

BEFORE THE RAILROAD COMMISSION
OF THE STATE OF CALIFORNIA

HENDERSON-LONGTON COMPANY,

Complainant,

vs.

SOUTHERN PACIFIC COMPANY,
(a corporation),

Defendant.

No. 260.

Decision No. 81

Appearances

G. J. Bradley for complainant
George D. Squires for defendant

DECISION

Loveland and Gordon Commissioners

In this action complainant asks that a rate of 22 cents per hundred pounds on celery in crates, in L.C.L. quantities, from different points or landings on the Sacramento River to Sacramento, California, heretofore charged by the defendant Southern Pacific Company on certain shipments, seventy-nine freight bills for which were filed as an exhibit for complainant, be declared unreasonable, and that reparation in the sum of 7 cents per hundred pounds be awarded to complainant on each of said shipments represented by said seventy-nine freight bills, the total reparation asked for being thirty-five dollars and seventy-two cents (\$35.72).

In support of its contention that the said rate of 22 cents per hundred pounds was unreasonably high and extortionate, complainant submitted evidence showing

(1) That the California Navigation Company, the principal competitor of the defendant Southern Pacific Company, had for some time a rate in effect between the points comprehended in this case of 15 cents per hundred pounds on celery in crates on less than carload shipments.

(2) That the defendant Southern Pacific Company has now and for some time has had a rate in effect on celery in crates

in car lots between the points mentioned of 6 $\frac{1}{2}$ ¢ per hundred pounds and complainant maintains that the voluntary establishment by defendant of said carload rate of 6 $\frac{1}{2}$ ¢ per hundred pounds supports and justifies its contention that 22 cents per hundred pounds is an unreasonably high less than carload rate.

3. That when its attention was called to the fact by complainant that its chief competitor, the California Navigation Company, was charging but 15 cents per hundred pounds for the service in question, to wit: on movement of celery in crates, in less than carload quantities, between points named herein, the defendant Southern Pacific Company voluntarily reduced its rate to 15 cents per hundred pounds.

Defendant did not controvert complainant's testimony as to rate charged by the California Navigation Company and admitted that it carried in its tariffs a carload rate on celery in crates between points mentioned of 6 $\frac{1}{2}$ ¢ per hundred pounds and that it had voluntarily reduced its rate to 15 cents per hundred pounds for service in question when requested to do so by complainant's attorney, but maintained that the said rate of 15 cents per hundred pounds was an unreasonably low rate induced by severe competition, and that said rate of 22 cents per hundred pounds was a fair and reasonable rate for the service in question.

Defendant further contended that a voluntary reduction in rates by a transportation company was not conclusive evidence that the former rate was unreasonable or extortionate and cited the following decisions of the Interstate Commerce Commission in support of such contention, from one of which we quote: (Stockyards, etc. vs. M. K. & T. R.R., 17 I.C.C. 295).

"We have said many times that the voluntary reduction of a rate by a carrier, with no other evidence of its unreasonableness except the fact that a lower rate is at present in existence, does not present a case where reparation should be awarded."

See also:

Ottumwa Bridge Co. 14 I.C.C. 121; Commercial Coal Co. vs. B. & O. 15 I.C.C. 11; Wabash Coating Mills vs. W. R.R. 18 I.C.C. 91; G. & A. Lumber Co. vs. C. & G.W. Ry. 18 I.C.C. 599.

See also:

Pueblo Transportation Assn. vs. S.P. Co., 14 I.C.C. 82; Wood Mosaic Co. vs. E. & N., 22 I.C.C. 458; In Re Through Routes, 12 I.C.C. 164; Barnes Interstate Transportation, Sections 89 and 503; Conference Ruling 205 I.C.C.;

also: Pignaz vs. Burnett, 119 California 157; Ex Parte Sparks, 120 California 395.

With this contention and with these decisions, in so far as they relate to this contention, this Commission is in accord, for the reason as expressed by Interstate Commerce Commissioner Lane in the case of the Foster Lumber Company vs. A.T. & S.F. Ry. Co., 15 I.C.C. 56:

* * * "It must be apparent that it is to the interest of the shipping public in no wise to embarrass carriers in decreasing rates when they think such decrease equitable. Under existing standards, all will admit that there can be a wide divergence of opinion as to what a reasonable rate between two points may be and any policy pursued by this Commission tending to make it burdensome to the carriers to reduce a rate would in the end work a hardship to shippers."
* * *

We believe that this is the correct view and that it is contrary to public policy to have voluntary reductions in rates by carriers followed by claims for reparation where such claims are based upon the voluntary reduction.

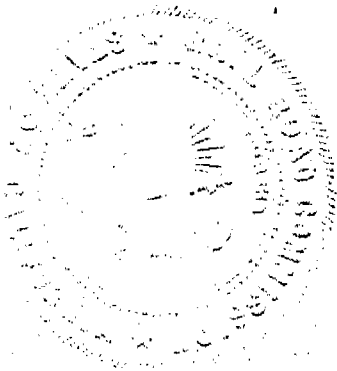
In this particular case, we can not be unmindful of other circumstances presented by complainant in support of its contention that said rate of 22 cents per hundred was unreasonable, viz: the fact that the defendant Southern Pacific Company charged but 6½ cents per hundred pounds on celery in car lots and that the California Navigation Company had for some considerable time carried this commodity between points involved at 15 cents per hundred.

It is therefore held that the rate of 15 cents per hundred pounds for this service is at least a reasonable rate and the defendant Southern Pacific Company is ordered to pay to complainant 7 cents per hundred on the shipments mentioned, the total amount of such reparation being, as prayed for in complaint, thirty-five dollars and seventy-two cents (\$35.72).

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The foregoing order is hereby approved and ordered
filed as the decision of the Railroad Commission.

Dated at San Francisco, California, this 24th day of
May, 1912.



John M. Eslerman

W. H. Loveland

W. B. Gordon

Max Thelen

Edwin O. Edgerton

Commissioners