

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

E. G. Prince & Company,
Hunt Brothers Packing Company,

Complainants

vs.

Southern Pacific Company,

Defendant.

ORIGINAL

Case No. 2028

BY THE COMMISSION:

SUPPLEMENTAL OPINION AND ORDER

The Commission by Decision No. 15923 rendered February 3, 1926 and re-affirmed by Decision No. 16722 dated May 12, 1926, in the above entitled proceeding, found that the rate of 7¢ per 100 pounds assessed by defendant for the transportation of canned goods, in carloads, from Hayward and San Leandro to Oakland, moving during the period from July 30, 1922 to July 30, 1924 was unreasonable to the extent it exceeded a rate of 5¢ per 100 pounds, and by order directed the defendant, Southern Pacific Company, to establish on or before May 17, 1926 and thereafter to maintain and apply to the transportation of canned goods from Hayward to Oakland a rate of 5¢ per 100 pounds, and to refund with interest to complainant, E. G. Prince & Company, all charges it may have collected which exceeded the rate found reasonable for the transportation of canned goods from San Leandro and Hayward to Oakland.

The California Packing Corporation operating canneries at San Leandro and Lorenzo filed a petition in intervention in support of complainants and also alleged that the applicable rate from San Leandro and Lorenzo was unreasonable, these two points

being intermediate to Hayward in the movement to Oakland. The petition in intervention requested a rate for the future and reparation on shipments alleged to have been made from San Leandro and Lorenzo to Oakland. Through an apparent misunderstanding intervenor was not represented at the hearing and presented no proof of having made the shipments as alleged, hence the Commission made no finding with respect to its allegations.

Under date of May 18, 1926 intervenor filed a petition requesting a rehearing in the above entitled proceeding for the purpose of furnishing proof of shipments from San Leandro and Lorenzo to Oakland as alleged; that it paid and bore the freight charges thereon and is entitled to reparation in the sum of the difference between the charges paid and those that would have accrued at the rate of 5¢ per 100 pounds from Hayward and San Leandro to Oakland found reasonable by the Commission.

Defendant, Southern Pacific Company, under date of June 3, 1926 signified a willingness to make a reparation adjustment on the basis of the rate found reasonable by the Commission upon suitable proof being furnished that intervenor made the shipments of canned goods as claimed and paid and bore the freight charges thereon.

Therefore, under the issues as they now stand a formal hearing will not be necessary.

Upon further consideration of our Decision in the above entitled proceeding and of intervenor's petition for rehearing we are of the opinion and find that defendant, Southern Pacific Company should be authorized to refund to intervenor, California Packing Corporation, all charges it may have collected for the transportation of canned goods, in carloads, from San Leandro and

Dated at San Francisco, California this 17th day of June, 1926.

H. H. Brown & Co.
 C. L. Leavitt
 Forwarded to
 COMMISSIONERS.