

JLA
Decision No. 24015.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

PACIFIC FRUIT & PRODUCE COMPANY,
a Washington corporation,

Complainant,

vs.

SOUTHERN PACIFIC COMPANY,
a corporation,
SUNSET RAILWAY,
a corporation, and
THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY, a corporation,

Defendants.

Case No. 3079.

ORIGINAL

BY THE COMMISSION:

O P I N I O N

Complainant is a corporation engaged in the wholesaling of fruit and vegetables. By complaint filed June 17, 1931, it is alleged that the charges assessed and collected on two carload shipments of potatoes transported in June 1930 from Connors and Shafter to Mount Shasta were unduly discriminatory in violation of the Public Utilities Act.

Reparation only is sought. Rates are stated in cents per 100 pounds.

Connors and Shafter are on the Sunset Railway 19 miles north and on the Atchison, Topeka and Santa Fe Railway 18 miles west of Bakersfield respectively. The charges lawfully applicable to complainant's shipments are based on rates of 69½ cents and

62½ cents made by adding to the Class "C" rates of 34 and 27 cents applying from Connors and Shafter to Stockton a commodity rate of 35½ cents from Stockton to Mount Shasta. On the shipment from Connors there exists an undercharge of \$11.43. