

Decision No. 22240.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

SAM SEBASTIANI, doing business under
the name of SEBASTIANI CANNING CO.,
Complainant,

vs.

SOUTHERN PACIFIC COMPANY,
Defendant.

Case No. 2786.

ORIGINAL

BY THE COMMISSION:

OPINION

Complainant is an individual doing business under the fictitious name and style of Sebastiani Canning Company. Its principal place of business is in Sonoma. By complaint filed November 18, 1929, it is alleged that the charges assessed and collected on numerous carloads of peaches moving from Oswald and Yuba City to Schellville during the year 1928 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.

Oswald and Yuba City are on the Knights Landing branch of the Southern Pacific Company, 8 and 3 miles respectively south of Marysville; Schellville is on the Santa Rosa branch 25 miles west of Suisun. Charges were assessed against complainant's shipments consisting of 11 carloads of peaches on basis of the

Class "C" rate, protecting the third class minimum of 17½ cents. Effective December 2, 1929, on 7th revised page 26-A of Southern Pacific Company Tariff 817-C, C.R.C. 2865, defendant published a commodity rate from both Oswald and Yuba City to Schellville of 16 cents and it is on the basis of this subsequently established rate that complainant seeks reparation.

Defendant admits the allegations 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 was unjust and unreasonable to the extent it exceeded the subsequently established rate of 16 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, Sam Sebastiani, doing business under the name of Sebastiani Canning Company, all charges collected in excess of 16 cents per 100 pounds for the transportation from Oswald and Yuba City to Schellville of the shipments of peaches involved in this proceeding.

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

C. S. Kearney

David S. Lunt

M. J. Lee
Commissioners.