

Decision No. 37871

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

Allied Industries, Inc., et al.,)
Complainants,)
vs.)
Pacific Motor Transport Company,)
Southern Pacific Company,)
Valley Express Company,)
Defendants.)

Case No. 4431

ORIGINAL

BY THE COMMISSION:

OPINION AND ORDER

This complaint, as amended, involves determination of the propriety of the charges assessed and collected on numerous less-than-carload shipments transported between designated points throughout the State and chiefly between San Francisco Bay and Los Angeles area points on the one hand and northern California and San Joaquin Valley points on the other. The shipments moved during the period from November 11, 1934 to March 31, 1938.

Complainants allege that the charges exacted by defendants exceeded those provided by their lawfully published and filed tariffs, in violation of Section 17(a)2 of the Public Utilities Act. Reparation without interest is sought in the amounts of \$748.67 from Valley Express Company and \$4,024.71 from Pacific Motor Transport Company and Southern Pacific Company (\$3,978.86 from the former and \$45.85 from the latter). Defendants admit all of the material allegations of the amended complaint and are willing to pay the sought reparation:

The question in issue is a matter of tariff interpretation. It is confined to the rules dealing with combination rates and minimum charges thereunder. The tariff provisions involved were interpreted by the Commission in Case No. 4490, Charles Brown & Sons., et al vs. Valley Express Company and Case No. 4491, Charles Brown & Sons., et al. vs. Pacific Motor Transport Company, 43 C.R.C. 724. In those proceedings the Commission held that under the rules in question the applicable rate was that which produced the lowest transportation charge. It also

held that those rules provided that the minimum charge for a combination rate was the highest minimum charge for any of the factors of that rate and that when this minimum charge was less than the minimum charge for the through rate it applied even though the combination rate, before use of the minimum charge rule, exceeded the through rate. On the strength of those holdings, reparation was awarded on the same basis as that sought in the complaint now before us. As above stated, it is here admitted that charges in excess of those provided by defendants' tariffs have been assessed. The record shows this to be so. Reparation will be awarded. A public hearing is not necessary.

Therefore, good cause appearing,

IT IS HEREBY ORDERED and directed that complainants, as their interests may appear, upon proper proof that they paid or bore the charges on the shipments involved, be refunded \$3,978.86 by Pacific Motor Transport Company, \$45.85 by Southern Pacific Company and \$748.67 by Valley Express Company.

This order shall become effective twenty (20) days from the date hereof.

Dated at San Francisco, California, this 9th day of May, 1945.

Edward Quilley
Justice J. Craven
Richard H. Hays
Frank O. Conner
Leslie L. Lawrence
Commissioners