

Decision No. 22235**ORIGINAL**

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

CALIFORNIA PACKING CORPORATION,

Complainant,

vs.

SOUTHERN PACIFIC COMPANY,

Defendant.

Case No. 2804.

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 December 31, 1929, it is alleged that the rates assessed and collected on numerous carloads of fresh peaches transported from Everglade to San Francisco, Oakland, Emeryville, Berkeley, Fruitvale, San Leandro and Lorenzo during the period June 24, 1928, to September 10, 1928, both inclusive, were unjust and unreasonable in violation of Section 13 of the Public Utilities Act.

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

Everglade is on the Sutter Basin branch of the Southern Pacific Company 34 miles north of Woodland. San Leandro and Lorenzo are on the Southern Pacific Company, 9 miles and 12 miles respectively south of Oakland. Emeryville, Berkeley and Fruitvale are within the switching limits of Oakland. The shipments all moved locally over the line of the Southern Pacific Company. Charges were assessed and collected at the applicable minimum

third class rate of 17½ cents. Effective July 23, 1929, defendant published a commodity rate of 17 cents applicable to the movement involved and it is upon the basis of this subsequently established rate that complainant seeks reparation.

Defendant admits the allegation of the complaint and has 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 is unjust and unreasonable to the extent it exceeded the subsequently established rate of 17 cents; that complainant made the shipments as described, paid and bore the charges thereon and is entitled to reparation without interest. Complainant specifically waived the payment of interest.

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, Southern Pacific

Company, be and it is hereby authorized and directed to refund to complainant, California Packing Corporation, all charges collected in excess of 17 cents per 100 pounds for the transportation from Everglade to San Francisco, Oakland, Emeryville, Berkeley, Fruitvale, San Leandro and Lorenzo of the shipments of fresh peaches involved in this proceeding.

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

C. S. Seaman

Leon A. White
Wm. B. Lott

M. A. Lee
Commissioners.