

Decision No. 22231.**ORIGINAL**

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

UNITED STATES PRODUCTS CORPORATION,

Complainant,

vs.

NORTHWESTERN PACIFIC RAILROAD COMPANY,
SOUTHERN PACIFIC COMPANY,

Defendants.

Case No. 2729.

BY THE COMMISSION:

OPINION

Complainant is a corporation with its principal place of business at San Jose. By complaint filed July 26, 1929, and as amended, it is alleged that the rate assessed and collected on 10 carloads of fresh pears moved from Ukiah to San Jose during the period August 20, 1927, to September 8, 1928, both inclusive, was unjust, unreasonable, unduly prejudicial and discriminatory in violation of Sections 13 and 19 of the Public Utilities Act to the extent it exceeded 33 cents per 100 pounds.

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

The rate assessed and collected on complainant's shipments moved from Ukiah, a station on the Northwestern Pacific Railroad Company located 112 miles north of San Francisco, to San Jose, on the Southern Pacific Company 47 miles south of San Francisco, was 38 cents, based on the applicable combination of

local rates over San Francisco. At the time shipments moved the factor for the haul from Ukiah to San Francisco was 31 cents. Effective March 25, 1929, this rate was voluntarily reduced by defendant Northwestern Pacific Railroad Company to 26 cents, and it is upon the basis of this subsequently established rate, used in conjunction with the local rate of 7 cents via Southern Pacific Company from San Francisco to San Jose, 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 rate was unjust and unreasonable to the extent it exceeded the combination rates subsequently established; that complainant made the shipments as described, paid and bore the charges thereon and is entitled to reparation with interest at the rate of six per cent. per annum.

The exact amount of reparation due is not of record. Complainant will submit to defendants for verification a statement of the shipments made and upon the payment of reparation defendants will notify the Commission 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 defendants, Northwestern Pacific Railroad Company and Southern Pacific Company, according as they participated in the transportation, be and they are hereby authorized and directed to refund to complainant, United States Products Corporation, with interest at the rate of six (6) per cent. per annum, all charges collected in excess of those that would have accrued at a rate of 33 cents per 100 pounds for the transportation from Ukiah to San Jose of the shipments of fresh pears involved in this proceeding.

Dated at San Francisco, California, this 20th day of March, 1930.

[Signature]
Leon Whittell
Thos. S. Smith
M. A. [unclear]
Commissioners.