butter between Montague and San Francisco is unjust and unreasonable and should not exceed the following:

<u>Quantity</u>	<u>Rate Per 100 Pounds</u>
Less than 1000 Pounds	\$1.25
1000 lbs. but not over 1999 lbs.	1.15
2000 lbs. and over	1.05

provided, that the charge for a lesser quantity shall not be more than the charge for a greater quantity.

I submit herewith the following form of order.

O R D E R

The Montague Creamery having filed a complaint with this Commission alleging that the rates on butter between Montague and San Francisco of Wells Fargo and Company are excessive and unlawful, and a public hearing having been held, and the Commission being fully apprised in the premises, and basing its order upon the findings of fact which appear in the opinion preceding this order,

IT IS HEREBY ORDERED that Wells Fargo & Company publish and file with the Commission on or before twenty days from the date of service of this order the following rates on butter between Montague and San Francisco:

Quantity	Rate per 100 Pounds
Less than 1000 Pounds	\$1.25
1000 lbs. but not over 1999 lbs.	1.15
2000 lbs. and over	1.05

provided that the charge for a lesser quantity shall not be more than the charge for a greater quantity.

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 20th day of November, 1915.

Max Thelen
H. H. ...
...
Edwin G. Edgerton
Francis ...
 Commissioners.