

Decision No. 22056.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

FILICE & PERRELLI CANNING COMPANY, INC.,

Complainant,

vs.

NORTHWESTERN PACIFIC RAILROAD COMPANY,

Defendant.

Case No. 2725.

BY THE COMMISSION:

ORIGINAL

OPINION

Complainant is a corporation with its principal place of business at Gilroy. By complaint filed July 20, 1929, it is alleged that the rates assessed and collected on numerous carloads of fresh pears moving from Hopland, Ukiah and Dos Rios to San Francisco during the period August 4, 1928, to August 25, 1928, were unreasonable, excessive and in violation of the Public Utilities Act.

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

Hopland, Ukiah and Dos Rios are on the Northwestern Pacific Railroad, 99, 112 and 165 miles respectively north of San Francisco. The charges on complainant's shipments, consisting of 3 carloads of fresh pears from Hopland, 14 carloads from Ukiah and 3 carloads from Dos Rios, were assessed on basis of rates of 25, 31 and 35 cents respectively, as named in Northwestern Pacific Tariff 38-G, C.R.C. No. 325. Effective March

25, 1929, in Northwestern Pacific Railroad Tariff 38-H, C.R.C. No. 336, defendant published a rate of 23½ cents from Hopland and 26 cents from Ukiah to San Francisco. This 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 commodity rates that complainant seeks reparation on the shipments from Hopland and Ukiah. From Dos Rios complainant contends the rate assessed should not have exceeded the Class C rate reduced to 32 cents effective March 25, 1929, in Northwestern Pacific Railroad Tariff 25-G, C.R.C. 335.

Defendant originally denied the allegations of the complaint, but following our decision in the Schuckl case withdrew its denial and 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 from Hopland and Ukiah and the Class C rate from Dos Rios to San Francisco; that complainant made the shipments as described, paid and bore the charges thereon and is entitled to reparation with interest at six (6) per cent. per annum. Defendant should publish a commodity rate from Dos Rios to San Francisco not to exceed 32 cents.

The exact amount of reparation due is not of record. Complainant will submit to defendant for verification a statement of the shipments made, and upon payment of the reparation defendant will notify the Commission of the amount thereof. Should it not be possible to reach an agreement as to the

reparation award, 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, Northwestern Pacific Railroad Company, be and it is hereby authorized and directed to refund with interest at six (6) per cent. per annum to complainant, Filice & Perrelli Canning Company, Inc., all charges collected in excess of 23½ cents, 28 cents and 32 cents per 100 pounds respectively for the transportation from Hopland, Ukiah and Dos Rios to San Francisco of the shipments of fresh pears involved in this proceeding.

Dated at San Francisco, California, this 29th day of January, 1930.

Chas. Sawyer
Francisco
Leon Whately
Thos. L. Lott

Commissioners.