

Decision No. 22986.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ANDERSON ORCHARD COMPANY,
a corporation,
Complainant,

vs.

STOCKTON TERMINAL AND EASTERN RAILROAD,
a corporation,
Defendant.

ORIGINAL

Case No. 2921.

BY THE COMMISSION:

O P I N I O N

Complainant is a corporation with its principal place of business at Linden. By complaint filed September 20, 1930, it is alleged that the rate assessed and collected on four tank cars of petroleum fuel oil moving from Stockton to Hunter during the period March 10, 1929, to April 15, 1929, was unlawful to the extent it exceeded a rate of \$1.00 per ton.

Hunter is on the Stockton Terminal and Eastern Railroad 13 miles east of Stockton. Charges were assessed on complainant's shipments on basis of the legally applicable rate of 8½ cents per 100 pounds, as published in Stockton Terminal and Eastern Railroad Local Freight Tariff 1-E, C.R.C. 14. Effective October 7, 1929, in Supplement 3 to this tariff defendant published a rate of \$1.00 per ton and it is on the basis of this subsequently established rate that complainant seeks reparation.

Defendant admits that the rate assessed was unreasonable to the extent it exceeded the rate subsequently established and has signified its 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 unreasonable to the extent it exceeded a rate of \$1.00 per ton; 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 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, Stockton Terminal and Eastern Railroad, be and it is hereby authorized and directed to refund to complainant, Anderson Orchard Company, without interest, all charges collected in excess of \$1.00 per ton for the transportation from Stockton to Hunter of the shipments of petroleum fuel oil involved in this proceeding.

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



