

Decision No. 23107.

## BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

FRUIT INDUSTRIES, LTD.,  
 a corporation,  
 Complainant,  
 vs.  
 SOUTHERN PACIFIC COMPANY,  
 a corporation,  
 Defendant.

Case No. 3922.

**ORIGINAL**

BY THE COMMISSION:

OPINION

Complainant alleges that the charges assessed and collected on 39 carloads of wine shipped from Guasti to San Francisco during the period October 21, 1932, to January 17, 1934, both dates inclusive, were unjust and unreasonable in violation of Section 13 of the Public Utilities Act.

Reparation with interest is sought. Rates are stated in cents per 100 pounds and do not include the emergency charge of 2 cents in effect from January 29, 1932, to September 30, 1933, which is not in issue. The matter was submitted upon statements of facts.

Guasti is 42 miles east of Los Angeles. Of the 39 carload shipments here involved, 23 moved in bulk in tank cars. The others consisted of wine in glass.

The rates assessed on complainant's shipments were in some instances class rates<sup>1</sup> and in others, combinations of commodity and

<sup>1</sup> The Class B rating on wine in tank cars was published in Pacific Freight Tariff Bureau Exception Sheet 1-0, C.R.C. 503, of F. W. Gompf, Agent. Wine in glass, in packages, carload, was rated 2nd class prior to December 5, 1933, and 4th class on and after that date in Western Classification No. 8, C.R.C. 538 of F. W. Gompf, Agent.

class or commodity rates. They are as follows:

<u>Date of Movement</u>	<u>No. of Shipments</u>	<u>How Packed</u>	<u>Rate Assessed</u>
Oct. 21, 1932, to April 13, 1933	5	Tank Cars	54
Apr. 18, 1933, to Oct. 26, 1933	18	" "	52 <sup>1</sup> / <sub>2</sub>
Dec. 5, 1933, to Feby. 2, 1934	5	" "	49 <sup>1</sup> / <sub>2</sub>
Dec. 2 and 3, 1933	2	In. Glass	78
Dec. 5, 1933, to Jan. 17, 1934, incl.	9	" "	63

Complainant seeks reparation on the basis of a rate of 31<sup>1</sup>/<sub>2</sub> cents subsequently established from Guasti to San Francisco.<sup>2</sup>

In support of its contention, complainant compares the assailed rates with rates applying on various commodities moving within the same general territory, and shows that at the time these shipments moved there was in effect a rate of 31<sup>1</sup>/<sub>2</sub> cents applicable to wine in tank cars from San Francisco, Oakland and Richmond to Los Angeles. Based on the average weight of the wine shipped in tank cars, the assailed rates yield ton mile earnings ranging from 19 to 21 mills, whereas the rates with which comparison is made yield per ton mile earnings of 10 to 20 mills. On the shipments of wine in glass the assailed rates yield ton mile earnings ranging from 25 to 31 mills while the comparisons used produce from 9 to 20 mills. Complainant also shows that defendant established reduced rates on wine from points in northern California to Guasti long before a similar adjustment was made in the northbound rates; also that on and after November 25, 1933, there was a rate of 46<sup>1</sup>/<sub>2</sub> cents from Cucamonga (a point approximately 3 miles from Guasti) to San Francisco.<sup>3</sup>

In defense of the assailed rates defendant argues that class rates are normal for traffic moving in an average volume of 20 cars per

<sup>2</sup> Effective February 20, 1934, on wine in tank cars and July 10, 1934, on wine in glass.

<sup>3</sup> The tariff shows that both factors composing the rate of 46<sup>1</sup>/<sub>2</sub> cents were published "to meet motor truck competition."

year as did this traffic, and emphasizes the fact that many of these shipments received the benefit of combination rates lower than the through class rates. It is said that the comparisons made by complainant are of little value inasmuch as the compared rates are, for the most part, depressed by truck or water competition; that the commodities selected by complainant are not comparable with wine in transportation characteristics, that the value of the shipments here involved is relatively high, the total freight charges assessed amounting to less than 4% of their total value.

The record shows that the majority of the shipments involved moved during the period of federal prohibition.<sup>4</sup> Under the 18th Amendment stringent regulations were imposed upon the movement of alcoholic liquors, tending to minimize their movement and at the same time enhance their value. For these reasons the carriers cancelled many wine rates or allowed them to expire.

While the assailed rates are considerably higher than the rates subsequently established by defendant, the record is convincing that such reductions were made to meet water and truck competition and consequently may not properly be used as a yardstick in measuring the reasonableness of the rates assessed on complainant's shipments. Likewise the comparisons made by complainant with rates on other commodities applying in the same general territory are of little value. The Commission has frequently stated that a mere comparison of rates is of little probative value unless accompanied by a showing of similarity of transportation conditions.

Upon consideration of all of the facts of record it must be

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<sup>4</sup> Of the shipments involved in this complaint, only 14 cars moved after the repeal of the 18th Amendment (effective December 5, 1933).

concluded that the assailed rates have not been shown to have been unreasonable. The complaint will be dismissed.

O R D E R

This matter having been duly submitted and the Commission being fully advised in the premises,

IT IS HEREBY ORDERED that the above entitled complaint be and it is hereby dismissed.

Dated at San Francisco, California, this 14<sup>th</sup> day of September, 1936.

M B Harris  
Leon C. Sullivan  
W. H. C. C.  
Walter J. ...  
Frank R. ...  
Commissioners.