

Decision No. 20393.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

RANSBURN BROTHERS,

Complainant,

vs.

THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY,
WESTERN PACIFIC RAILROAD,
SACRAMENTO NORTHERN RAILWAY,

Defendants.

ORIGINAL

Case No. 2607.

BY THE COMMISSION:

O P I N I O N

Complainant is engaged in buying, growing and selling rice. By complaint filed September 25, 1928, it alleges that the rate charged on three carloads of paddy rice shipped during March and April, 1927, from Esquon to Merced was unjust and unreasonable in violation of Section 13 of the Public Utilities Act to the extent it exceeded 35 cents.

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

Esquon is on the Sacramento Northern Railway ten miles south of Chico, and Merced on The Atchison, Topeka and Santa Fe Railway 65 miles south of Stockton. There was no joint through rate in effect at the time the shipments moved, the charges being assessed on the basis of 45½ cents, the applicable combination of commodity and class rates over Sacramento. The factor from Esquon to Sacramento was a commodity rate of 16 cents and

from Sacramento to destination the fifth class rate of 29½ cents. During the period the shipments here involved moved defendants maintained a joint through rate of 35 cents on paddy rice in the opposite direction, from Merced to Esquon, and effective February 20, 1928, established this rate southbound from Esquon to Merced.

Complainant bases its plea for reparation upon the basis of the subsequently established rate. Defendants admit that the rate charged was unreasonable and have expressed a willingness to pay reparation, 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 unreasonable to the extent it exceeded 35 cents per 100 pounds; that complainant made the shipments as described and paid and bore the charges thereon; that it has been damaged thereby in the amount of the difference between the charges paid and those which would have accrued at the rate herein found reasonable, and is entitled to reparation without interest.

Complainant will submit a statement of shipments to the 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, 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 the defendants, The Atchison, Topeka and Santa Fe Railway Company, Western Pacific Railroad Company, and Sacramento Northern Railway according as they participated in the transportation, be and they are hereby authorized and directed to refund to complainant, Rathburn Brothers, all charges they may have collected in the amount of the difference between the freight charges paid and those which would have accrued at a rate of 35 cents per 100 pounds on the shipments involved in this proceeding and moved from Esquon to Merced during March and April, 1927.

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

Leon A. C. [unclear]
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Commissioners.