

Decision No. 21601.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

CALIFORNIA PACKING CORPORATION,  
Complainant,

vs.

THE ATCHISON, TOPEKA AND SANTA FE  
RAILWAY COMPANY,  
THE WESTERN PACIFIC RAILROAD COM-  
PANY,

Defendants.

ORIGINAL

Case No. 2710.

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 June 12, 1929, it is alleged that the rates assessed and collected on numerous carloads of dried fruit shipped during the period July 1927 to September 1928, both inclusive, from Tuttle to Oakland and San Jose are excessive in violation of the Public Utilities Act.

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

Tuttle is on the Santa Fe 155 miles southeast of San Francisco. Oakland is on the Santa Fe and Western Pacific, while San Jose is located on the latter line. A part of the shipments to Oakland moved via the Santa Fe direct and some moved via the Santa Fe to Stockton, thence Western Pacific Railroad. All of the shipments to San Francisco moved via the latter route. The lawfully applicable rate from Tuttle to Oakland, a distance of

150 miles via The Atchison, Topeka and Santa Fe Railway direct and 158 miles via The Atchison, Topeka and Santa Fe Railway to Stockton, thence Western Pacific, at the time the shipments moved was 25 cents. To San Jose, a distance of 157 miles, it was 26½ cents prior to April 15, 1928, and 25 cents after that date.

Effective February 20, 1929, defendants established to all the destinations here involved a rate of 23 cents and it is upon the basis of this subsequently established rate that complainant seeks reparation.

Defendants admit the allegations of the complaint and have 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 rates were unjust and unreasonable to the extent they exceeded the subsequently established rate of 23 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 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 precedes this order,

IT IS HEREBY ORDERED that defendants, The Atchison, Topeka and Santa Fe Railway Company and The Western Pacific Railroad Company, according as they participated in the transportation, be and they are hereby authorized and directed to refund to complainant, California Packing Corporation, all charges collected on the shipments of dried fruit involved in this proceeding in excess of 23 cents per 100 pounds for the transportation from Tuttle to Oakland, Fruitvale and San Jose.

Dated at San Francisco, California, this 25<sup>th</sup> day of September, 1929.

Thomas S. Laidlaw

C. Seavey

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W. A. Linn  
Commissioners.