

Decision No. 15470

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

Rosenberg Bros. & Co.,
a corporation,

Complainant,

vs.

Western Pacific Railroad Company,
a corporation,

Defendant.

CASE NO. 2135.

BY THE COMMISSION:

O P I N I O N

Complainant is a corporation engaged in the business of buying, selling and milling rice, with its principal place of business at San Francisco, California.

By complaint filed June 16, 1925 it is alleged that the switching charge of \$2.70 per car assessed by defendant for the switching service performed by the Southern Pacific Company at San Francisco in connection with 16 carloads of clean rice moving during the period from August 10, 1922 to November 25, 1922, both dates inclusive, from Arbee to San Francisco, was unjust, unreasonable and discriminatory and should have been absorbed by defendant. The freight charges on these shipments were paid on June 30, 1923.

Reparation only is sought.

The shipments in question were routed via the Sacramento-Northern Railroad to Sacramento, thence Western Pacific Railroad

for delivery to Industry Track 930 on the State Belt Railroad at Islais Creek, San Francisco. The Southern Pacific Company performed the switching service from the interchange track of defendant to the interchange track of the State Belt Railroad.

Defendant applied its established line haul rate of 25 cents per 100 pounds applicable from Arbee to San Francisco as published in Pacific Freight Tariff Bureau Tariff 34-E, C.R.C. 262, plus the Southern Pacific Company's switching charge of \$2.70 per car, as published in Southern Pacific Company Terminal Tariff 230-E, C.R.C. 2381. The line haul rate is not involved in this complaint.

Effective July 5, 1923 defendant established in its Terminal Tariff No. 35-J, C.R.C. 245, an item which provided that the switching charge of \$2.70 per car maintained by the Southern Pacific Company for switching cars between its interchange point with defendant and the interchange point with the State Belt Railroad on traffic originating at or destined to industries located at Islais Creek, San Francisco, would be absorbed by defendant when it received the line haul. There was also in effect, from April 11, 1922 to and including August 31, 1922 and also from October 23, 1922 to and including December 31, 1922, a rate of 25 cents per 100 pounds on clean rice from Arbee to San Francisco via the Sacramento Northern Railroad and California Transportation Company which included the switching service to industries located at Islais Creek, San Francisco.

In a formal answer to the complaint defendant admits the allegations and has signified a willingness to make a reparation adjustment. Therefore, under the issues as they now

stand, a formal hearing will not be necessary.

Upon consideration of all the facts of record, we are of the opinion and find that the charge of \$2.70 per car assessed by defendant for the service performed by the Southern Pacific Company in switching complainant's shipments from the interchange track of defendant to the interchange track of the State Belt Railroad at San Francisco, was unreasonable and discriminatory and should have been absorbed by defendant; that complainant paid and bore the charges on the shipments in question and has been damaged to the amount of \$2.70 for each car moved and is entitled to reparation in the sum of \$43.20.

O R D E R

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,

IT IS HEREBY ORDERED that the Western Pacific Railroad Company be, and it is hereby authorized and directed to refund to complainant, Rosenberg Bros. and Company, \$43.20 as reparation account unreasonable and discriminatory switching charges assessed in connection with the movement of the 16 carloads of clean rice, involved in this proceeding, during the period August 10, 1922 to November 25, 1922, both dates inclusive, from Arbee to Industry Track 930 on the State Belt Railroad at Islais Creek, San Francisco.

Dated at San Francisco, California, this 26th day of September, 1925.

H. B. ...
O. ...

Leon ...
Commissioners