

Decision No. 21633.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

CALIFORNIA FIG-CO CO., INC.,
 Complainant,
 vs.
 THE ATCHISON, TOPEKA AND SANTA FE
 RAILWAY COMPANY,
 Defendant.

Case No. 2721.

BY THE COMMISSION:

O P I N I O N

Complainant, a corporation with its principal place of business at Los Angeles, is engaged in the manufacture of a coffee substitute known as "Figco". By complaint filed May 27, 1929, and as amended August 12, 1929, it is alleged that the rate assessed and collected on four less-than-carload shipments of roasted and ground figs transported from Fresno to Los Angeles during June 1927 was unreasonable, excessive and discriminatory in violation of the Public Utilities Act.

Reparation without interest is sought. Rates are stated in cents per 100 pounds.

Charges were originally assessed against these shipments on basis of $38\frac{1}{2}$ cents, the less-than-carload rate on dried fruit. This rate however was assessed in error, as it did not apply on roasted and ground figs. Defendant subsequently collected the applicable third class rate of $73\frac{1}{2}$ cents. Effective

December 27, 1927, in Supplement 8 to Atchison, Topeka and Santa Fe Railway Company Tariff 11992-F, C.R.C. 583, defendant published a specific rate on roasted and ground figs from Fresno to Los Angeles of 38½ cents and it is on 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 so find that the assailed rate was unjust and unreasonable to the extent it exceeded 38½ cents; that complainant paid and bore the charges on the shipments in question and is entitled to reparation without 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, The Atchison, Topeka and Santa Fe Railway Company be and it is hereby authorized and directed to refund without interest to complainant, California

Fig-Co Company, Inc., all charges collected in excess of 38½ cents per 100 pounds for the transportation from Fresno to Los Angeles of the shipments of roasted and ground figs involved in this proceeding.

Dated at San Francisco, California, this 30th day of September, 1929.

Thos D Smith

Al Seaver

Ernest A. Wood

Leon Whitall

M. A. Lee

Commissioners.