

Decision No. 18996.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

J. SOUZA,

Complainant,

vs.

SAN FRANCISCO SACRAMENTO RAILROAD CO.
SOUTHERN PACIFIC COMPANY,

Defendants.

ORIGINAL

Case No. 2402.

BY THE COMMISSION:

O P I N I O N

Complainant, an individual with post office address Moraga, Contra Costa County, California, is engaged in farming. By complaint filed August 30, 1927, he alleges that the charge assessed and collected on a less than carload shipment of cows moved from Moraga to Ripon during December, 1926, was unreasonable to the extent it exceeded charges based on a rate of 27 cents per 100 pounds and weight of 15,000 pounds.

Reparation only is sought.

Moraga is on the San Francisco-Sacramento Railroad between Oakland and McAvoy. Ripon is on the Southern Pacific Railroad south of Lathrop. The combination carload rate of \$59.50 plus \$1.00 for sanding the car was charged. The factors composing the combination rate are \$23 to McAvoy and \$36.50 beyond, shown in San Francisco-Sacramento Railroad Tariff 4-E, C.R.C. 50, and Southern Pacific Tariff 645-D, C.R.C. 3118.

Live stock in less than carload lots is subject to the first-class ratings as per Item 7 page 267 of Western Classifi-

cation No. 59, C.R.C. 37. At the time the shipment in question moved the first-class rate from Moraga to Ripon was 27 cents per 100 pounds, shown in Pacific Freight Tariff Bureau Tariff 34-K, F. W. Gomph's C.R.C. 372; however, this carried a note reading, "Will not apply on livestock", therefore the rate applicable on cattle, carload, was assessed.

On August 18, 1927, Pacific Freight Tariff Bureau Tariff 34-L, F.W.Gomph's C.R.C. 405, became effective and the first-class rate of 27 cents per 100 pounds between the points involved in this proceeding was made applicable on live stock in less than carload lots. Complainant bases his plea for reparation upon the rate effective August 18, 1927. Defendants admit the allegation of the complaint and have 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 charges assessed were unreasonable to the extent they exceeded those based on a rate of 27 cents per 100 pounds and weight of 15,000 pounds; that complainant made the shipment as described and paid and bore the charges thereon; that he has been damaged in the amount of the difference between the charges paid and those that would have accrued at the rate herein found reasonable, and that he is entitled to reparation in the sum of \$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 the conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof,

IT IS HEREBY ORDERED that defendants, San Francisco-Sacramento Railroad Company and Southern Pacific Company, according as they participated in the transportation, be and they are hereby authorized and directed to refund to complainant, J. Souza of Moraga, Contra Costa County, California, all charges they may have collected in excess of 27 cents per 100 pounds on a shipment of cows moved from Moraga to Ripon during December, 1926.

Dated at San Francisco, California, this 31 day of November, 1927.

Ernest DeLoach

Charles

Leon Whipple

Thos. J. Routh

W. J. Carr
Commissioners.