

Decision No. 27868.

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

C. B. GENTRY CHILI POWDER CO.,
Complainant,

vs.

WESTERN WAREHOUSE & TRANSFER CO.,
a corporation,
Defendant.

Case No. 3787.

Proctor P. Jennings, for complainant.

C. F. Culver, for defendant.

BY THE COMMISSION:

O P I N I O N

This case is an aftermath of In Re Allen Brothers, Inc. et al., Decision 25024, dated August 1, 1932, in which the Commission, finding that certain warehousemen in Los Angeles and vicinity, including the defendant here, had been departing from their tariffs, ordered such warehousemen promptly to proceed to collect all undercharges. The complainant as one of the customers of defendant which has been charged off-tariff rates and which now claims that the tariff rates were unreasonable and discriminatory to the extent they exceeded the charges actually paid, asks the Commission to authorize the waiving of the undercharges. Defendant denies the material allegations of the complaint.

A public hearing was had before Examiner Brown at Los Angeles May 3, 1934, and the case submitted.

The facts of record may be summarized briefly as follows:

On or about June 30, 1930, complainant arranged with defendant for the storage of several hundred bags of chili pods at rates of 4 cents per month per bag for storage and 4 cents for handling. The bags weighed 200 pounds each and were approximately 8 cubic feet and $9\frac{1}{2}$ square feet in dimensions. Their value was about \$16 per bag.

The storage was in the basement, an inferior part of the warehouse. While a handling charge was made by defendant, the evidence shows that in practically all instances the inbound trucking and stacking of the bags was done by employees of complainant, and in a great many cases the outbound handling from the warehouse was performed by complainant's employees.

At the time the bags were in storage the tariff rates were $12\frac{1}{2}$ cents for storage and 16 cents for handling. Subsequent thereto and on December 20, 1932, defendant established rates on chili peppers in 100-pound bags of 8 cents for storage and 10 cents for handling. As previously stated, the storage of complainant's chili pods was in bags weighing 200 pounds. Defendant also maintains storage and handling rates on various commodities which are comparable to rates actually charged complainant, including rates on green coffee in bags weighing 200 pounds of 4 cents for storage and 10 cents for handling. The handling rate on the coffee is higher than charged complainant. However, considerable weight should be accorded the fact that the major part of the handling of complainant's goods was not performed by defendant.

Upon consideration of all the facts we are of the opinion and so find that under the circumstances here of record the applicable charges were unreasonable for the service performed, and that

defendant should be ordered to cancel the undercharges.

O R D E R

This matter having been duly heard and submitted,

IT IS HEREBY ORDERED that defendant Western Warehouse & Transfer Co. be and it is hereby ordered to cease and desist from demanding from complainant C. B. Gentry Chili Powder Co. for the storage and handling of the merchandise involved in this proceeding, rates in excess of 4 cents per bag per month for storage, and 4 cents per bag for handling.

IT IS HEREBY FURTHER ORDERED that defendant Western Warehouse & Transfer Co. be and it is hereby authorized and directed to waive all outstanding undercharges against C. B. Gentry Chili Powder Co. for the storage and handling of the merchandise involved in this proceeding in excess of the charges accruing at the rates referred to in the preceding paragraph.

Dated at San Francisco, California, this 21st day of May, 1934.

C. L. Lewis
Leon Whittell

J. A. Lee

M. B. Lane

W. B. Lane
Commissioners.