

Decision No. 20036.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

TOOMEY FRUIT COMPANY,
 Complainant,
 vs.
 SOUTHERN PACIFIC COMPANY,
 Defendant.

ORIGINAL

Case No. 2559.

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 Fresno, alleges by complaint filed June 18, 1928, that the rates charged on numerous less carload shipments of ground, burnt or roasted figs moved within the period of two years prior to the date this complaint was filed from Fresno to San Francisco, Los Angeles and Pomona were unjust and unreasonable in violation of Section 13 of the Public Utilities Act to the extent they exceeded the rates contemporaneously applicable on dried fruit, less carload.

We are asked to award reparation and to authorize defendant to waive collection of certain undercharges. Rates will be stated in cents per 100 pounds.

The rates applicable on the shipments involved herein were the less carload class rates of 53½ cents to San Francisco, 73½ cents to Los Angeles and 92 cents to Pomona as per Southern Pacific Tariff 711-C, C.R.C. 2843. An erroneous rate of 65 cents was charged on twelve of the shipments destined to Los Angeles, therefore there are outstanding undercharges on those shipments.

During the period that the shipments in question moved the rates applicable on dried fruit, less carload, from Fresno to San Francisco, Los Angeles and Pomona were 36 cents, 38½ cents and 48½ cents respectively.

Effective December 27, 1927, defendant established from Fresno rates of 36 cents and 38½ cents to San Francisco and Los Angeles respectively, applicable on figs, burnt or roasted, whole or ground, less carload, and on July 20, 1928, a less than carload rate of 48½ cents was made effective from Fresno to Pomona on the same articles.

Defendant admits the allegations of the complaint and has signified a willingness to make reparation and to waive collection of the undercharges, therefore under the issues as they now stand a formal hearing will not be necessary.

Complainant has specifically waived any demands for interest.

Upon consideration of all the facts of record we find that the rates assailed from Fresno were unjust and unreasonable to the extent they exceeded 36 cents to San Francisco, 38½ cents to Los Angeles and 48½ cents to Pomona; that complainant made the shipments described and paid and bore the charges thereon and is entitled to reparation; also that against the shipments on which there has not been a final adjustment of charges, undercharges should be waived to the basis of the rates herein found reasonable.

Complainant should submit a statement of shipments to defendant for check. Should it not be possible to reach an agreement as to the amount of reparation due or the amount of uncollected charges 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 refund to complainant, Roomey Fruit Company, on shipments involved in this proceeding and moved within two years prior to the date the complaint was filed with the Commission, all charges it may have collected in the amount of the difference between the freight charges paid and those that would have accrued at 36 cents per 100 pounds from Fresno to San Francisco; 38½ cents per 100 pounds to Los Angeles and 48½ cents per 100 pounds to Pomona, and to waive collection of the undercharges in the amount of the difference between the rate lawfully applicable and that herein found reasonable.

Dated at San Francisco, California, this 11th day
of July, 1928.

Leon A. Whiteley
C. Seaver
Emmanuel S.
Shoemaker
W. A. Carr
Commissioners.