

Decision No. 27527.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

INDIAN MOTORCYCLE COMPANY,
Complainant,
vs.
BIRCH-SMITH STORAGE COMPANY,
Defendant.

Case No. 3775.

ORIGINAL

HARLEY-DAVIDSON MOTOR CO.,
a corporation,
Complainant,
vs.
BIRCH-SMITH STORAGE COMPANY,
a corporation,
Defendant.

Case No. 3776.

Hunsaker, Moote & Longcroft, by F.D.R. Moote,
for complainants.

J. O. Smith, for defendant.

C. G. Munson, for Los Angeles Warehousemen's
Association, interested party.

BY THE COMMISSION:

OPINION ON FURTHER HEARING

By Decision 27156 of June 15, 1934, in Case 3775 and Decision 27165 of June 18, 1934, in Case 3776 the Commission found that the charges maintained by defendant for the handling and unloading of motorcycles were unreasonable to the extent they exceeded those that would have accrued on basis of a subsequently established rate of 55 cents

per motorcycle. By the latter decision it also found that the charges applicable for unloading and handling oil in drums were unreasonable to the extent they exceeded 32 cents per drum, and that there was a one half cent per drum per month overcharge on the storage of the oils. Defendant was ordered to adjust the charges in accordance with these findings. No order was made with respect to the storage charges on the motorcycles, for the record did not show that they were either inapplicable or unreasonable.

Following receipt of statements submitted by defendant for the Commission's approval indicating that the storage charges on the motorcycles likewise were not assessed in accordance with the applicable tariffs the proceedings were reopened for further hearing, which was had before Examiner Corman at Los Angeles November 9, 1934. The matters were submitted upon a common record and will be disposed of in one decision.

The record now shows that defendant stored and handled for complainant in Case 3775, 200 motorcycles for a total of 1220 months (200 first and 1020 subsequent months), and for complainant in Case 3776, 410 for a total of 946 months (410 first and 536 subsequent months). In the first instance charges were assessed and collected on basis of 50 cents per motorcycle for the first months and 25 cents per motorcycle for each subsequent month. In the second instance a charge of 25 cents per month, both first and subsequent, was assessed. The rate lawfully applicable at the time was 50 cents per motorcycle per month, either first or subsequent, which was the rate on merchandise not otherwise specified.

No showing was made that the charges applicable for the storage of these motorcycles were unjust or unreasonable. On the contrary the record shows that the rate now applicable, both at defendant's and at other warehouses in the Los Angeles territory, is 62½ cents, and a witness called by complainants testified that he considered this rate reasonable.

The number of motorcycles involved in Case 3775, originally given as 274, was corrected to 200, and in Case 3776, to 410 instead of 377. No further showing was made with respect to the charges on the oil or the unloading and handling charges of the motorcycles.

Our orders of June 15 and 18, 1934, with respect to the refunding of the overcharge in connection with the storage of oil and the waiving of the undercharges for handling and unloading the motorcycles should therefore be affirmed. Defendant should collect immediately the undercharges outstanding for the storage of the motorcycles and should advise the Commission when this has been accomplished.

O R D E R

Further hearing in these matters having been had, and the Commission now being fully advised,

IT IS HEREBY ORDERED that the orders in Decision 27156 of June 15, 1934, in Case 3775 and in Decision 27165 of June 18, 1934, in Case 3776 be and they are hereby continued in full force and effect.

Dated at San Francisco, California, this 19th day of November, 1934.

Leon Wheeler
W. B. ...
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...
Commissioners.