

Decision No. 51888

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

HUMBOLDT LUMBER CORPORATION,)
WEST COAST LUMBERMEN'S ASSOCIATION,)
Complainants,)
vs.)
THE ARCATA AND MAD RIVER RAILROAD COMPANY;)
THE ATCHISON, TOPEKA AND SANTA FE RAILWAY)
COMPANY;)
NORTHWESTERN PACIFIC RAILROAD COMPANY;)
PACIFIC ELECTRIC RAILWAY COMPANY;)
and)
SOUTHERN PACIFIC COMPANY,)
Defendants.)

Case No. 5611

OPINION AND ORDER

Complainants allege that the rates assessed and collected by the defendant railroads for the transportation of certain carload shipments of lumber were greater than the rate concurrently maintained for longer distances over the same line or route in the same direction, the shorter being included within the longer distance, in violation of Section 460 of the Public Utilities Code and of Section 21, Article XII of the State Constitution. The complainants seek the payment of reparation with interest to Humboldt Lumber Corporation and also an order requiring defendants to establish rates no greater than that contemporaneously published and maintained between the more distant point.¹

The shipments at issue originated at Alderpoint, Arcata, Eureka and South Fork, points within California origin group 8 as listed in Item No. 16 of Pacific Southcoast Freight Bureau Tariff 48 series, Agent J. P. Haynes, Cal.P.U.C. Nos. 132 and 189. They were consigned to destinations Bakersfield, San Fernando, and Sun Valley on the line of Southern Pacific Company; and to Monrovia and Lamanda Park on the line of The Atchison, Topeka and Santa Fe Railway Company.

¹The complaint indicates that the West Coast Lumbermen's Association participated only to the extent of providing traffic department service for its member shipper, Humboldt Lumber Corporation.

Complainants allege that a lower rate was maintained for the transportation of lumber from the northern California points to Long Beach on the line of The Atchison, Topeka and Santa Fe Railway Company, and that the departures from the long and short haul provisions of the Public Utilities Code and of the Constitution were not authorized by this Commission.²

Defendants, in their reply to the complaint, "admit that complainant or complainants, as the case may be, made at least one shipment from an origin in California origin groups 6, 7 and 8 as listed in Items 14 and 16 of tariffs Cal.P.U.C. Nos. 132 and 189, to destination intermediate to Long Beach, on the Santa Fe, as more particularly described in the complaint; that at least one shipment was delivered within two years prior to the filing of the complaint herein." Further, defendants "admit that on at least one shipment made between one of the origins named above and one of the destinations specified hereinabove as intermediate to Long Beach on the Santa Fe, which shipment was delivered or tendered for delivery within two years prior to the filing of the complaint herein, the charges exceeded charges based on the applicable rate to Long Beach, on the Santa Fe, and were in violation of the long and short haul provisions of Section 460 of the California Public Utilities Code and of Section 21, Article XII of the California Constitution" and "admit that complainant or complainants, as the case may be, have been damaged to the extent that charges on such shipments to an intermediate destination exceeded charges concurrently applicable to Long Beach, on the Santa Fe."³

²The defendant railroads by joint rate arrangement participated in the rate maintained to Long Beach on the line of The Atchison, Topeka and Santa Fe Railway Company.

³The complaint was filed January 19, 1955. Section 735 of the Public Utilities Code bars consideration of shipments on which the cause of action accrued more than two years prior to that date.

Defendants refer to their tariffs on file with this Commission as being the best evidence of the lawful and applicable rates to be assessed on complainants' shipments, and to the opinions and orders of this Commission as being the best evidence as to whether, and to what extent, defendants have been authorized by this Commission to charge less for the longer distance than for the shorter distances.

By agreement of the parties, the matter was submitted upon the complaint and answer as filed. A public hearing is not necessary.

Reference has been made to the Commission's official file of defendants' tariffs. It appears therefrom that the rates assessed to the intermediate destinations exceeded the rate concurrently maintained to Long Beach. Authority for the long and short haul departure was granted to the defendants by the Commission's Decision No. 50682 effective November 8, 1954, in Application No. 35591. Rates for the future therefore are not involved. On shipments moving prior to November 8, 1954, and not barred by the statute of limitations, reparation will be awarded.

Upon consideration of all the evidence of record, the Commission is of the opinion and finds as a fact:

- (a) That the defendants assessed and collected charges in violation of the long and short haul provisions of the Public Utilities Code and of the State Constitution on shipments of complainant Humboldt Lumber Corporation as hereinbefore specified;
- (b) That complainant, Humboldt Lumber Corporation, paid and bore the charges on the shipments in question; and
- (c) That complainant, Humboldt Lumber Corporation, has been damaged thereby and is 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.

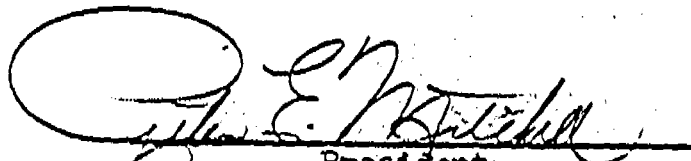
Reparation will be awarded in conformity with these findings. Upon the payment of the reparation defendants shall notify the Commission of the amount thereof.

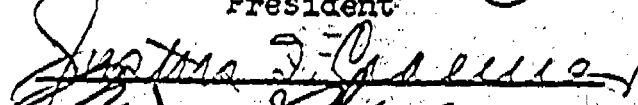
Therefore, good cause appearing,

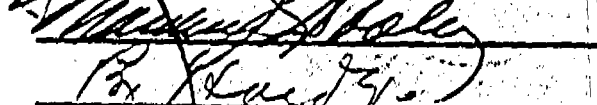
IT IS HEREBY ORDERED that defendants, according as they participated in the transportation, be and they are hereby authorized and directed to reparate to complainant, Humboldt Lumber Corporation, in accordance with the foregoing findings.


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

Dated at San Francisco, California, this 30th day of August, 1955.



President






Commissioners