

Decision No. 19098.**ORIGINAL**

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ROSENBERG BROS. & CO., a corpo-
 ration,
 Complainant,

vs.

CENTRAL CALIFORNIA TRACTION COMPANY,
 a corporation, SOUTHERN PACIFIC COM-
 PANY, a corporation,

Defendants.

Case No. 2387.

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 San Francisco, California, is engaged in buying, packing and selling dried fruits. By complaint filed July 14, 1927, and as amended October 11, 1927, it alleges that the rate charged on two carloads of dried fruit shipped September 12 and December 18, 1925, from Lodi to San Francisco was unduly prejudicial and discriminatory to the extent it exceeded 8 cents per 100 pounds, the contemporaneous rate applicable on like traffic over the Southern Pacific Company from Lodi to San Francisco.

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

The shipments moved over the Central California Traction Company to Stockton thence Southern Pacific Company, a distance of 103 miles. Charges were collected at the applicable combination rate of 15 cents, made up of the fourth class rate of 7 cents to Stockton and a commodity rate of 8 cents beyond. Lodi

is also served by the Southern Pacific and the distance via that carrier to San Francisco is 103 miles.

The request for reparation is predicated upon the fact that defendants maintain joint class rates also joint commodity rates on canned goods, wool and mohair from Lodi to San Francisco that are on the same basis as rates via the Southern Pacific direct, and the rate via the Southern Pacific on dried fruit at the time the shipments involved in this proceeding moved was 8 cents. This rate was established effective May 20, 1926, to apply via the route the shipments moved.

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 rate assailed was unduly prejudicial and discriminatory to the extent it exceeded the contemporaneous rate of 8 cents from Lodi to San Francisco via the Southern Pacific; that complainant made the shipments as described and paid and bore the charges thereon; that it has been damaged in the amount of the difference between the charges paid and those that would have accrued at the rate of 8 cents and that it is entitled to reparation.

Complainant will submit statement to defendants 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 defendants, Central California Traction Company and Southern Pacific Company according as they participated in the transportation be and they are hereby authorized and directed to refund to complainant, Rosenberg Bros. & Company of San Francisco, California, all charges they may have collected in excess of 8 cents per 100 pounds for the transportation of two carloads of dried fruit involved in this proceeding and forwarded from Lodi to San Francisco during September and December, 1925.

Dated at San Francisco, California, this 2nd day of ~~November~~ December, 1927.

Emmett
C. Seamy
Leon Whiteall
John D. Lott
M. J. C.
Commissioners.