

Decision No. 21991.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

HUNT BROTHERS PACKING COMPANY,
Complainant,

vs.

SOUTHERN PACIFIC COMPANY,
NORTHWESTERN PACIFIC RAILROAD COMPANY,
Defendants.

ORIGINAL

Case No. 2792.

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 November 26, 1929, it is alleged that the rates assessed and collected on numerous carloads of fresh fruit moving from Ukiah to San Francisco and Hayward between August 12, 1928, and August 28, 1928, both inclusive, were unreasonable and excessive in violation of the Public Utilities Act.

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

Ukiah is on the Northwestern Pacific Railroad 112 miles north of San Francisco. Hayward is on the Southern Pacific Company 15 miles south of Oakland. The charges on complainant's shipments, consisting of 18 carloads of pears, 7 of which were destined to San Francisco and 11 to Hayward, were assessed on basis of a rate of 31 cents to San Francisco and

34½ cents to Hayward, named in Northwestern Pacific Tariff No. 38-G, C.R.C. 352, and Pacific Freight Tariff Bureau Tariff No. 16-K, C.R.C. 422. Effective March 25, 1929, in Northwestern Pacific Railroad Tariff 38-E, C.R.C. 336, and in Supplement 18 to Pacific Freight Tariff Bureau Tariff 16-K, C.R.C. 422, defendants published a rate of 26 cents from Ukiah to San Francisco, and effective July 7, 1929, in Supplement 23 to this same tariff reduced the rate to Niles, which rate applies as a maximum at Hayward, to 29½ cents. This latter adjustment was made in compliance with our orders in Case 2578, Schuckl and Company et al. vs. Southern Pacific Company et al., 33 C.R.C. 3; 33 C.R.C. 729. It is on the basis of these subsequently established rates 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 rates; that complainant made the shipments as described, paid and bore the charges thereon and is entitled to reparation with interest at 6 per cent.

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 answers

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, Southern Pacific Company and Northwestern Pacific Railroad Company, according as they participated in the transportation, be and they are hereby authorized and directed to refund, with interest at six (6) per cent. per annum, to complainant, Hunt Brothers Packing Company, all charges collected in excess of 26 cents per 100 pounds and 29½ cents per 100 pounds respectively for the transportation from Ukiah to San Francisco and Ukiah to Hayward of the shipments of fresh fruit involved in this proceeding.

Dated at San Francisco, California, this 7th day of January, 1930.

Thomas S. Board
Cl. Seaver
Ernest Scott
Leon Whiskey
W. J. Carr
Commissioners.