

Decision No. 725

ORIGINAL

George Askew and Robert Morrison,

Complainants,

vs

Southern Pacific Company,

Defendant.

Case No. 342

F. Alleyne Orr for complainant,
George D. Squires for defendant.

GORDON, Commissioner.

O P I N I O N

In this case George Askew and Robert Morrison, residents of El Dorado and Shingle Springs, El Dorado County, petition the Commission for an order requiring the Southern Pacific Company to restore and maintain agents at said stations of El Dorado and Shingle Springs, located on that part of the Southern Pacific Company's line known as the Placerville Branch.

These stations are about six miles distant from each other and at present the nearest agency station is Diamond Springs, two miles east of El Dorado and eight miles east of Shingle Springs and the nearest agency station to the west is Latrobe, eleven miles from Shingle Springs and seventeen miles from El Dorado. The census of 1910 gives El Dorado a population of 310 and Shingle Springs a population of approximately 175 people. Some farming is carried on in the vicinity of these stations and a quantity of wood and hay is shipped therefrom.

It appears that the carrier erected station buildings and for a number of years maintained agencies at both places and that on or about January 16, 1911, it withdrew its agent from El Dorado, and on or about July 12, 1912, it withdrew its agent from Shingle Springs, and thereafter operated same as "prepay stations", and it is alleged that the withdrawal of the agents from said stations was without just cause or warrant and that material and serious inconvenience and detriment has resulted thereby to the residents of these communities.

The defendant contends that the revenue received from traffic to and from El Dorado and Shingle Springs was not and is not now sufficient to justify the maintenance of agents thereat and it generally denies that any material inconvenience or detriment has resulted because of the withdrawal of the agents from these stations.

In support of complainant's allegation that freight delivered to El Dorado and Shingle Springs by the carrier, since the discontinuance of the agencies thereat, is placed on the open platform or in an open or unlocked warehouse and loss has been sustained because of inadequate protection to the property at such stations, several witnesses testified, but it appears that only in one instance is there any degree of certainty that loss actually resulted from the exposure of the freight delivered at either of these stations since the withdrawal of the agents, the consignees being unable to say definitely that the loss in other cases occurred after the goods were delivered at the stations and not while in transit or prior thereto. In the instance where there appears to be a reasonable degree of certainty that the freight was actually delivered by the carrier to the station and thereafter was lost, the witness testified that the freight, a case of whiskey, was seen by his children and others inside the station building, which was kept unlocked at the time, and thereafter disappeared.

Since the withdrawal of the agents there has been and is now considerable inconvenience in securing cars in which to load freight shipped out, such as wood and hay, it being necessary at present to order cars from conductors of the freight trains and persons desiring cars are at times required to wait the arrival of such trains, which is uncertain. The freight trains are scheduled to arrive at both stations in the forenoon but do not usually arrive thereat until the late afternoon and during the winter months sometimes after dark. It was suggested that the

order for empty cars be placed with the section foreman, but he is often away from the station, at work on the line, at the time of the arrival of the freight trains and it would not therefore be practicable for him to order the empty cars from the conductor of the freight train. Again, some inconvenience is experienced in having bills of lading signed for shipments, it being necessary for the shipper either to wait until the arrival of the freight train to obtain the conductor's signature, as the agent of the company, or place the bills of lading in a box outside the station building, from which it is taken by the conductor upon his arrival at the station and signed and returned to the bill box from which it can be later taken by the shipper. This, of course, involves the possibility that the conductor may not sign the bill of lading and return it to the box, or if it is signed and returned it might be taken therefrom by some one other than the party making the shipment, and the party making the shipment would have no receipt therefor, and it also requires another trip to the station by the shipper or his agent after having left goods there for transportation, and in case the shipper lives at a point some distance from the station this is not always convenient. In some cases, persons living in the interior, and who, prior to the discontinuance of the agent at Shingle Springs, received their freight at that point, now receive their freight at Folsom, at which point there is an agent, rather than take the risk of losing the goods, or part thereof, after they had been unloaded at Shingle Springs and left on the platform or in the unlocked warehouse, and are thereby put to the necessity of hauling the goods for a much longer distance. Passengers awaiting trains at El Dorado and Shingle Springs have been inconvenienced by being required to wait outside of the station waiting rooms, which are usually kept locked since the discontinuance of agencies at these points and it was testified by one of the witnesses who lives at Rescue, an interior point about 4-1/2 miles distant from Shingle

Springs, that in order to be present at the hearing of this matter it was necessary to take the train at Shingle Springs and that on arrival there the station waiting room was found to be locked and the witness was required to wait outside of the station in a terrific storm and in the rain and cold for an hour or more. Again, there is a daily week day stage service from Amador County points to El Dorado and persons travelling via that point are required to wait at that point for train connections and are greatly inconvenienced in inclement weather by being required to wait outside of the station waiting room, which is usually kept locked. Passengers travelling to Shingle Springs have been also inconvenienced by having their baggage carried through and beyond that point to the next agency station because there was no agent there to receive and care for same and the passenger had not presented the baggage check to the train baggagemaster upon the arrival of the train at that point, the train baggagemaster not being permitted by the carrier's rules to put baggage off at non-agency stations without securing the check on which the baggage is transported.

