Decision No. 26280.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

POLAR WARE COMPANY, a corporation,
Complainant,
vs.
UNION TERMINAL WAREHOUSE,
Defendant.

Case No. 3565.

ORIGINAL

R. L. Kirtland, for complainant.
R. E. Wedekind, for defendant.

BY THE COMMISSION:

O P I N I O N

This is an aftermath of Re Allen Brothers, Inc., et al., 37 C.R.C. 747, wherein the Commission found that various warehousemen in Los Angeles and vicinity, including the defendant herein, had been departing from their published tariffs and ordered them to collect all undercharges. Complainant, one of the customers of the defendant which has been charged off-tariff rates, now claims that the tariff rates were unreasonable to the extent they exceeded the charges actually paid and asks the Commission to authorize the waiving of the undercharge.

A public hearing was held before Examiner Kennedy at Los Angeles August 9, 1933, and the matter submitted.

The facts developed in the record may be summarized briefly as follows:

Complainant stored in defendant's warehouse numerous lots of enamelware in packages ranging from 5 inches to 3 or 4 feet in diameter and weighing from 3 to 20 pounds. Charges thereon were assessed and collected in accordance with the rates shown in California Warehouse Tariff Bureau Tariff No. 7-A, C.R.C. No. 29, excepting that the minimum therein specified was not observed. This minimum charge is provided for in Rule 4 which reads as follows:

> "The minimum handling charge per lot will be 25 cents; the minimum storage per lot will be 25 cents per month. A lot is considered the quantity of merchandise to be filed and accounted for separately. The minimum monthly charge to one account for storage or handling will be $1.00 which will apply to each account when one customer has several accounts, each requiring separate records and billing."

Of 4692 items stored by complainant, 3914 were subject to this charge.

Complainant contends that it was under the assumption that the bills received for storage were proper, and that had it known what the lawful charges were, it would not have carried many of the items in storage. In numerous instances the storage charges for a representative period approximate the wholesale value of the merchandise. Complainant knows of no enamelware stored in Los Angeles by other parties, nor does it know whether or not minimum charges are assessed by warehousemen in other cities in which these articles are stored. At the present time its merchandise is held in leased space. When so stored it is not subject to minima, neither does the warehouse assume responsibility other than that of landlord.

Defendant does not admit that the minimum charge provided for in Tariff 7-A, C.R.C. No. 29 and now carried in 7-B, C.R.C. No. 57, is unreasonable. It did testify that charges provided for "goods in excessive assortments" shown in Rules 27 and 28 of the

tariff now in effect would have been reasonable. Rule 28 provides however that the rate specified in Rule 27 will be applied as the minimum basis to calculate the storage charges and does not therefore determine the actual storage rate.

On the record as it stands, it must be concluded that the lawfully applicable charges have not been shown to have been unreasonable. The complaint will therefore be dismissed.

O R D E R

This case having been duly heard and submitted,

IT IS HEREBY ORDERED that this proceeding be and it is hereby dismissed.

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

C. F. Henney

Leon O. Whitsell

Wm. A. Carn

Wm. S. Hamm

Commissioners.