

Decision No. 22233.**ORIGINAL**

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

J. C. AINSLEY PACKING COMPANY;
Complainant,

vs.

NORTHWESTERN PACIFIC RAILROAD
COMPANY,
SOUTHERN PACIFIC COMPANY,

Defendants.

Case No. 2728.

BY THE COMMISSION:

O P I N I O N

Complainant is a corporation with its principal place of business at Campbell, 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 Geyserville, Hopland and Ukiah to Campbell and from Hopland to San Jose during the period August 10, 1927 to August 28, 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.

Geyserville, Hopland and Ukiah are on the Northwestern Pacific Railroad Company 74 miles, 99 miles and 112 miles respectively north of San Francisco. San Jose and Campbell are on the Southern Pacific Company 47 miles and 51 miles respectively south

of San Francisco. Charges were assessed and collected on complainant's shipments at the applicable rates of 34 cents from Geyserville and Hopland to Campbell, 40 cents from Ukiah to Campbell, and 32 cents from Hopland to San Jose. These rates were made combination over San Francisco. At the time complainant's shipments moved the factor for the haul from Geyserville and Hopland to San Francisco was 25 cents and from Ukiah to San Francisco 31 cents. Subsequent to the movement of the traffic involved, and effective March 25, 1929, the rate from Geyserville and Hopland to San Francisco was voluntarily reduced by defendant Northwestern Pacific Railroad Company to 23½ cents and from Ukiah to San Francisco to 26 cents. It is upon the basis of these subsequently established rates to San Francisco, used in conjunction with the local rates of the Southern Pacific Company from San Francisco to Campbell and 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 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, J. C. Ainsley Packing Company, 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 $32\frac{1}{2}$ cents per 100 pounds from Geyserville and Hopland to Campbell, 35 cents per 100 pounds from Ukiah to Campbell, and $30\frac{1}{2}$ cents per 100 pounds from Hopland 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. H. Sawyer

Leon C. White
Thos B. Smith

M. J. Lin
Commissioners.