

Decision No. 796

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

Decision No. 796

HIGMAN LUMBER COMPANY  
Complainant,

vs.

Case No. 393

PACIFIC ELECTRIC RAILWAY  
COMPANY and SAN PEDRO, LOS  
ANGELES & SALT LAKE RAILROAD  
COMPANY.

Defendants.

APPEARANCES

E. A. Stewart, Esq., for Complainant.  
Frank Kerr, Esq., for Pacific Electric Railway Company  
A. S. Halstead, Esq., for San Pedro, Los Angeles & Salt  
Lake Railroad Company.

LOVELAND, Commissioner:

OPINION

Complainant in this case is engaged in the lumber business at a point known as Florence Avenue outside of the City of Los Angeles and served by the Pacific Electric Railway. The yard of the complainant is located at Long Beach Avenue and Florence Avenue.

Complainant alleges that the joint rate for the transportation of lumber and forest products from East San Pedro and East Wilmington to Florence Avenue, via the San Pedro, Los Angeles & Salt Lake Railroad and the Pacific Electric Railway, of six cents per 100 lbs. is excessive, unreasonable and discriminatory. The complainant alleges that a rate of four cents per 100 lbs. for the joint movement between these two lines is a just and reasonable rate. The complainant bases its action on the fact that the defendant, San Pedro, Los Angeles & Salt Lake Railroad, maintains in conjunction with the Atchison, Topeka & Santa Fe Railroad, a

joint through rate of four cents per 100 lbs. on lumber and forest products in carload lots from East San Pedro to Los Angeles via Hobart, and also that the rate of both of the defendants in this case from San Pedro and East San Pedro, as well as the rate of the Southern Pacific Railroad from San Pedro, and the Santa Fe from Redondo and Los Angeles, is on the basis of four cents per 100 lbs.

I may say at this time that the mere fact that the line of railway operating over the entire distance between two given points accepts a certain rate as reasonable for the service does not by any means establish the fact that for a joint movement of two lines the same must be applicable for the same distance. If the aggregate amount of the rate is large carriers might reasonably be expected to shrink their locals, but where the distance is short and the rate in the aggregate is not large, in my judgment, it does not follow that the rate for a two-line movement should be the same as for a one-line movement.

The defendants, however, maintain regular interchange relations at Long Beach and, according to a division sheet on file with this Commission, the San Pedro, Los Angeles & Salt Lake Railroad accepts twenty-five cents per ton as its proportion of through rates on lumber routed via Long Beach in connection with the Pacific Electric Railway.

The Pacific Electric Railway's rate from Long Beach to Los Angeles is eighty cents per ton which, of course, cannot be exceeded at Florence Avenue. Under no circumstances should a <sup>through</sup> rate exceed \$1.05 per ton from East San Pedro and East Wilmington to Florence Avenue, and we fail to understand how the defendants in this case expect to justify any higher rate.

It must be admitted that the Pacific Electric Railway performs a less service from Long Beach to Florence Avenue than it does between Long Beach and Los Angeles, and if therefore, it is willing to accept eighty cents per ton, Long Beach to Los Angeles,

the rate to Florence Avenue should be somewhat less. I am not unmindful of the fact that in some cases, particularly where heavy freight trains are being operated direct from the ports to Los Angeles, it would be more economical for the carriers to handle lumber direct into Los Angeles and haul it back rather than stop its heavy trains and perform switching services at intermediate points, but this condition does not exist on the Pacific Electric Railway, particularly to the extent that that company should receive from Long Beach to Florence Avenue its full local rate, Long Beach to Los Angeles.

After a full and careful consideration of all the testimony and evidence in this case, I find as a fact that the joint through rate of the San Pedro, Los Angeles & Salt Lake Railroad Company and the Pacific Electric Railway Company on lumber and forest products of six cents per 100 lbs from East Wilmington and East San Pedro to Florence Avenue is excessive and unreasonable and should not exceed the rate of \$1.00 per ton of 2000 lbs.

The complainant asks for reparation because of the alleged excessive and unreasonable rate which has been collected. While we find that the present rate is excessive and unreasonable and prescribe a reasonable rate to govern future shipments, the complainant has not proven that he suffered damages by reason of the collection of the rate which we have found to be unreasonable. As far as we know complainant added the freight rate to the selling price of his lumber and if this is the case the consumer and not the complainant was damaged. (Darnell Taenzer Lumber Company et al vs. the Southern Pacific Company et al, 190 Federal 659. Deming Lumber Company et al vs. Southern Pacific Company et al, 24 I.C.C. 592)

I recommend the following order:

#### O R D E R

Higman Lumber Company having filed a complaint alleging that the joint rate of six cents per 100 lbs on lumber and forest products, carloads, from East San Pedro and East Wilmington to

