

Decision No. _____

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

Holt Manufacturing Company,)
 Complainant.)
 vs.)
 Southern Pacific Company,)
 Defendant.)

ORIGINAL

Case No. 969.

Stanley E. Semple, for complainant.
 Geo. D. Squires and F. B. Austin, for
 defendant.

LOVELAND, Commissioner.

O P I N I O N

The Holt Manufacturing Company, complainant in this proceeding, is engaged in the manufacture of agricultural implements with offices and plant at Stockton, California.

Complainant alleges that during the months of December, 1914, March and May, 1915, there were shipped from Stockton to Pittsburg, six carloads of scrap steel turnings on which defendant assessed Class "D" rate of 6½ cents per hundred pounds. It is further alleged that the lawful rate applicable to shipments in question is 5 cents per hundred pounds, as per Item 685, of defendant's Local and Proportional Freight Tariff No. 730, CRC No. 1632, effective November 22, 1912, which item reads as follows:

"Junk, as described in Western Classification
 ***** carloads, from Stockton to San Francisco,
 5 cents per hundred pounds."

Pittsburg, the point of destination, is located on defendant's main line between Stockton and San Francisco, and therefore the rate on junk to San Francisco cannot be exceeded at Pittsburg.

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Complainant requests that after a hearing and investigation, this Commission establish the rate from Stockton to Pittsburg of 5 cents per hundred pounds, minimum weight 30,000 pounds, on scrap steel turnings, and that defendant be required to make reparation in the sum of ninety-one dollars and two cents (\$91.02) the alleged overcharges on the six carloads under investigation.

Item in Western Classification covering junk in effect at time shipments moved reads as follows:

"Junk, consisting of bones, pig iron drippings, broken glass, hoofs, horns and horn pith, scrap iron, scrap lead, old rope, old rubber, including worn out rubber tires, and scrap zinc, in packages or loose, straight or mixed C.L. minimum carload weight 30,000 pounds."

At the hearing the Southern Pacific Company, through its representative, offered to submit the case without evidence, and stated in effect that the shipments were entitled to the rate of 5 centx per hundred poundx applicable on junk, as per Item No.685 before referred to. With this complainant expressed itself satisfied.

I am of the opinion that charges were wrongfully assessed and that the rate legally applicable on scrap steel turnings in carloads, from Stockton to Pittsburg, is 5 cents per hundred pounds, as per item on junk, including scrap iron, referred to above, scrap steel turnings as a matter of fact being synonymous to scrap iron.

The exact amoynt of reparation due cannot be determined on the present record, no freight bills having been presented. The parties to this action will therefore agree upon the amount, and if no agreement can be reached within thirty (30) days from the date of this order such reparation, upon presentation of proper proof, will be fixed by this Commission by supplemental order.

I submit herewith the following form of order:

O R D E R

Holt Manufacturing Company having filed complaint against the Southern Pacific Company asking that rate of 5 cents per hundred pounds be made applicable to scrap steel turnings, carloads, from Stockton to Pittsburg, also for reparation on certain shipments of scrap steel turnings moved between points above named, and a hearing having been held and being fully apprised in the premises,-

IT IS HEREBY ORDERED that the Southern Pacific Company make reparation on shipments referred to in the complaint of the difference between the amounts collected and the amounts which would have been collected based on rate of 5 cents per hundred pounds, as per Item No.685, shown on page 147, of Southern Pacific Company's Local and Proportional Freight Tariff No.730, CRC 1632. Should parties fail to agree within 30 days as to the amount of reparation due, proper order will be issued upon presentation of freight bills to this Commission.

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 26th day of September 1916.

Max Thelen
J. H. Howard
Edwin O. Edgerton
Frank R. Devlin
Commissioners.