

Decision No. ~~10000~~

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

CALIFORNIA PACKING CORPORATION,  
Complainant,

vs.

SOUTHERN PACIFIC COMPANY,  
Defendant.**ORIGINAL**

Case No. 2406.

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, California, is engaged in the packing of dried fruits and canned goods. By complaint filed September 1, 1927, it alleges that the rate charged on 40 carloads of fresh fruits and vegetables moved from Everglade and Hinsdale to Sacramento during the period from July 26th to September 22d, 1926, inclusive, was unjust and unreasonable to the extent it exceeded a rate of  $10\frac{1}{2}$  cents.

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

Everglade and Hinsdale are on the Sutter Basin branch of the Southern Pacific Company between Knights Landing and Sheffield, 47 and 49 miles respectively from Sacramento.

The third class rate of  $17\frac{1}{2}$  cents shown in Item 30-F of Southern Pacific Company's Tariff 917-D, C.R.C. 2929, was charged. Concurrently there was a commodity rate of  $7\frac{1}{2}$  cents

from Knights Landing to Sacramento for a haul of 32 miles, also Class C rate of 10½ cents between Sacramento and the points of origin involved in this proceeding.

It is the practice of carriers to establish commodity rates in this territory on fresh fruits, carloads, also on fresh vegetables, carloads, not exceeding the Class C rates.

Effective July 8, 1927, defendant voluntarily established a rate of 10½ cents applicable to the transportation hereinbefore described.

Complainant bases its plea for reparation upon the subsequently established rate.

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 the rate assailed was unreasonable to the extent it exceeded the subsequently established rate of 10½ cents; that complainant made the shipments as described, paid and bore the charges thereon, and is entitled to reparation in the amount of the difference between the charges paid and those that would have accrued at 10½ cents.

Complainant will submit statement of shipments 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, 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 ordered and directed to refund to complainant, California Packing Corporation of San Francisco, California, all charges it may have collected in excess of 10½ cents per 100 pounds for the transportation of 40 carloads of fresh fruits and vegetables involved in this proceeding and forwarded during the period from July 26th to September 22d, 1926, inclusive, from Everglade and Hinsdale to Sacramento.

Dated at San Francisco, California, this 4<sup>th</sup> day of November, 1927.

Edmund L. Edwards  
Chas. J. Brown  
Leon Whitely  
Thos. B. Lott  
M. A. Carr  
Commissioners.