

and by an assistant freight traffic manager of Southern Pacific Company, one of the defendant railroads.

The record discloses that the shipments in question were consigned by complainant, located on Southern Pacific rails at San Francisco, to Lever Bros. Company, served by the Santa Fe at Los Angeles. On complainant's instructions the shipments were routed via Southern Pacific-Stockton-A.T. & S.F. No through, single factor rate was in effect via this route. Accordingly, charges were assessed on basis of a combination of fifth-class rates, the factors of which were 25 cents from San Francisco to Stockton, plus 53 cents from Stockton to Los Angeles, plus a tank car arbitrary of 8 cents, making a total of 86 cents.² The record also shows that, effective March 25, 1955, which was subsequent to the time of movement of the shipments here in issue, the defendant rail lines established a commodity rate of 56 cents on cottonseed stearine, in tank cars, from San Francisco to Los Angeles, applicable via Southern Pacific-Stockton-A.T. & S.F. Shipments transported under that rate were subject to a surcharge of 15 per cent. Complainant seeks reparation to the basis of the rate of 56 cents plus surcharge, alleging that charges collected in excess of the sought basis were unjust and unreasonable in violation of Section 451 of the Public Utilities Code.

The traffic manager testified that at the time of movement of the shipments in question there was in effect between the same points a rate of 54 cents, applicable via three different routes, namely via Southern Pacific direct, via A.T. & S.F. direct, and via Western Pacific-Stockton-A.T. & S.F.³ The distances via these routes

² All rates mentioned in this opinion are in cents per 100 pounds.

³ The rate of 54 cents was also subject to the aforementioned surcharge of 15 per cent.

are 469, 594 and 610 miles, respectively, while the distance via the route of movement is 608 miles. The 54-cent rate, the witness stated, was first established in 1935 as 31½ cents, and has been continuously in effect since that time, its present level being the result of a series of general rate increases. Had the shipments involved in this complaint been forwarded via any of the three routes mentioned above, the rate of 54 cents would have been applicable. Under such circumstances, the record shows, charges of the line performing the switching service at San Francisco or Los Angeles would have been absorbed by the line haul carrier or carriers.

The circumstances under which the shipments were forwarded over a route via which the through rate of 54 cents was inapplicable were explained by the traffic manager. Complainant, he stated, has its own fleet of tank cars, which move all over the country. In order to assure maximum utilization of its cars complainant has centralized routing control in New York. According to the witness, the routing via S.P. to Stockton thence via A.T. & S.F. to Los Angeles was applicable at time of movement on shipments of cottonseed stearine moving transcontinentally.⁴ Complainant's New York office, he said, in supplying the routing for the shipments here in issue overlooked the fact that the Southern Pacific-A.T. & S.F. route was not open on movements from San Francisco to Los Angeles. This fact was also overlooked by its San Francisco office when the shipments were made.

The assistant freight traffic manager of Southern Pacific Company testified regarding the reasons for the reestablishment of a

⁴ In this connection the witness stated that frequently complainant routes shipments of cottonseed stearine from San Francisco via Southern Pacific to Stockton for transit, thence via A.T. & S.F. to transcontinental destinations.

commodity rate via route of movement, 2 cents higher than that applicable via the single line Southern Pacific and Santa Fe routes. He stated that defendants admit that a rate for a 2-line haul may properly be higher than that for a single-line movement between the same points. In support thereof he cited this Commission's decision in Piedra Rock Company vs. Southern Pacific Company et al. (21 CRC 895).⁵

Upon careful consideration of all the evidence of record, it is our opinion, and we hereby find, that, under all the circumstances existing at the time the shipments here in issue were made and particularly in view of the fact that a rate even lower than that sought to be protected herein was applicable between the same points via other routes of comparable length, the rate assessed on the shipments here in issue was unjust and unreasonable to the extent that it exceeded a rate of 56 cents per 100 pounds, subject to minimum carload weight as provided in Rule 35 of Consolidated Freight Classification No. 20, Cal. P.U.C. WC No. 8 of George H. Dumas, Agent, plus a surcharge of 15 per cent. We further find that complainant is entitled to recover reparation from defendants to the extent of the difference between the assessed and sought rates and charges.

O R D E R

Based upon the findings and conclusions contained in the foregoing opinion,

IT IS HEREBY ORDERED that defendants, The Atchison, Topeka and Santa Fe Railway Company and Southern Pacific Company be and

⁵ The proceeding in question involved a complaint that joint rates of Santa Fe and Southern Pacific on crushed rock were unreasonable, discriminatory and prejudicial to the extent that they exceeded the single-line rates of the Santa Fe for the same distances. The complaint was dismissed.

they are ordered and directed to refund to complainant, the sum of \$516.20, together with interest at 6 per cent per annum, as reparation for the unreasonable charges assessed on the shipments involved in this proceeding.

The Secretary is directed to cause a certified copy of this decision to be served upon The Atchison, Topeka and Santa Fe Railway Company and upon Southern Pacific Company in accordance with law and said decision shall become effective twenty days after the date of such service.

Dated at San Francisco, California, this 11th day of DECEMBER, 1956.

E. J. Mitchell
 President

Raymond W. Lawrence

Wm. H. ...

R. H. ...

C. J. Fox
 Commissioners