

Decision No. 23797.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

CALIFORNIA PINE BOX DISTRIBUTORS,
Complainant,

vs.

SOUTHERN PACIFIC COMPANY,
CENTRAL CALIFORNIA TRACTION COMPANY,
SIERRA RAILWAY COMPANY OF CALIFORNIA,
Defendants.**ORIGINAL**

Case No. 3043.

BY THE COMMISSION:

O P I N I O N

Complainant is a corporation engaged in marketing box and crate material. By complaint filed April 18, 1931, and as amended, it is alleged that the charges assessed and collected on two carloads of box shock forwarded from Tuolumne to Kettleman June 21 and 24, 1929, 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.

Tuolumne is on the Sierra Railway 57 miles east of Oakdale. Kettleman is on the Central California Traction Company 13 miles north of Stockton. Complainant's shipments were routed Sierra Railway Company to Oakdale, Southern Pacific Company to Stockton, thence Central California Traction Company. Charges were assessed on basis of an erroneous rate of 17½ cents and through error were collected twice. When this was discovered an overcharge claim was filed and refund made to the basis of the

lawfully applicable rate of $20\frac{1}{2}$ cents obtained by combining a rate of 16 cents from Tuolumne to Stockton with a rate of $4\frac{1}{2}$ cents from Stockton to Kettleman.

At the time the shipments moved there was in effect from Tuolumne to Sacramento, a point beyond Kettleman, a rate of $17\frac{1}{2}$ cents applying via the Sierra Railway to Oakdale, thence Southern Pacific Company. This rate formerly applied via the route over which complainant's shipments moved but was cancelled effective August 21, 1928. After complainant made the two shipments here involved, defendant, effective December 12, 1930, restored the $17\frac{1}{2}$ -cent rate via the route of movement. It is on the basis of this rate previously in effect and again established that complainant seeks reparation.

Defendants admit the allegations of the complaint and have signified their 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 $17\frac{1}{2}$ cents. We further find 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 defendants for verification a statement of the shipments made and upon the payment of the reparation defendants 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 answers 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 defendants, Southern Pacific Company, Central California Traction Company and Sierra Railway Company of California, according as they participated in the transportation, be and they are hereby authorized and directed to refund without interest to complainant, California Pine Box Distributors, all charges collected in excess of 17½ cents per 100 pounds for the transportation from Tuolumne to Kettleman of the shipments of box shock involved in this proceeding.

Dated at San Francisco, California, this 15th day of June, 1931.

W. J. C.
Leon Owhidney
W. B. H.
Fred G. Stewart.
Commissioners.