

Decision No. 28277.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

CONSOLIDATED STEEL CORPORATION, LTD.,)

Complainant,

vs.

SANTA MARIA VALLEY RAILROAD COMPANY,
SOUTHERN PACIFIC COMPANY,

Defendants.

ORIGINAL

Case No. 3298.

T. A. L. Loretz, V. O. Conoway and E. M. Avey,
for complainant.

Burton Mason and F. C. Nelson, for defendants.

BY THE COMMISSION:

O P I N I O N

Complainant alleges that the charges assessed and collected on numerous carloads of iron and steel articles transported from Los Angeles to Brawley, Calexico, Lompoc, Paso Robles, Santa Barbara and Santa Maria were, during the two-year period immediately preceding the filing of the complaint, and as to shipments to Lompoc and Santa Maria are now and for the future will be unjust, unreasonable and discriminatory in violation of Sections 13 and 19 of the Public Utilities Act.

An order awarding reparation on all of the shipments and prescribing rates for the future to Lompoc and Santa Maria is sought. Rates are stated in cents per 100 pounds.

A public hearing was held before Examiner Geary at Los

Angeles and the case submitted.

Santa Maria is on the Santa Maria Valley Railroad nine miles east of Guadalupe, the junction with the Southern Pacific Company. The other destination points are on the Southern Pacific Company. The distances from Los Angeles, the rates assessed and collected, and those now in effect are shown by the following tabulation:

| | <u>Miles from Los Angeles</u> | <u>Rates Assessed and Collected</u> | <u>Present Rates</u> |
|---------------|-----------------------------------|---|--------------------------|
| Calexico | 227 | \$.57 | \$.20 |
| Brawley | 204 | .54 | .20 |
| Paso Robles | 257 | .46 | .35 |
| Santa Maria | 206 | .38½ | .38½ |
| Lompoc | 180 | .37 | .37 |
| Santa Barbara | 102 | .29½ | .20 |

The rates assessed on the shipments to Calexico, Brawley and Santa Barbara are the 5th class rates; those to Paso Robles, Santa Maria and Lompoc are combinations of 5th class and commodity rates. The present rates to Brawley, Calexico, Paso Robles and Santa Barbara are specific commodity rates subsequently established.

Complainant contends that reasonable rates should not exceed 32½% of the first class rates established in I.C.C. Docket 14999, Arizona Corporation Commission vs. Arizona Eastern Railroad, 113 I.C.C. 52 (hereinafter referred to as the 14999 scale), for application between California and Arizona. This percentage of the first class rate was prescribed by the Interstate Commerce Commission for the transportation of iron and steel articles in southwest territory in Consolidated Southwestern Cases, 123 I.C.C.

203. Complainant also compares the assailed rates with commodity rates contemporaneously applicable on like or related articles for both greater and comparable distances, and also with rates that would accrue under other bases used by the Interstate Commerce Commission. No proof of the allegation of undue prejudice and discrimination was submitted.

Defendants allege that the rates subsequently established, as well as those continuously in effect to Lompoc and Santa Maria, are depressed because of water and truck competition, and that the percentage of first class prescribed by the Interstate Commerce Commission in Consolidated Southwestern Cases, supra, is not proper for application in this territory if the Docket 14999 class rates are used as the basis. 32 $\frac{1}{2}$ % of the Consolidated Southwestern Cases first class scale, they point out, is equivalent to Class B. Under the 14999 scale Class B is 40% of first class. Instead of the 32 $\frac{1}{2}$ % relationship therefore they compare the assailed rates with rates predicated on 40% of the Docket 14999 scale. This results in rates higher than those charged on complainant's shipments in all instances except those destined to Brawley and Calexico.¹

The ton and car mile earnings produced by the assailed rates, particularly the Brawley and Calexico rates, are considerably higher than many of those with which they are contrasted. Complainant made no attempt however to show that the different rates were established under similar circumstances or that the movements thereunder are comparable. On the contrary the record does show that the movement under certain of the rates referred

¹ The rates charged on these shipments were equal to 5th class under the 14999 scale.

to is substantial, whereas the two shipments to Brawley and Calexico involved in this proceeding are the only ones that moved from Southern California to points in the Imperial Valley during 1930, and that the entire movement during that year to the six destinations here involved was but 14 cars, including a triple load. Exclusive of any movements there may have been from Los Angeles to Los Angeles Harbor, this constituted more than half of all the shipments from Los Angeles to Southern California points.

Upon consideration of all the facts of record we are of the opinion and find that the assailed rates to Paso Robles, Santa Maria, Lompoc and Santa Barbara have not been shown to be or to have been unjust, unreasonable or unduly discriminatory, but that those to Calexico and Brawley were at the time complainant's shipments moved, unreasonable to the extent they exceeded 45 and 43 cents respectively. We further find that complainant made the shipments as described, paid and bore the charges thereon and is entitled to reparation in the amount of the difference between the charges paid and those herein found reasonable, together with interest at 6 per cent. per annum.

The exact amount of reparation due is not of record. Complainant will submit to defendants for verification a statement of the shipments made and upon payment of the reparation defendants will notify the Commission of the amount thereof. Should it not be possible to reach an agreement as to the reparation award, the matter may be referred to the Commission for further attention and the entry of a supplemental order should such be necessary.

O R D E R

This case having been duly heard and submitted and being now ready for decision,

IT IS HEREBY ORDERED that defendant Southern Pacific Company be and it is hereby authorized and directed to refund to complainant, with interest at six (6) per cent. per annum, all charges collected for the transportation from Los Angeles to Brawley and Calexico of the shipments of steel articles involved in this proceeding in excess of 45 and 43 cents respectively, per 100 pounds.

IT IS HEREBY FURTHER ORDERED that in all other respects this proceeding be and it is hereby dismissed.

Dated at San Francisco, California, this 21st day of August, 1933.

C. L. Leary
Leon O. White
W. H. Linn
M. B. Harris
Commissioners.