

Decision No. 21933

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

CALIFORNIA CO-OPERATIVE PRODUCERS,  
 Complainant,  
 vs.  
 SOUTHERN PACIFIC COMPANY,  
 SACRAMENTO NORTHERN RAILWAY,  
 Defendants.

ORIGINAL

Case No. 2737.

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 August 8, 1929, and as amended, it is alleged that the rates assessed and collected on numerous carloads of fresh fruit (peaches) moving from Seymour to Sacramento and from Seymour and Everglade to Lodi during August, September and October, 1927, were unjust and unreasonable in violation of Section 13 of the Public Utilities Act.

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

Seymour and Everglade are on the Sutter Basin Branch of the Southern Pacific Company 40 and 47 miles respectively north of Sacramento. Lodi is on the main line 35 miles south of Sacramento. On the movement from Seymour to Sacramento defendant Southern Pacific Company assessed a commodity rate of 10½ cents, holding the rate from Everglade as maximum. The third class minimum was assessed on the shipments from Seymour

and Everglade to Lodi. At the time the shipments moved the Class "C" rates, without observing the minimum scale, were  $8\frac{1}{2}$  cents from Seymour to Sacramento,  $15\frac{1}{2}$  cents from Seymour to Lodi and 16 cents from Everglade to Lodi. Effective October 15, 1929, in Southern Pacific Company Tariff 817-C, C.R.C. 2865, defendant voluntarily established commodity rates from Seymour to Sacramento and from Everglade to Lodi, based on the actual Class "C" rates, but it has not specifically published the actual Class "C" rate from Seymour to Lodi. It is on the basis of the actual Class "C" rate from and to all the points here involved that complainant seeks reparation.

Defendant admits the allegation of the complaint and has signified a willingness to make a reparation adjustment to the basis of the actual Class "C" rates, 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 actual Class "C" rates; 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. Defendant should publish the actual Class "C" rate from Seymour to Lodi.

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, California Co-operative Producers, all charges collected in excess of those that would have accrued on basis of the actual Class "C" rating for the transportation from Seymour to Sacramento and from Seymour and Everglade to Lodi of the shipments of fresh fruit involved in this proceeding.

Dated at San Francisco, California, this 20<sup>th</sup> day  
December  
of November, 1929.

Thos D. Lott

Ch. L. Lott

Ernest Lott

Leon Whitell

M. P. Lott  
Commissioners.