

DECISION No. 20183.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

E. L. DIAL,

Complainant,

vs.

THE SOUTHERN PACIFIC COMPANY,

Defendant.

Case No. 2582.

BY THE COMMISSION:

O P I N I O N

Complainant is an individual, engaged in buying and selling grain and grain products. By complaint filed August 4, 1928, it is alleged that the rate charged on one carload of kaffir corn shipped August 16, 1927, from Santa Cruz to Del Mar was excessive and unreasonable in violation of Section 13 of the Public Utilities Act to the extent it exceeded 5 cents.

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

Del Mar is located between Santa Cruz and Watsonville, 2.8 miles east of the former point. At the time the shipment herein involved moved there was no commodity rate in effect on kaffir corn from Santa Cruz to Del Mar, and the applicable Class "B" rate of 9 cents was assessed and collected. Effective August 10, 1928, defendant established a commodity rate of 5 cents applicable to the transportation hereinabove described, and it is upon this basis that complainant seeks reparation.

Defendant admits the allegation of the complaint and has signified a willingness to make a 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 find that the rate assailed was unreasonable to the extent it exceeded the subsequently established rate of 5 cents; that complainant made the shipment as described, paid and bore the charges thereon, has been damaged thereby in the amount of the difference between the charges paid and those that would have accrued at the rate herein found reasonable, and is entitled to reparation. Complainant specifically waived the payment of interest in this proceeding.

Complainant will submit a statement to the 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, full investigation of the matters and things involved having been had, and basing this order on the findings of fact in the opinion which precedes this order,

IT IS HEREBY ORDERED that defendant, Southern Pacific Company, be and it is hereby authorized and directed to refund, without interest, to complainant, E. L. Dial, all charges it may have collected in the amount of the difference between the freight charges paid and those that would have accrued at a rate of 5 cents per 100 pounds on the shipment involved in this proceeding and moved from Santa Cruz to Del Mar August 16, 1927.

Dated at San Francisco, California, this 30th day of August, 1928.

C. S. ...

Frank ...

M. ...
COMMISSIONERS.