

Decision No. 29254

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

H.W. ROEL,
T.E. CONNOLLY, a copartnership,
Complainants

v.

SAN DIEGO & ARIZONA EASTERN RAILWAY COMPANY,
ATCHEISON, TOPEKA & SANTA FE RAILWAY COMPANY
Defendants.

Case No. 4073

BY THE COMMISSION:

O P I N I O N

ORIGINAL

Complainants allege that the charges assessed and collected for the transportation of several carload shipments of contractors' second-hand equipment from Lakeside to Los Angeles and Los Angeles Harbor were, are and for the future will be unjust and unreasonable and in violation of Section 13 of the Public Utilities Act.

Reparation with interest and the establishment of reasonable rates for the future are sought. Rates will be stated in cents per one hundred pounds. The matter was submitted on statements of fact and argument.

Lakeside is situated 22 miles northeast of San Diego at the end of a branch line of the San Diego & Arizona Eastern Railway Company. The shipments here involved moved via the San Diego & Arizona Eastern Railway Company to San Diego, thence via The Atchison, Topeka & Santa Fe Railway Company to destinations. Charges were assessed and collected on basis of the Class A rate of $13\frac{1}{2}$ cents from Lakeside to San Diego plus the A.T. & S.F. "all freight" rates of 15 cents and 18 cents from San Diego to Los Angeles Harbor respectively.

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The rates are published in San Diego and Arizona Tariff No. 21-A, C.R.C. No. 68, and A.T. & S.F. Tariff No. 12375-0, C.R.C. No. 690.

In support of its contention, complainant compares car-mile earnings under the assailed rates with earnings under various rates maintained by defendants on feldspar, fertilizers, cull lemons and oranges, silica sand, rough marble, etc., from Lakeside to San Diego, National City and Los Angeles, and with rates on contractors' equipment from Los Angeles to Rice and San Jacinto, from San Diego to Ripley and from San Francisco to San Jacinto. The 13½ cent Class A factor is contrasted with a commodity rate of 4 cents applying on contractors' equipment moving from San Diego to Lakeside, the direction in which operating conditions are said to be the most difficult. Complainants further show that the equipment was originally shipped into Lakeside by rail and that defendants enjoyed a haul on the inbound movement.

Defendants point out that the comparisons are not representative in that average loading weights have been used in computing car-mile earnings under the assailed rates, but that tariff minimum weights have been used in figuring earnings under comparative rates. The four cent rate from San Diego to Lakeside is said to be depressed by motor-truck competition and to be in the direction of the normal flow of traffic, the movement in the opposite direction being insufficient to warrant publication of a commodity rate.

Rate comparisons are of little probative value in the absence of evidence showing a similarity of traffic and operating conditions. Ordinarily per mile earnings vary in inverse ratio to distance and rates for distances and commodities comparable to those on which the assailed rates apply should be selected. The assailed rates yield ton-mile earnings of 39 mills to Los Angeles and 35 mills to Los Angeles Harbor, distances of 148 and 178 miles, respectively. The only rates set forth by complainant for comparable distances on the same

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Hunt Bros. vs. Southern Pacific Company, 2 C.R.C. 346.

commodity are rates applying in the opposite direction of movement, yielding ton-mile earnings of 26 mills from Los Angeles and 25 mills from Los Angeles Harbor. These rates are based on combinations of the "all freight" rates of 15 cents and 18 cents from Los Angeles and Los Angeles Harbor, respectively, to San Diego, with the four cent commodity rate from San Diego to Lakeside. The 15 cent and 18 cent factors of these combinations are specifically flagged as being published to meet motor truck competition and hence may not properly be used as a measure of a maximum reasonable rate.

The reasonableness of the Class A factor of $13\frac{1}{2}$ cents from Lakeside to San Diego is in issue only to the extent it affects the reasonableness of the through transportation charges. This rate has also been combined with "all freight" commodity rates depressed to meet motor-truck competition and the record does not justify a finding that the resulting through rates are unreasonable. The complaint will be dismissed.

O R D E R

This case being at issue upon complaint, and the Commission being fully advised in the matter,

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

Dated at San Francisco, California, this 9th day of November, 1936.

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