

Decision No. 21510

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

CALIFORNIA PACKING CORPORATION,
Complainant,

vs.

SOUTHERN PACIFIC COMPANY,
Defendant.

Case No. 2725.

ORIGINAL

BY THE COMMISSION:

O P I N I O N

Complainant is a corporation with its principal place of business at San Francisco. By complaint filed July 22, 1929, it is alleged that the rates assessed and collected on 84 car-loads of green fruit shipped from Walnut Grove to Sacramento during the period July 27, 1927, to August 15, 1927, were unjust and unreasonable in violation of Section 13 of the Public Utilities Act.

Reparation only is involved. Rates are stated in cents per 100 lbs.

Walnut Grove is situated on the Walnut Grove branch of the Southern Pacific Company 23 miles south of Sacramento. The lawfully applicable rate assessed and collected on complainant's shipments was a commodity rate of $8\frac{1}{2}$ cents published on second revised page 22-A of Southern Pacific Company Tariff No. 817-C, C.R.C. No. 2865. Effective January 9, 1929, defendant voluntarily established a rate of $7\frac{1}{2}$ cents on green fruit, and it is upon the basis of this 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 assailed rate was unjust and unreasonable to the extent it exceeded the subsequently established rate of $7\frac{1}{2}$ cents; that complainant made the shipments as described, paid and bore the charges thereon, and is entitled to reparation without interest. Complainant specifically 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 the opinion which precedes this order,

IT IS HEREBY ORDERED that defendant, Southern Pacific Company, be and it is hereby ordered and directed to refund to complainant, California Packing Corporation, all charges collected in excess of $7\frac{1}{2}$ cents per 100 pounds for the transportation from Walnut Grove to Sacramento of the shipments of green fruit involved in this proceeding.

Dated at San Francisco, California, this 20th day of August, 1929.

W. D. Sullivan
C. J. ...
...
Leon ...
...
COMMISSIONERS.