

Decision No. 20392.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

THE PACIFIC LUMBER COMPANY,

Complainant,

vs.

NORTHWESTERN PACIFIC RAILROAD COMPANY,

Defendant.

ORIGINAL

Case No. 2606.

BY THE COMMISSION:

O P I N I O N

Complainant is engaged in the manufacture and sale of lumber and its products. By complaint filed September 24, 1928, it is alleged that the rate charged for the transportation of one car of mixed iron pipe and iron pipe fittings from San Francisco to Scotia October 21, 1927, was unjust and unreasonable in violation of Section 13 of the Public Utilities Act to the extent it exceeded 33½ cents.

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

The shipment here involved moved from San Francisco to Scotia at the lawfully applicable commodity rate of 57½ cents on iron pipe and pipe fittings in mixed carloads, as published in Item No. 2770 of Northwestern Pacific Railroad Company Local and Proportional Freight Tariff 38-F, C.R.C. No. 308. At the time the shipment moved defendant maintained in Item 2820 of the same tariff a rate of 33½ cents on iron pipe in straight carloads.

Effective September 8, 1928, in Supplement No. 12 this Item was amended to provide that the 33½-cent rate would also apply on iron pipe and pipe fittings, in mixed carloads, 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 33½ cents; that complainant paid and bore the charges thereon and is entitled to reparation. Complainant specifically waived the payment of interest.

Complainant will submit statement of shipment 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 matter and things involved having been had, and basing this order on the findings of fact and the conclusions contained in this opinion, which precedes this order,

IT IS HEREBY ORDERED that defendant, Northwestern Pacific Railroad Company, be and it is hereby authorized and directed to refund, without interest, to the complainant, the Pacific Lumber 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 33½ cents on the shipment involved in this proceeding and moved from San Francisco to Scotia on October 31, 1927.

Dated at San Francisco, California, this 27th day of October, 1928.

Leon Whaley

Clarence

Emmett

Paul

M. J. C.
Commissioners.