

Decision No. 20248.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

WESTERN SUN FERTILIZER COMPANY,
Complainant,

vs.

SOUTHERN PACIFIC COMPANY,
Defendant.

Case No. 2539.

ORIGINAL

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 Covina, California, is engaged in selling fertilizer compounds. By complaint filed August 21, 1928, it alleges that the rates charged on two carloads of cocoa bran fertilizer shipped May 6 and May 11, 1926, on which the freight charges were fully paid on February 23, 1928, moving from San Francisco to Covina, were unjust and unreasonable in violation of Section 13 of the Public Utilities Act of the State of California to the extent they exceeded the subsequently established rate of 25 cents.

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

The shipments involved herein moved from San Francisco to Covina at the lawfully applicable rate of 35½ cents, made up of a combination of commodity and class rates. The factor from San Francisco to Los Angeles was a commodity rate of 25 cents as

published in Southern Pacific Company's Tariff 730-C, C.R.C. No. 2904, and the factor from Los Angeles to destination the fifth class rate of 10½ cents as published in Southern Pacific Company's Tariff No. 711-C, C.R.C. No. 2843.

Effective February 17, 1927, in Southern Pacific Company's Tariff No. 730-C, C.R.C. No. 2904, defendant published a commodity rate of 25 cents applicable to the transportation hereinbefore described, and it is upon the basis of the subsequently established rate 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 are of the opinion and find that the rate assailed was unjust and unreasonable to the extent it exceeded 25 cents; that complainant paid and bore the charges thereon and is entitled to reparation. Complainant waived the payment of interest.

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, 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 this 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, without interest, to complainant, the Western Sun Fertilizer Company, all charges it may have collected in the amount of the difference between the freight charges paid and those that would have accrued at 25 cents on the shipments involved in this proceeding and moved from San Francisco to Covina on May 6 and May 11, 1926.

Dated at San Francisco, California, this 21st day of September, 1928.

Leon Arkhelly
Al Seavey
Frank Scott
Wm. S. Latta

Commissioners.