

Decision No. 10833.

## BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

PAJARO VALLEY VINEGAR COMPANY,  
a corporation,  
Complainant,  
vs.  
SOUTHERN PACIFIC COMPANY, a cor-  
poration,  
Defendant.

Case No. 2400.

**ORIGINAL**

BY THE COMMISSION:

O P I N I O N

Complainant, a corporation organized under the laws of the State of California, with its principal place of business at Watsonville, is engaged in the manufacture of cider and vinegar. By complaint filed August 17, 1927, it alleges that the rate charged on seven carloads of vinegar shipped in tank cars from Watsonville to Hayward during the period from October 4 to December 17, 1926, was unjust and unreasonable to the extent it exceeded a rate of 19 cents.

Reparation only is sought. Rates are in cents per 100 pounds.

Charges were assessed and collected on the basis of 25¢, the lawfully applicable fifth-class rate shown in defendant's Tariff 711-C, C.R.C. No. 2843. Effective May 28, 1927, defendant voluntarily established a commodity rate of 19 cents from and to the points involved. Complainant bases its plea for reparation upon the rate published effective May 28, 1927.

At the time the shipments involved in this proceeding moved, defendant maintained a rate of 16 cents on vinegar,

carload, in packages from Aptos, a point beyond Watsonville, to Hayward; however, this rate was not applicable on vinegar in tank cars.

The rate upon which reparation is sought is reasonable and compares favorably with that applicable on shipments made in packages. Defendant admits the allegation of the complaint and has signified a willingness to make 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 rate of 25 cents charged was unreasonable to the extent it exceeded the subsequently established rate of 19 cents. We further find that complainant paid and bore the charges on the shipments involved and has been damaged to the extent of the difference between the freight charges paid and those that would have accrued at the rate herein found reasonable and that it is entitled to reparation.

Complainant will submit statement to defendant for check. Should it not be possible to reach an agreement as to the amount of reparation the matter may be referred to the Commission for further attention and the entry of a supplemental order should such be necessary.

#### 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 defendant, Southern Pacific Company, be and it is hereby authorized and directed to pay unto complainant, Pajaro Valley Vinegar Company, of Watsonville, California, all charges it may have collected in excess of 19 cents per 100 pounds on the shipments involved in this proceeding and forwarded from Watsonville to Hayward during the period from October 4 to December 17, 1926.

Dated at San Francisco, California, this 30<sup>th</sup> day of September, 1927.

Edward  
Estey  
Leon Whitell  
Thos. S. Rutt  
M. J. C.  
Commissioners.