

Decision No. 17675

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

California Packing Corporation,
Complainant,

vs.

Southern Pacific Company,
Western Pacific Railroad Company,
Defendants.

CASE NO. 2281

BY THE COMMISSION:

O P I N I O N

Complainant, a corporation organized under the laws of the State of New York, with its principal place of business at San Francisco, is engaged in the packing of dried fruits and canned goods.

By complaint filed September 24, 1926 it is alleged that the rate assessed and collected on 10 carloads of box shock, moved from Loyalton and Calpine to Suisun-Fairfield, California, during the period from December 4, 1924 to October 15, 1925, was unreasonable, prejudicial and discriminatory to the extent it exceeded a rate of 22 cents per 100 pounds.

Reparation only is sought. Rates will be stated in cents per 100 pounds.

Loyalton and Calpine are located on the Western Pacific Railroad and Suisun-Fairfield is located on Southern Pacific Company

and Sacramento Northern Railroad, called Suisun on Sacramento Northern Railroad. The shipments involved were routed Western Pacific to Sacramento, Southern Pacific beyond and a combination rate of $22\frac{1}{2}$ cents, composed of 14 cents to Sacramento and $8\frac{1}{2}$ cents beyond, was charged. These rates are shown in Western Pacific Railroad Tariff 36-F, C.R.C.257, and Southern Pacific Tariff 634-C, C.R.C.2848.

Concurrently there was a joint rate of 22 cents from Loyalton and Calpine to Suisun with routing via Western Pacific Railroad to Sacramento, Southern Pacific Company to Suisun-Fairfield, Sacramento Northern Railroad beyond. This rate was not applicable on complainant's shipments because of failure to route via Sacramento Northern Railroad and give that railroad a haul. Effective May 29, 1926 defendants established a rate of the same volume applicable via route the shipments moved. Complainant bases its plea for reparation upon the rate in effect to Suisun, which was subsequently established to Suisun-Fairfield.

Defendants deny that the rate assessed was unjust or unreasonable or in violation of Section 24(a) of the Public Utilities Act, but they admit the rate and charges were unduly prejudicial and discriminatory and have signified a willingness to make reparation, 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 the assailed rate was unduly prejudicial and unreasonable to the extent it exceeded the contemporaneous rate applicable by the Western Pacific Railroad Company, Southern Pacific Company and Sacramento Northern Railroad Company, which rate was subsequently established from and to the points involved; that complainant made the shipments as

described, paid and bore the charges thereon and is entitled to reparation in the sum of \$24.87.

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 Western Pacific Railroad Company, according as they participated in the transportation, be and they are hereby authorized and directed to refund to complainant, California Packing Corporation of San Francisco, California, reparation in the sum of \$24.87 account of excessive and unreasonable charges assessed and collected for the transportation of 10 carloads of box shoo, involved in this proceeding, forwarded during the period from December 4, 1924 to October 15, 1925 from Loyalton and Calpine to Suisun-Fairfield.

Dated at San Francisco, California, this 29th day of November, 1926.

H. B. Brundage
A. S. Lawrence
Wm. H. West
Leon Whittell
Thos. D. ...
Commissioners.