

**ORIGINAL**Decision No. 51356

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

MARTIN WEISAL, doing business as )  
SUNLAND LUMBER CO., et al., )

Complainants, )

vs. )

THE ARCATA AND MAD RIVER RAILROAD )  
COMPANY; )  
THE ATCHISON, TOPEKA AND SANTA FE )  
RAILWAY COMPANY; )  
CALIFORNIA WESTERN RAILROAD; )  
NORTHWESTERN PACIFIC RAILROAD )  
COMPANY; )  
PACIFIC ELECTRIC RAILWAY COMPANY; )  
PETALUMA AND SANTA ROSA RAILROAD )  
COMPANY; and )  
SOUTHERN PACIFIC COMPANY, )

Case No. 5523

Defendants. )  

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SUPPLEMENTAL OPINION AND ORDER

Complainants in this proceeding seek reparation, with interest, in connection with rates assessed and collected by defendant railroads for the transportation of numerous carloads of lumber from certain origins in Northern California to specified destinations in Southern California. They allege that the rates which were assessed were greater than rates concurrently maintained for longer distances over the same line or route in the same direction, the shorter being included within the longer distance, and that the assessed rates were thereby in violation of Section 460 of the Public Utilities Code and of Section 21, Article XII of the State Constitution.

By Decision No. 50918, dated December 28, 1954, defendant carriers were found to have assessed and collected charges in violation of the aforesaid provisions of the Public Utilities Code and of the State Constitution in connection with specified shipments which moved to destination points intermediate to Long Beach on the line of The Atchison, Topeka and Santa Fe Railway Company. Complainants were found to be entitled to reparation, with interest at 6 percent per annum, in the amount of the difference between the charges paid and those contemporaneously in effect to the more distant point of Long Beach. An order of reparation was made accordingly. The complaint was dismissed to the extent that it sought reparation based on rates to the point of Orange on the line of the Pacific Electric Railway Company.

On January 7, 1955, complainants alleged error on the part of the Commission in dismissing the complaint in so far as it was based on rates to Orange and petitioned for rehearing and reconsideration of the matter. In response to this petition an order granting rehearing was entered on February 23, 1955.

On March 10, 1955, complainants amended their complaint to strike therefrom references to Orange and subsequently, by letter dated March 11, 1955, they requested reissuance of Decision No. 50918 except as it applies in connection with rates to Orange.

The rates and charges to Orange no longer being in issue, the conclusions and findings with respect thereto which were expressed in Decision No. 50918 are hereby rescinded. To the extent that the provisions of said decision apply to shipments which were made to destinations intermediate to Long Beach on the line of The Atchison, Topeka and Santa Fe Railway Company, they will be reaffirmed by the order which follows. In the circumstances rehearing of the matter does not appear necessary.

Therefore, good cause appearing,

IT IS HEREBY ORDERED that defendants, according as they participated in transportation involved in this proceeding to destinations intermediate to Long Beach on the line of The Atchison, Topeka and Santa Fe Railway Company, be and they are hereby authorized and directed to reparate to complainants, as their interests may appear, in accordance with the findings set forth with respect to said transportation in Decision No. 50918.

This order shall become effective twenty days after the date hereof.

Dated at San Francisco, California, this 19<sup>th</sup> day of April, 1955.

John E. Mitchell  
President  
Justus J. Cassel  
Paul G. Waterman  
Montgomery Sholey

Commissioners