

Decision No. 473

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BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

MAMMOTH COPPER MINING COMPANY
OF MAINE,

Complainant,

vs.

Case No. 300.

SOUTHERN PACIFIC COMPANY,

Defendant.

Alfred Sutro for complainant,
C. W. Durbrow for defendant.

THELIX, Commissioner.

OPINION ON REHEARING.

On December 20, 1912, this Commission made its order in the proceeding entitled as above, directing the defendant to file and publish a rate of six dollars and ninety cents (\$6.90) per ton of 2000 pounds on blister copper in anodes, pigs or bars, actual value not to exceed \$400.00 per ton of 2000 pounds, carloads, minimum weight 30,000 pounds, from Kennett to Oakland Long Wharf and San Francisco. The complainant thereafter filed an application for a rehearing. The present proceeding consisted of evidence and argument on the question whether a rehearing should be granted. Both parties stipulated at the hearing that if the rehearing were granted the evidence presented in this proceeding should be considered to be the evidence which would have been presented on the rehearing, if granted, and that the matter might be disposed of on this evidence and the evidence presented at the original hearing. This stipulation was entered into to avoid the necessity of a second hearing, in case a rehearing were granted.

The two contentions relied on by complainant in its application for a rehearing are:

1. That it produces at its smelter at Kennett, California, blister copper having a value of less than \$400.00 per ton, being the value referred to in this Commission's order of December 20, 1912.
2. That the rate of six dollars and ninety cents (\$6.90) per ton, found by the Commission to be reasonable, is excessive as being predicated on an excessive and unreasonable rule of the defendant.

The evidence at the original hearing showed that the value of the blister copper produced by complainant at Kennett is about \$400.00 per ton of 2000 pounds. In this proceeding, complainant contends that it produces blister copper which at times is worth considerably less than this amount, and hence asks for a lower rate for such blister copper. The evidence on this point shows that the blister copper as shipped from complainant's smelter at Kennett consists of about 98% of copper and 2% of other metals, principally gold and silver; that the price of copper in New York has varied during the last few years from about 11 3/4¢ to 17¢ per pound and that at the date of the hearing it was 16 1/2¢ per pound; that the amount of gold per ton varies from 3/4 to 3 1/2 ounces and of silver from 50 to 350 ounces, and that the value of the gold varies from \$15 to \$70 and of the silver from \$40 to \$210 per ton of blister copper; that the cost of freight and refining is about 2¢ per pound of blister copper; and that the value of the blister copper varies from about \$335 to about \$480 per ton,, depending upon the varying quantities of precious metals therein and the varying prices thereof. In view of the uncontradicted evidence now introduced that the value of blister copper is at times as low as \$335 per ton, the Commission's order should be modified as hereinafter in the order specified.

In seeking to ascertain a just and reasonable rate, this Commission, in its original order, considered, among other facts, a rate of \$3.50 per ton of 2000 pounds voluntarily established by defendant on copper matte, carloads, "actual value not to exceed \$150.00 per ton," from San Francisco to Kennett, and considered in connection therewith Rule 7 of defendant's Local, Joint and Proportional Freight Tariff No. 635-A, C.R.C. No.1290, establishing the

rule for ascertaining the rate on ore, concentrates, sulphurets, metal, bullion and matte of a value in excess of \$100.00 per ton of 2000 pounds, by taking certain increasing percentages of the rate or value, as the case may be, as the value per ton increases. Complainant contends that this rule is unjust and unreasonable, and draws attention to a practice largely adopted by carriers elsewhere, of establishing a rate on a released valuation and an alternative rate amounting to from 110% to 120% of the first rate in case the value is not released, entirely irrespective of varying values of the commodity. There is no evidence that the circumstances under which this rule is applied elsewhere are such as to make it a fair rule to apply to shipments in this state in lieu of the defendant's rule to which reference has heretofore been made, and I shall not apply the proposed rule in this case.

I find as a fact that the rate hereinafter in the order specified to be established by defendant is a just and reasonable rate and recommend that defendant be directed to file and publish the same. This Commission's opinion and order in the above entitled proceeding, dated December 20, 1912, in so far as applicable, are hereby made a part of this opinion and order.

I submit herewith the following form of order:

O R D E R.

THE MAMMOTH COPPER MINING COMPANY OF MAINE having filed with this Commission its petition for a rehearing in the proceedings entitled as above, and argument having been duly made and evidence presented on the question whether a rehearing should be granted, and the parties having stipulated that in case a rehearing be granted the evidence presented in this proceeding be considered to be the evidence which would have been presented on such rehearing and that the matter be determined on such evidence and the evidence on the original hearing, and the matter having been submitted,

IT IS HEREBY ORDERED that such application for rehearing be and the same is hereby granted.

And the Commission finding as a fact that the present rate of \$11.00 per ton of 2000 pounds on blister copper, actual value not to exceed \$300.00 per ton of 2000 pounds, in carload lots, from Kennett to Oakland Long Wharf and San Francisco is an unjust and unreasonable rate and that the rate of \$4.90 per ton of 2000 pounds on blister copper, in anodes, pigs or bars, actual value not to exceed \$300.00 per ton of 2000 pounds, carloads, minimum weight 30,000 pounds, with an additional 2% of the value on any value above \$300.00 per ton of 2000 pounds, from Kennett to Oakland Long Wharf and San Francisco would be a just and reasonable rate and that the defendant should publish the same,

IT IS HEREBY ORDERED that within twenty days from the service on defendant of this order, defendant shall file and publish, effective at the expiration of said period of twenty days, a rate of four dollars and ninety cents (\$4.90) per ton of 2000 pounds on blister copper in anodes, pigs or bars, actual value not to exceed \$300.00 per ton of 2000 pounds, carloads, minimum weight 30,000 pounds, with an additional 2% of the value on any value above \$300.00 per ton of 2000 pounds, from Kennett to Oakland Long Wharf and San Francisco, said rate to apply on state movements alone and not to include any service of defendant in loading said copper on any vessel at said Oakland Long Wharf or San Francisco, or in arranging said copper in said vessel for safe transportation or otherwise.

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 February, 1913.

H. D. Cleveland

Max Thelus

Edwin O. Edgerston

Commissioners.