

Decision No. 23095.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

CUFF-ARCHELUS SEED CO., a corporation,  
Complainant,

vs.

SOUTHERN PACIFIC COMPANY,  
Defendant.

ORIGINAL

Case No. 2336.

F. W. Turcotte and G. A. Olson, for complainant.  
J. E. Lyons and E. H. McElroy, for defendant.

BY THE COMMISSION:

OPINION

Complainant is a corporation engaged in marketing seeds, bulbs and plants, with its principal place of business at Erawley. By complaint filed March 4, 1930, it is alleged that the rates assessed and collected on two carload shipments of dried peas and dried beans transported from Sacramento and Salinas to Erawley August 17, 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.

A public hearing was held at Los Angeles before Examiner Geary on June 11, 1930, and the case having been submitted is now ready for an opinion and order.

Sacramento and Salinas are on the main line of the Southern Pacific Company 90 miles east and 113 miles south of

San Francisco respectively. Brawley is on the Inter-California branch of the Southern Pacific Company 204 miles southeast of Los Angeles. Charges at a rate of 76 cents were assessed on complainant's shipments consisting of one carload of dried peas weighing 56,420 pounds and one mixed carload of dried peas and dried beans weighing 36,500 pounds. Effective June 6, 1929, defendant established a rate of  $66\frac{1}{2}$  cents from Sacramento and  $63\frac{1}{2}$  cents from San Francisco to Brawley. The San Francisco rate applies as maximum at Salinas. It is on the basis of these subsequently established rates that complainant seeks reparation.

The reduced rates from Sacramento and San Francisco to Brawley were published at the request of complainant. At the time these reductions were voluntarily made, complainant admitted it was satisfied with the adjustment and had no intention of asking for reparation. However, after the reduced rates were published the Delta Mercantile Company filed a complaint with the Commission (Case No. 2735, Delta Mercantile Company vs. Southern Pacific Company) in which it was alleged that the rate assessed on two cars of dried beans moving from King City to El Centro during November, 1928, was unreasonable to the extent it exceeded the subsequently established rate of  $63\frac{1}{2}$  cents. The distance from King City to El Centro is 527 miles, from Salinas to Brawley 559 miles, and from Sacramento to Brawley 651 miles. Defendant admitted the allegations of the complaint and expressed its willingness to pay reparation to the Delta Mercantile Company. By our Decision No. 22610 of September 26, 1929, in Case 2735 we found the rate from King City to El Centro unreasonable and awarded reparation to complainant to the basis of the subsequently established rate of  $63\frac{1}{2}$  cents.

It is complainant's position that under the circumstances it should likewise receive reparation on its shipments. It rests

its case upon the finding of the Commission in the Delta Mercantile case and the general level of commodity rates on dried beans, peas and other commodities between points in California. The following is a comparison of the rates under attack, the rates sought, and those on beans and peas between other points in the state. The car-mile earnings are based upon minimum weights.

From	To	Distance : miles	Rate : cents	P.T.P.M. : mills	P.C.M. : cents
<u>RATES ASSESSED</u>					
Sacramento	Brawley	651	76	23.35	35.02
Salinas	Brawley	559	76	27.19	40.78
<u>RATES SOUGHT</u>					
Sacramento	Brawley	651	66½	20.43	30.64
Salinas	Brawley	559	63½	22.72	34.08
<u>COMPARISONS</u>					
King City	Fresno	295	30	20.33	40.68
Lompoc	San Francisco	307	29½	19.22	28.83
San Luis Obispo	Los Angeles	221	25	22.62	33.93
Gilroy	Los Angeles	392	35½	18.11	27.17
Soledad	San Francisco	139	21	30.21	45.32
Bakersfield	Stockton	229	31½	27.51	41.27
Salinas	Sacramento	192	29½	30.73	46.09
King City	El Centro	527	63½	24.10	36.15

Defendant claims its admission of unreasonableness in Case 2735 with respect to the rate from King City to El Centro was made because at the time the shipments of the Delta Mercantile Company moved there was in effect a rate of 63½ cents via the joint route of the Southern Pacific Company to Los Angeles, Atchison, Topeka and Santa Fe Railway to San Diego, and San Diego and Arizona Railway beyond, while at the time complainant's shipments moved the rate via the three-line route was 75½ cents. The 63½-cent joint rate was a combination of commodity rates over San Diego, the factors from King City to San Diego and from San Diego to El Centro being 35½ cents and 28 cents respectively. When complainant's shipments moved the rate from San Diego to El Centro was 40 cents, which was subsequently reduced to 28 cents

to meet truck competition. According to defendant the through rate is thus less than reasonable and should not be compared with the rates under attack. Defendant contends the proper comparisons should be the rates on dried beans and peas from Lompoc and Oxnard to Phoenix and Tucson, Arizona, and from Stockton and King City to Yuma, Arizona. With the exception of the rate from Lompoc to Phoenix the rates used for comparative purposes are the full 5th class rates. The Lompoc to Phoenix rate of \$1.05, with a minimum of 60,000 pounds, is the transcontinental rate blanket-ed from Phoenix to the Atlantic seaboard.

Upon consideration of all the facts of record we are of the opinion and so find that the rates assessed on complainant's shipments were unreasonable to the extent they exceeded 66½ cents from Sacramento to Brawley and 63½ cents from Salinas to Brawley, that complainant paid and bore the charges on the shipments in question and has been damaged in the amount of the difference between the rates paid and borne and the rates herein found reasonable, and is entitled to reparation with interest at 6 per cent. per annum.

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, Cuff-Archias Seed Company, with interest at six (6) per cent. per annum, all charges collected in excess of 66½ cents and 63½ cents respectively for the transportation from Sacramento and Salinas to Brawley of the shipments of dried peas and beans involved in this proceeding.

Dated at San Francisco, California, this 18th day of November, 1930.

C. Leavy  
Emmeline

Thos. G. Lavelle

Commissioners.