Decision No. 14814

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

California Packing Corporation.
Complainent.

VB.

Western Pacific Railroad Company, Sacramento Northern Railroad,

Defendants.

ORIGINAL

CASE NO. 2108

BY THE COMMISSION:

OBINION

Complainant is a corporation engaged in the packing of dried fruits and cannot 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 28% cents per 100 pounds, based on the combination of 21% cents from Colusa to Oakland (Pacific Freight Tariff Bureau,F.W.Comph.Agent.Tariff 34-I.C.R.C.290) plus rate of 7 cents per 100 pounds from Oakland to San Jose (W.P.RR.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 21% 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 21% 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.

ORDER

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 on the findings of fact and conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof.

Railroad Company and Sacramento Northern Railroad, according as they participated in the transportation, be, and they are hereby, authorized to pay to complainant, California Packing Corporation, all charges they may have collected in excess of 212 cents per 100 pounds for the transportation of twelve carloads of dried fruit moving during the period May 10,1923 to October 30,1923, both dates inclusive, from Colusa to San Jose, as shown in Exhibit B, attached to and made part of the complaint, as reparation account unreasonable rate.

Dated at San Francisco, California, this 20 th day of April, 1925.

GCLeauy.

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Commissioners.