

## BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

Assets Realizing Mines Corporation,  
Complainant,

vs.

The Atchison, Topeka & Santa Fe Railway Co.  
and  
Walker D. Hines, Director General of  
Railroads, U. S. Railroad Administration,  
Defendants.

CASE No. 1307

Appearances -

L. G. Wilson of Bishop & Bahler, for complainant.  
A. M. Reinhardt and E. W. Camp, for defendants.

LOVELAND, Commissioner:

O P I N I O N

Complainant, a corporation engaged in the mining industry with principal place of business in the town of Blythe, California, alleges by complaint duly filed that the rate charged by defendants for transportation of a carload of well boring outfit moving from Los Angeles to Blythe Junction, California, April 13, 1917, some time prior to the period of federal control, was unlawful and in violation of Section 24 of the Public Utilities Act. Refund of the alleged unlawful charges with interest is sought. Rates are stated in cents per 100 pounds.

Revenue of \$157.25 was collected on basis of through Class A rate of 63 cents. It is admitted by defendants that rate of 62 cents, made up Los Angeles to Crucero 16 cents, Crucero to Ludlow 12 cents and Ludlow to Blythe Junction 34 cents, should not be exceeded. The rate claimed is a combination of rates from Los Angeles to Ludlow of 16 cents and from Ludlow to Blythe Junction of 34 cents, the first factor being published in the shape of a joint commodity rate from Los Angeles to Crucero, the second being Class A rate of the Atchison, Topeka & Santa Fe Railway Company,

hereinafter at times referred to as the Santa Fe, from Ludlow to Blythe Junction.

The question involved is whether the joint rate of 16 cents per 100 pounds from Los Angeles to Crucero was lawfully applicable to transportation via the Santa Fe from Los Angeles to Ludlow.

At rate of 50 cents contended for by complainant, charges would amount to \$124.80, or a difference of \$32.45. The rate of 16 cents per 100 pounds from Los Angeles to Crucero is carried in a joint tariff of the Santa Fe and the Tonopah and Tidewater Railroad, Ludlow being the junction point between the respective carriers. The rate was not published to latter point either in the joint tariff or in the local issue of the Santa Fe; the joint tariff carried an application clause as follows:

"Except as otherwise provided in individual items, rates to directly intermediate points to which a specific rate is not named will be the same as the rate to the next more distant point on the same line to which a specific rate is named,"

which rule, in substance, continued in effect until December 26, 1917, when it was amended by the addition of a note reading:

"The term 'line', as used in this application, means the individual company on whose line the point having a specific rate is located, and such rate must not be used to determine a rate to a point on any other line."

It is urged by complainant that under the application clause in effect at time of shipment the rate of 16 cents could not lawfully be exceeded at Ludlow as it is an intermediate point on the line or route running from Los Angeles to Crucero. The position of defendants is that the term "line" means, and such has always been the interpretation of the carriers, the individual road on whose line the point having a specific rate is located and that the amended application clause is simply a clarification of the rule previously carried.

Section 20, Article 12 of the Constitution and Section 24(a) of the Public Utilities Act of this State provide that:

"No common carrier subject to the provisions of this Act shall charge or receive any greater compensation in the aggregate for the transport -  
tation of persons or of a like kind of property for a shorter than for a longer distance over the same line or route in the same direction, within this state, the shorter being included within the longer distance \*\*\*\*\* Upon application to the Commission, such common carrier may, in special cases, after investigation, be authorized by the Commission to charge less for a longer than for a shorter distance for the transportation of persons or property, and the Commission may from time to time prescribe the extent to which such carrier may be relieved from the operation and requirements of this section."

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It will be observed the inhibition of the long and short haul clause above set forth is not restricted to movement over the line of one transportation company only, but comprehends hauls over the lines or routes of any number of carriers.

The records of the Commission fail to show that application was ever made by either of the carriers parties to the joint tariff to deviate from the long and short haul section of the Public Utilities Act and the Constitution, and therefore the collection of a greater charge to a shorter distance point than contemporaneously charged for like shipments to a longer distant point would be in violation of the law.

This point need not be dwelt upon at length, however, as it is unnecessary to go beyond the provisions of the tariff itself in determining the issues raised by this proceeding. In doing so consideration should be given only to the actual phraseology of the tariff and not what may have been intended by its framers or to any interpretation which may have been placed on same at variance with the literal wording. I am of the opinion it would be an unwarrantable inference to hold that the term "on the same line" means only the individual road on whose rails the point having a specific rate is located.

It certainly is not beyond the realm of reason to consider the term "line" to mean the line or route traversed in transporting property between two points covered by a given rate or, in this instance, the through line from Los Angeles to Crucero.

In tariff construction words should be employed with clear and unmistakable meaning so that no confusion or uncertainty may arise in the minds of those consulting such publications. If it were the desire of defendants to restrict the rate of 16 cents from Los Angeles to Crucero to apply only to intermediate points on the line of the Tonopah & Tidewater Railroad, tariff should have so stated. To place a construction such as that presented by defendants is to arbitrarily read into the tariff something that is entirely unsupported by the literal wording. It is only the intervening question of jurisdiction which prevents this Commission from directing the U. S. Railroad Administration officials to remove the present provision which restricts the intermediate application only to the individual road on whose rails the point having a specific rate is located and which was established without application having been made before hand and the authority of this Commission received to violate the long and short haul clause of the Public Utilities Act.

It is my opinion, and I hereby find as a fact, that the rate charged was unlawful inthat it exceeded a combination on Ludlow using the 16-cent commodity rate to Crucero as a maximum at Ludlow plus the Class A rate of 34 cents beyond and that refund of the overcharge with interest should be made to complainant who paid and bore the charges.

The following form of order is submitted:

O R D E R

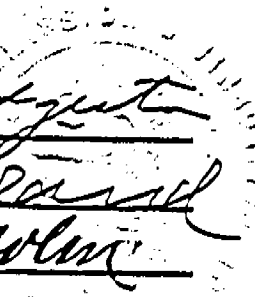
Complaint and Answer having been filed in the above entitled proceeding, a public hearing having been held, the Commission being fully apprised in the premises and basing its order on the findings

of fact which appear in the foregoing Opinion,

IT IS HEREBY ORDERED that The Atchison, Topeka & Santa Fe Railway Company pay to the Assets Realizing Mines Corporation the charges unlawfully collected for the transportation of a carload shipment of well boring outfit from Los Angeles to Blythe Junction, April 13, 1917, in amount \$32.45, together with interest thereon at rate of 7% per annum from date of collection.

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 12<sup>th</sup> day of June, 1919.

  
Edwin C. Edgerton  
H. S. [unclear]  
Frank A. [unclear]  
H. N. [unclear]  
COMMISSIONERS.