The volume of the freight traffic to and from El Dorado and Shingle Springs and the revenue thereon during the years of 1911 and 1912 is set out in the following comparative statement.

STATION		Forwarded		Received		Total	
		Tons	Revenue	Tons	Revenue	Tons	Revenue
El Dorado (1911)	L.C.L.	31	236.29	190	1437.98	221	1674.27
	C.L.	81	208.79	51	209.57	132	418.36
	Total	112	445.08	241	1647.55	353	2092.63
El Dorado (1912)	L.C.L.	62	177.00	287	1270.00	349	1447.00
	C.L.	290	334.00	145	287.00	435	621.00
	Total	352	511.00	432	1557.00	784	2068.00
Shingle Springs (1911)	L.C.L.	53	404.08	279	1847.19	332	2251.27
	C.L.	520	862.36	433	1763.04	953	2625.40
	Total	573	1266.44	712	3610.23	1285	4876.67
Shingle Springs (1912)	L.C.L.	174	287.00	279	1418.00	453	1705.00
	C.L.	704	1100.00	329	1218.00	1033	2318.00
	Total	878	1387.00	608	2636.00	1486	4023.00

It will be noted that during the year 1912 there was a marked increase in the tonnage forwarded in carload and less than carload quantities from both El Dorado and Shingle Springs, also an increase in the total revenue therefrom. Although there was no decrease during the year 1912 in the tonnage of less than carload shipments received at Shingle Springs, there was a considerable decrease in the tonnage of carload shipments received thereat and in the total revenue therefrom. The increase in the tonnage of freight received at El Dorado during the year of 1912 was material, both as to less carload and carload freight, although there was a decrease in the total revenue therefrom. The total tonnage of freight forwarded from and received at both stations shows a decided increase during the year 1912, while the total revenue therefrom shows a decrease of approximately \$900.00, or about 7%.

For the reason that this statement does not show the passenger traffic from and to El Dorado and Shingle Springs and the revenue thereon and being for a period during all of which there was no agent at El Dorado and part of which there was no agent at Shingle Springs, it does not, in my opinion, completely and accurately indicate the total revenue which would be received on traffic to and from those points, if agencies were maintained thereat.

A statement follows showing the freight and passenger traffic to and from El Dorado and Shingle Springs, during a period of one year - six months prior to and six months subsequent to the discontinuance of agencies at those points.

Station and Period	Originating at El Dorado		Destined to El Dorado		Total	
	No. of Pass	Revenue	No. of Pass	Revenue	No. of Pass	Revenue
<u>EL DORADO</u>						
July to Dec. 1910, Inc. (Prior to closing of Agency)	1237	1209.50	1238	1136.15	2475	2345.65
Jan. to July 1911, Inc. (Subsequent to closing of Agency)	914	830.63	850	925.80	1774	1756.43
Total for Year	2151	2040.13	2098	2061.95	4249	4102.08

Station and Period	Freight Forwarded		Freight Received		Freight - Total	
	Tons	Revenue	Tons	Revenue	Tons	Revenue
<u>EL DORADO</u>						
July to Dec. 1910, Inc. (Prior to closing of Agency)	34	123.00	304	1320.00	338	1443.00
Inc. (Prior to closing of Agency)	289	941.00	122	506.00	411	1447.00
Total	323	1064.00	426	1826.00	749	2890.00
Jan. to July 1911, Inc. (Subsequent to closing of Agency)	17	147.00	170	803.00	187	950.00
Inc. (Subsequent to closing of Agency)	31	77.00	10	34.00	41	111.00
Total	48	224.00	180	837.00	228	1061.00
Total for Year	371	1288.00	606	2663.00	977	3951.00

Station and Period	Originating at Shingle Springs		Destined to Shingle Spgs.		Total	
	No. of Pass	Revenue	No. of Pass	Revenue	No. of Pass	Revenue
<u>SHINGLE SPRINGS</u>						
Jan. to June 1912, Inc. (Prior to closing of Agency)	930	838.16	858	706.01	1788	1544.17
July to Dec. 1912, Inc. (Subsequent to closing of Agency)	823	638.17	917	807.85	1740	1446.02
Total for Year	1753	1476.33	1777	1513.86	3538	2990.19

Station and Period	Freight Forwarded		Freight Received		Freight - Total	
	Tons	Revenue	Tons	Revenue	Tons	Revenue
<u>SHINGLE SPRINGS</u>						
Jan. to June 1912, Inc. (Prior to closing of Agency)	84	141.00	141	812.00	225	953.00
Inc. (Prior to closing of Agency)	238	312.00	127	494.00	365	806.00
Total	322	453.00	268	1306.00	590	1759.00
July to Dec. 1912, Inc. (Subsequent to closing of Agency)	90	146.00	138	606.00	228	752.00
Inc. (Subsequent to closing of Agency)	466	788.00	202	724.00	668	1512.00
Total	556	934.00	340	1330.00	896	2264.00
Total for year.	878	1387.00	608	2636.00	1486	4023.00

Thus, the total revenue from passenger and freight traffic received and forwarded from El Dorado during the period of one year, ending July 30, 1911, was \$8053.08. Of the total revenue on traffic having origin or destination at El Dorado, \$2393.00, or approximately 30%, was from less than carload freight traffic, mostly received, and \$4102.08, or in excess of 50%, was from passengers travelling to and from El Dorado. During that period, 2151 passengers originated at El Dorado and 2098 passengers journeyed thereto. The carload business represented less than 20% of the entire traffic into and out of El Dorado.

