

Decision No. 22244.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

VAN CAMP SEA FOOD COMPANY, INC.,
GENERAL FISHERIES CORPORATION,

Complainants,

vs.

PACIFIC ELECTRIC RAILWAY COMPANY,

Defendant.

ORIGINAL

Case No. 2811.

BY THE COMMISSION:

O P I N I O N

Complainants are corporations operating fish canneries at San Pedro and East San Pedro. By complaint filed January 14, 1930, it is alleged that the rates assessed on numerous carloads of fish oil, canned fish and other canned goods from San Pedro to East San Pedro during the period August 9, 1928, to March 10, 1929, both inclusive, were unjust, unreasonable, unduly preferential and prejudicial, in violation of Sections 13 and 19 of the Public Utilities Act and in violation of the aggregate of intermediate rate provision of Section 24 of the Act.

Reparation is sought. Rates will be stated in cents per 100 pounds, except as noted.

Complainants' shipments consisting of one carload of fish oil, 38 carloads of canned fish and one carload of canned goods originated at an industry on the rails of the Southern Pacific Company, were line hauled by the Pacific Electric Railway Company to Wilmington, thence moved via the Los Angeles &

Salt Lake Railroad Company to destination. Charges were assessed on the one carload of fish oil at the applicable combination of Local commodity rate over Wilmington of 8 cents, composed of a rate of 6 cents, minimum weight 30,000 pounds, published by defendant from San Pedro to Wilmington (holding the rate to Long Beach as maximum) and a rate of 2 cents, minimum \$7.20 per car, from Wilmington to East San Pedro. On the 38 carloads of canned fish and the one carload of canned goods charges were assessed at the applicable combination of local commodity rates over Wilmington of 6 cents, composed of a rate of 4 cents, minimum weight 40,000 pounds, published by defendant from San Pedro to Wilmington (holding the rate to Long Beach as maximum) and a rate of 2 cents, minimum \$7.20 per car, from Wilmington to East San Pedro.

At the time the shipments described moved defendant, Pacific Electric Railway Company, published in its Tariff 120-C, C.R.C. 289, page 58, Item 550, a commodity rate on all freight of 2 cents, minimum \$7.20 per car, applicable on local traffic moving from San Pedro to Wilmington. This rate was specifically restricted not to apply on traffic moving beyond Wilmington, but subsequent to the movement of the traffic involved and effective June 1, 1929, the restriction was removed so that the 2-cent factor could be applied on traffic destined to points beyond Wilmington.

Complainants contend that to prohibit the use of the 2-cent factor on shipments moving beyond Wilmington was unreasonable and seek reparation on their shipments from San Pedro to East San Pedro based on the use of this rate. Under the proposed basis the through rate on complainants' shipments would be 4 cents, minimum \$14.40 per car, plus a charge of \$2.70 per car for the switching service of the Southern Pacific Company at San Pedro. Complainants do not attack the charges assessed for the

movement over the lines of the Southern Pacific Company or the Los Angeles & Salt Lake Railroad Company.

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 rates assessed and collected on complainants' shipments were unjust and unreasonable to the extent they exceeded a rate of 4 cents, minimum \$14.40 per car, plus \$2.70 per car switching charge; that complainants made the shipments as described, paid and bore the charges thereon and are entitled to reparation without interest. Complainants specifically waived the payment of interest.

The exact amount of reparation due is not of record. Complainants will submit to defendant for verification a statement of the shipments made and upon payment of the reparation defendant 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 defendant, Pacific Electric Railway Company, be and it is hereby authorized and directed to

refund without interest to complainants, Van Camp Sea Food Company, Inc., and the General Fisheries Corporation, according as their interests may appear, all charges collected in excess of 4 cents, minimum \$14.40 per car, plus \$2.70 per car switching charges, for the transportation from San Pedro to East San Pedro of the shipments of fish oil, canned fish and other canned goods involved in this proceeding.

Dated at San Francisco, California, this 21st day of March, 1930.

C. S. Seaver

Leon O'Connell
David L. Lewis

M. D. Linn
Commissioners.