

Decision No. 21610.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

DELTA MERCANTILE COMPANY,

Complainant,

vs.

SOUTHERN PACIFIC COMPANY,

Defendant.

Case No. 2735.

BY THE COMMISSION:

ORIGINAL

O P I N I O N

Complainant is a corporation with its principal place of business at San Diego. By complaint filed August 3, 1929, it is alleged that the rate assessed and collected on two carloads of dried beans in sacks transported from King City to El Centro during November, 1928, is unjust and unreasonable in violation of Section 13 of the Public Utilities Act.

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

Charges were assessed against complainant's shipments on basis of a commodity rate of 76 cents published in Item 530-F, Page 89-A of Southern Pacific Company Tariff 730-C, C.R.C. #2904, applying as maximum the rate from Oakland, 154 miles north of King City, to El Centro. Effective June 6, 1929, defendant voluntarily reduced this rate to 63½ cents, and it is upon the basis of this subsequently established rate that complainant seeks reparation.

Defendant admits the allegations 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 63½ 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 authorized and directed to refund to complainant, Delta Mercantile Company, all charges collected on the shipments of dried beans involved in this proceeding in excess of 63½ cents per 100 pounds for the transportation from King City to El Centro.

Dated at San Francisco, California, this 26th day of September, 1929.

W. S. Lewis
C. J. Lewis
Ernest C. Lewis
Leon White
W. S. Lewis
Commissioners.