

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

ORIGINAL

NAVARRO LUMBER COMPANY,
a corporation,
Complainant.

vs.

NORTHWESTERN PACIFIC RAILROAD COMPANY,
a corporation,
and
ALBION LUMBER COMPANY,
a corporation,
Defendants.

CASE NO. 1058.

BY THE COMMISSION:

ORDER OF DISMISSAL

Complainant is a corporation engaged in the lumber business, with its principal offices at San Francisco. It alleges that the wharf at Albion is a public utility; that its rates are excessive, unjust, unreasonable and unlawful and that the wharf is not of sufficient length to accomodate two or more vessels at the same time, therefore is inadequate to properly handle the traffic offered. The complaint also alleges that the freight rates of the Northwestern Pacific Railroad Company are excessive, unjust and unlawful; that it does not furnish sufficient or adequate freight cars and that track scales are not provided for the proper weighing of carload shipments.

The proceedings were filed March 23, 1917. Defendants, in their answers, denied each and every allegation, but at the hearing held in San Francisco May 29, 1917, the Albion Lumber Company admitted that the wharf at Albion is a public utility and under the jurisdiction of this Commission. The case was presented in great detail by both

complainant and defendants, numerous exhibits were filed and many hearings held. An examination of the properties devoted to the public service was made by the Commission and its experts; the case was finally submitted January 21, 1918.

Under date May 27, 1918, the Northwestern Pacific presented a supplemental answer to the complaint, alleging that this Commission had no jurisdiction over the cause of action and, therefore, could not enter a lawful order. The allegations are based on the fact that on December 28, 1917 the President of the United States, as a war emergency measure, seized and took possession and control of the operating properties of the Northwestern Pacific Railroad Company and that Congress by Act (S.3752) approved March 21, 1918, authorized said control and operation. Defendant, therefore, prays that this proceeding, insofar as it refers to the Northwestern Pacific Railroad Company, be dismissed.

The Supreme Court of the United States, in the case of Northern Pacific Railway Company, et al., vs. the State of North Dakota, et al., decided on June 2, 1919 that the power of the Federal Government is supreme over intrastate rates of federal controlled railroads.

Complainant on October 25, 1919, filed a written petition requesting that the action against the Northwestern Pacific Railroad Company, because of this Commission's lack of jurisdiction, be dismissed without prejudice. Complainant also requested that the submission of the case, so far as it referred to the Albion Lumber Company, be set aside and a further hearing

granted to permit the presentation of additional testimony with reference to the wharf situation covering the period between January 21, 1918 and the present day. The latter request will be granted in a separate order.

This Commission being now without jurisdiction over the rates and charges of the Northwestern Pacific Railroad Company.

IT IS HEREBY ORDERED that that part of this proceeding having reference to the Northwestern Pacific Railroad Company be and the same is hereby dismissed.

Dated at San Francisco, this 6th day of November, 1919.

H. A. Loveland
Frank P. O'Brien
H. B. Brundage
Irving Martin
Commissioners.