

Decision No. 14814

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

California Packing Corporation,)
Complainant.)
vs.)
Western Pacific Railroad Company,)
Sacramento Northern Railroad,)
Defendants.)

ORIGINAL

CASE NO. 2108

BY THE COMMISSION:

O P I N I O N

Complainant is a corporation engaged in the packing of dried fruits and canned goods, with its main office at 101 California Street, San Francisco.

By complaint filed March 2, 1925, it alleges that during the period May 2, 1923 to October 30, 1923, both dates inclusive, it shipped and bore the freight charges on twelve carloads of dried fruit from Colusa to San Jose via the rails of the Sacramento Northern Railroad to Sacramento, thence Western Pacific Railroad to San Jose. Charges were assessed at rate of 28½ cents per 100 pounds, based on the combination of 21½ cents from Colusa to Oakland (Pacific Freight Tariff Bureau, F.W. Gomph, Agent, Tariff 34-I.C.R.C.290) plus rate of 7 cents per 100 pounds from Oakland to San Jose (W.P.R.R. Tariff 36-F.C.R.C.257).

Reparation is sought in the amount of \$462.56.

It is alleged by complainant that the charges via the route over which the shipments moved should not have been in excess of 21½ cents per 100 pounds, which rate was subsequently established, effective May 17, 1924, in Pacific Freight Tariff Bureau Tariff 34-I, C.R.C. 290.

Defendants' claim, in part, was presented to the Commission informally, Reparation Docket 32217, but since the rate to the basis of the reparation sought was not published within six months subsequent to the date shipments moved, as required under Rule 102 of Tariff Circular No. 2, informal reparation authority could not be granted.

Defendants, by formal Answer, duly filed, admit all of complainant's allegations. Therefore, under the circumstances, a public hearing will not be necessary.

After due consideration we find that complainant made the shipments as described in Exhibit B, attached to and made a part of the complaint, paid and bore the charges thereon, and that upon carriers' admission that the amount collected was excessive, reparation should be awarded.

We are of the opinion that complainant has been damaged in the amount of the difference between the charges collected and those that would have accrued at the subsequently established rate of 21½ cents per 100 pounds, and is entitled to reparation in a sum not to exceed \$462.56. Complainant will submit a statement of the shipments to defendants for check. Should it not be possible to reach an agreement, the matter may be referred to this Commission for further consideration and the entry of a supplemental order should such be necessary.

