

Decision No. 16499

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA
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Sun Maid Raisin Growers Association,
a Corporation,

Complainant,

vs.

CASE NO. 2202

Southern Pacific Company, a Corporation,
Northwestern Pacific Railroad Company,
a Corporation,

Defendants.

ORIGINAL

D. R. Hoak, for Complainant,

F. W. Mielke and C. N. Bell, for Defendants.

BY THE COMMISSION:

O P I N I O N

Complainant is a corporation with its principal place of business at Fresno. By complaint filed December 9, 1925 it is alleged that the combination of local rates assessed by defendants against one carload (SP.28048) of refuse raisins unfit for human or animal consumption, shipped from Yuba City to Waldo August 26, 1924, was excessive, unjust and unreasonable in violation of section 13 of the Public Utilities Act to the extent it exceeded the through commodity rate subsequently established.

A public hearing was held at San Francisco March 17, 1926 before Examiner Geary and the case having been submitted is now ready for our opinion and order. Reparation only is sought.

Yuba City is located on the Southern Pacific and Waldo on the Northwestern Pacific. Charges were assessed and collected on the carload of refuse raisins moved from Yuba City to Waldo on the basis of 27 cents per 100 pounds, being made up of the commodity rate of $18\frac{1}{2}$ cents, applying to edible raisins, Yuba City to San Francisco via Southern Pacific, plus the Class B rate of $8\frac{1}{2}$ cents from San Francisco to Waldo via the Northwestern Pacific.

Effective March 2, 1925 defendants established in Item 3640-B Supplement 9 to Pacific Freight Tariff Bureau Tariff No. 16-H, C.R.C. 341, the rate here sought by complainant, namely, \$2.25 per ton of 2000 pounds from Yuba City to Waldo on refuse raisins unfit for human or animal consumption.

Damaged raisins were also shipped from a number of points in the San Joaquin Valley to Waldo upon which the carriers paid reparation to the basis of \$2.25 per ton, the adjustment here proposed. This reparation was authorized by the Commission on the informal docket. The shipment here involved, from Yuba City to Waldo, was not given the same informal treatment because the rate was not published within the six months' period required by Rule 102 of Tariff Circular No. 2.

Defendants interposed no objections to the payment of reparation, but questioned our authority to authorize such payments by virtue of the provisions of Section 71 of the Public Utilities Act. This legal question was disposed of in Case No. 2133, Stewart Fruit Company vs. Southern Pacific Company, Decision No. 16432, April 9, 1926, wherein we found that the Commission did have authority to order carriers to pay reparation.

Upon consideration of all the facts of record we are of the opinion and find that the rate assessed by the defendants for the transportation of one carload of refuse raisins involved

in this proceeding, moving August 26, 1924 from Yuba City to Waldo, was excessive, unjust and unreasonable to the extent it exceeded the rate of \$2.25 per ton of 2000 pounds established March 2, 1925; that complainant paid and bore the charges on the shipment and has been damaged to the extent of the difference between the charges paid and those that would have accrued at the rate herein found reasonable and is entitled to reparation.

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 the conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof,

IT IS HEREBY ORDERED that defendants, Southern Pacific Company and Northwestern Pacific Railroad Company, according as they participated in the transportation, be and they are hereby authorized and directed to refund to complainant, Sun Maid Raisin Growers Association, all charges they may have collected in excess of \$2.25 per ton of 2000 pounds for the transportation of the shipment of refuse raisins herein described.

Dated at San Francisco, California, this 16th day of April, 1926.

W. R. Brundage
C. J. Shaver
Edward L. Scott
Leon White

Commissioners.