

Decision No. 22734.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

FRUIT GROWERS SUPPLY COMPANY,
 Complainant,
 vs.
 SOUTHERN PACIFIC COMPANY,
 Defendant.

ORIGINAL

Case No. 2887.

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 July 9, 1930, it is alleged that the rate assessed and collected on numerous carloads of rough sawn ties shipped from Susanville to Westwood Junction within the two-year period immediately preceding the filing of this complaint was, is now, and for the future will be, unjust and unreasonable in violation of Section 13 of the Public Utilities Act to the extent it exceeded, exceeds or may exceed 6 cents per 100 pounds.

Reparation and a rate for the future are sought. Rates are stated in cents per 100 pounds.

Susanville and Westwood Junction are on the Westwood branch of the Southern Pacific Company 23.2 miles and 41.4 miles respectively west of Wendel. The lawfully applicable tariff rate assessed and collected on complainant's shipments from Susanville to Westwood Junction was a commodity rate of 7 cents, published

in Item 600 of Southern Pacific Company's Tariff 634-C, C.R.C. 2848, holding the rate from Susanville to Facht as maximum at Westwood Junction under the intermediate application of the tariff.

Complainant contends that the rate charged on its shipments was unreasonable to the extent it exceeded a rate of 6 cents concurrently applicable on rough lumber from Susanville to Westwood Junction. It is upon the basis of this 6-cent rate, which is specifically published to become effective July 31, 1930, on railroad ties from Susanville to Facht, 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 a rate of 6 cents, minimum carload weight 80,000 pounds, except if car is loaded to full space or weight-carrying capacity actual weight will apply but not less than 60,000 pounds; 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 the payment of 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.

ORDER

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, Fruit Growers Supply Company, all charges collected on the shipments of rough sawn ties involved in this proceeding in excess of 6 cents per 100 pounds, minimum carload weight 80,000 pounds, except if car is loaded to full space or weight-carrying capacity, actual weight will apply but not less than 60,000 pounds, for the transportation from Susanville to Westwood Junction.

Dated at San Francisco, California, this 14 day of August, 1930.

C. C. Kauer
Wm. J. ...
Leon ...
...
Commissioners.