Of the total revenue from traffic received at and forwarded from Shingle Springs during the year ending December 31, 1912, which amounted to \$7013.19, but \$1705.00 was from less than carload freight, mostly received, and \$2990.19 from passenger traffic to and from that point. The number of passengers originating at Shingle Springs was 1753 and the number travelling thereto, 1777. The revenue on carload traffic was 33% of the entire revenue at Shingle Springs.

It is suggested by the carrier that on carload shipments forwarded the services of an Agent are not required and that the revenue from such traffic should not be considered in arriving at the revenue properly attributable to a station. I do not wholly agree with this contention, for logically followed out it would mean that only at points where there was a large less than carload business, or points which received carload shipments in large quantities, should agencies be maintained and it might justify the discontinuance of many agencies and the burdening of the train crews with clerical work which properly should be performed by agents and their assistants. Again, the rates for transportation are supposed to be adjusted in contemplation of the expense incident to the conduct of agencies at the carrier's stations. On the other hand, it is my opinion that on branch lines over which few trains operate, it is not as essential to maintain agencies as it is at stations on the

main lines where trains are frequent and where much of the agent's time is devoted to receiving and transmitting telegraphic instructions relating to the running of the trains. However, eliminating entirely the carload traffic, it appears that 525 tons of less than carload freight, the revenue on which was \$2393.00, and 4249 passengers, the receipts from whom were \$4102.08, were handled at El Dorado during the period from July 1, 1910 to June 30, 1911, and that 453 tons of less than carload freight, the revenue on which was \$1705.00, and 3528 passengers, the receipts from whom were \$2290.90, were handled at Shingle Springs during the year ending December 31, 1912. The expense of maintaining an agent at either of these points would be about \$1000.00 annually, as testified by a witness for the defendant.

Carriers should carefully consider the convenience and necessity of the public, as well as their own, before discontinuing long established agency stations, even though the revenue from traffic to and from the particular stations might be considered insufficient to justify the maintenance of agents thereat, for the reason that the public, to a great degree, has a right to rely on the maintenance by the carrier of the service and facilities voluntarily established and long continued by it and upon which the public has come to depend, and this duty should not be lightly set aside.

I do not find that the evidence supports the complainant's contention that the carrier agreed to erect the necessary station buildings at El Dorado and Shingle Springs and maintain agents thereat in consideration of rights of way and station grounds being donated at the time the road was constructed, nor do the records of El Dorado County or the available records of deeds in the possession of the carrier indicate that such an arrangement was entered into. The deeds to this property were destroyed by fire and the only records of same in the carrier's possession is its right of way maps containing abstracts thereof.

From a consideration of all of the facts, I find that the actual loss sustained by reason of there being no agents at El Dorado and Shingle Springs, has not been material but that quite material inconvenience has resulted thereby to persons travelling to and from these points, and to shippers in securing empty cars and in having bills of lading executed for their shipments, and to this extent, the service of the defendant at El Dorado and Shingle Springs is unreasonable, unjust and inadequate, and that as an adequate and reasonable service defendant should properly store and care for the freight handled at these stations free of charge for a reasonable length of time, sufficient to enable the consignees to receive notice of the arrival of the goods and take delivery of the same, and provide and maintain such facilities as are necessary for the comfort and convenience of passengers waiting at these stations to board defendant's trains,

I therefore submit the following form of order.

O R D E R

George Askew and Robert Morrison having filed with this Commission a complaint as to the service of the Southern Pacific Company at El Dorado and Shingle Springs, California, and full investigation and hearing of the matters and things involved having been had, and being fully apprised in the premises the Commission is of the opinion that the service of the Southern Pacific Company at El Dorado and Shingle Springs is unjust, unreasonable and inadequate.

IT IS HEREBY ORDERED that the Southern Pacific Co. shall properly store and care for the freight received by it at El Dorado and Shingle Springs free of charge for a reasonable length of time, sufficient to enable the consignees of the freight to

receive notice of arrival of the goods and take delivery of the same, and take reasonable steps to notify consignees thereof, and shall provide and maintain such facilities as are necessary for the comfort and convenience of passengers waiting at these stations to board its trains, and to this end, among other things, shall provide at each of said stations a caretaker who shall keep said stations open and otherwise attend to the needs of the public for a period of two hours before and after the actual arrival and departure of trains.

AND IT IS FURTHER ORDERED that these arrangements be made effective not later than twenty days from the date of service of this order.

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 18th day of June, 1913.

John W. Littleman
H. D. Loveland
Alfred G. ...
Max Thelen

Commissioners.