

Decision No. 19089.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINALCALIFORNIA ALMOND GROWERS' EXCHANGE,
Complainant,

vs.

Case No. 2433.

THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY, THE WESTERN PACIFIC
RAILROAD COMPANY,
Defendants.

BY THE COMMISSION:

O P I N I O N

Complainant, a corporation with its principal place of business at San Francisco, California, is engaged in growing, preparing and shipping almonds. By complaint filed October 18, 1927, it alleges that the rates charged on numerous carloads of almonds transported from Oakdale to Sacramento during the period from September 10 to November 14, 1926, were unjust and unreasonable.

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

The shipments consisted of 448,037 pounds of unshelled almonds and 60,480 pounds of shelled almonds. Rates of 17 cents and 31 cents respectively were charged. The former is the carload rate on almonds in the shell, shown in Item 14630 of Pacific Freight Tariff Bureau Tariff 34-K, F. W. Gomph's C.R.C. No. 372; the latter is the first class rate shown in the same tariff.

Complainant contends that from December 1, 1925, to August 1, 1926, defendants maintained a carload rate of 17 cents from

and to the points involved and applicable on almonds without any restrictions; that on August 1, 1926, Supplement No. 17 to Tariff 34-K became effective and the item naming the 17-cent rate was changed to read, almonds, in the shell; furthermore this item carried a reference mark reading "Change, no advance or reduction". This publication was erroneous as it created an increase not authorized by this Commission.

Effective October 5, 1927, the commodity description in connection with the item naming the 17-cent rate was changed to read, Almonds, shelled or not shelled, in bags, boxes or barrels.

Defendants admit that the rate charged on the shelled almonds was unreasonable to the extent that it exceeded 17 cents 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 for the transportation of shelled almonds was unreasonable to the extent it exceeded a rate of 17 cents per 100 pounds which was effective prior to the date the shipments involved in this proceeding moved and which was subsequently established; that complainant made the shipments as described; paid and bore the charges thereon and is entitled to reparation.

Complainant will submit statement of shipments 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, 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, The Atchison, Topeka and Santa Fe Railway Company and The Western Pacific Railroad Company according as they participated in the transportation, be and they are hereby authorized and directed to refund to complainant, California Almond Growers' Exchange of San Francisco, California, all charges they may have collected in excess of 17 cents per 100 pounds, for the transportation of the shipments involved in this proceeding and forwarded during the period from September 10 to November 14, 1926 inclusive, from Oakdale to Sacramento, California.

Dated at San Francisco, California, this 24 day
December
of ~~November~~, 1927.

Ernest A. Seaman
Ernest A. Seaman
Leon Whitell
M. J. Quinn
Commissioners.