

ORIGINALDecision No. 22232.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

FELICE & FERRELLI CANNING COMPANY, INC., }

Complainant, }

vs. }

Case No. 2730. }

NORTHWESTERN PACIFIC RAILROAD COMPANY, }

SOUTHERN PACIFIC COMPANY, }

Defendants. }

BY THE COMMISSION:

O P I N I O N

Complainant is a corporation with its principal place of business at Gilroy, Santa Clara County, California. By complaint filed July 26, 1929, and as amended, it is alleged that the rates assessed and collected on numerous carloads of fresh pears moved from Hopland, Ukiah and Dos Rios to San Jose during the period August 20, 1927, to August 31, 1928, both inclusive, were unjust, unreasonable, unduly prejudicial and discriminatory in violation of Sections 13 and 19 of the Public Utilities Act.

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

Hopland, Ukiah and Dos Rios are stations on the Northwestern Pacific Railroad Company 99 miles, 112 miles and 165 miles respectively north of San Francisco. San Jose is a point on the Southern Pacific located 47 miles south of San Francisco. Charges were assessed and collected on complainant's shipments

at the applicable rates to San Jose of 32 cents from Hopland, 38 cents from Ukiah, and 42 cents from Dos Rios. These rates were made combination over San Francisco. At the time the shipments moved the factor for the haul from Hopland to San Francisco was 25 cents, from Ukiah 31 cents and from Dos Rios 35 cents. The local rate from San Francisco to San Jose was 7 cents. Effective March 25, 1929, defendant Northwestern Pacific Railroad Company voluntarily reduced its rates from Hopland to San Francisco to 23½ cents, from Ukiah to 26 cents, and effective February 4, 1930, reduced the rate from Dos Rios to San Francisco to 32 cents. It is upon the basis of the subsequently established rates to San Francisco used in conjunction with the local rate of the 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 rates were unjust and unreasonable to the extent they 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 (6) 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, Filice and Perrelli Canning Company, Incorporated, 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 30 $\frac{1}{2}$ cents per 100 pounds from Hopland to San Jose, 33 cents per 100 pounds from Ukiah to San Jose, and 39 cents per 100 pounds from Dos Rios to San Jose, for the transportation of the shipments of fresh pears involved in this proceeding.

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

C. Seavey

Leon A. Whiteley

John B. Linder

M. A. Quinn
Commissioners.