

Decision No. 22078.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

CALIFORNIA PACKING CORPORATION,

Complainant,

vs.

NORTHWESTERN PACIFIC RAILROAD COMPANY,

Defendant.

Case No. 2712.

ORIGINAL

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 June 18, 1929, it is alleged that the rates assessed and collected on numerous carloads of fresh fruits moving from Hopland and Geyserville to San Francisco during the period August 3, 1927, to August 12, 1928, were unreasonable, excessive and in violation of the Public Utilities Act.

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

Geyserville and Hopland are on the Northwestern Pacific Railroad 74 and 99 miles respectively north of San Francisco. The charges on complainant's shipments, consisting of four carloads of pears and one carload of plums from Geyserville and 44 carloads of pears from Hopland, were assessed on basis of a rate of 25 cents, named in Northwestern Pacific Tariff 38-F, C.R.C. No. 308 and reissues thereof. The rate from Hopland was held

as maximum at Geyserville. Effective March 25, 1929, in Northwestern Pacific Tariff 38-H, C.R.C. 336, defendant published a rate of 23 $\frac{1}{2}$ cents from Hopland to San Francisco, which rate applies as maximum at Geyserville. 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 this subsequently established rate that complainant seeks reparation.

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; 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.

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, California Packing Corporation, all charges collected in excess of 23½ cents per 100 pounds for the transportation from Geyserville and Hopland to San Francisco of the shipments of fresh fruit involved in this proceeding.

Dated at San Francisco, California, this 1st
day of ~~January~~ *February*, 1930.

C. Leavy
Emerson S.
Leon A. Hill
Thos. J. Lott
M. J. Carr
Commissioners.