

Decision No. 42136

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

KARL P. AHLWEDE CO., PESTLESS
PRODUCERS CO., AGRIFORM CO., AGRO
PHOSPHATE CO., and CALIFORNIA
LIQUID FERTILIZER CO.,

Complainants

vs.

SOUTHERN PACIFIC CO., UNION
PACIFIC RAILROAD CO., ATCHISON,
TOPEKA AND SANTA FE RAILWAY CO.,

Defendants

Case No. 4962

ORIGINAL

O P I N I O N

Complainants allege that the freight charges assessed by defendants for the transportation of 57 tank carloads of liquid fertilizer from Hercules to various destinations in California during the period July 20, 1946, to January 31, 1947, were unreasonable, in violation of section 13 of the Public Utilities Act. Reparation and waiver of undercharges is sought.

The verified complaint shows that the commodity shipped was a new type of liquid fertilizer, known as "fertilizer ammoniating solution" or "nitrogen fertilizer solution." At time of movement there were no commodity rates published for transportation of this commodity in tank cars. Class rates were assessed, based upon the applicable fifth class rating. Subsequent to transportation of the shipments, tank-car commodity rates were established.

From the complaint, it appears that the assailed rates exceeded the rates concurrently maintained for movement of the same commodity in packages between the same points by amounts ranging from about 105 to 122 per cent, depending upon the destinations involved. The subsequently established tank-car commodity rates

also exceeded the package rates, but by lesser amounts ranging from 29 to 78 per cent.¹ The complaint shows that class ratings for various commodities are the same for tank-car shipments as for package shipments; and that commodity rates for tank-car shipments of thirteen other commodities, between points the same as or comparable to those herein involved, exceeded the concurrently applicable package rates by amounts ranging from zero to 25 per cent as a maximum. Complainants urge that, for the transportation herein involved, the relationships between the fifth class tank-car rates and the package rates were unreasonable as compared to the relationships between tank-car and package rates for other commodities. They allege that the rates assessed were unreasonable to the extent that they exceeded the commodity rates which were subsequently established. An adjustment of charges to the basis of such commodity rates is sought.

Complainants were the consignees of the shipments in question. It appears from the verified complaint that the freight charges were paid by the consignor, on behalf of the consignees, and were later remitted to the consignor by the consignees.

Defendants admit all of the allegations of the complaint, as amended, and are willing that an order of this Commission be entered awarding reparation to complainants and waiving collection of additional charges in the amounts prayed for in the complaint, without interest. Rates for the future are not involved. Under the circumstances it appears that a public hearing is not necessary.

Upon careful consideration of all of the facts and circumstances of record, we are of the opinion and find as a fact that the rates assessed were unreasonable to the extent that they exceeded the commodity rates subsequently established. Reparation will be awarded to the bases specifically set forth in the exhibit which is attached to and made a part of the complaint filed in this proceeding.

¹Freight charges actually collected by defendants amounted to \$19,518.63. Reparation is sought in the amount of \$5,995.63, plus a waiver of an additional freight charge of \$1,444.85.

O R D E R

This case being at issue upon complaint and answer on file, full investigation of the matters and things involved having been had, and basing this order upon the findings of fact and the conclusions contained in the opinion which precedes this order,

IT IS HEREBY ORDERED that defendants, Southern Pacific Company, Union Pacific Railroad Company, and The Atchison, Topcka and Santa Fe Railway Company be, and they are hereby, authorized and directed to refund to complainants Karl P. Ahlswede Co., Pestless Producers Co., Agriform Co., Agro Phosphate Co., and California Liquid Fertilizer Co., as their interests are involved, within one hundred and eighty (180) days from the effective date of this order, the sum of \$5,995.63, and to waive collection of \$1,444.35, for the transportation of the tank carload shipments of liquid fertilizer involved in this proceeding.

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

Dated at Los Angeles, California, this 19th day of October, 1948.

R. B. [Signature]
James P. [Signature]
Harold P. [Signature]
Kenneth [Signature]

Commissioners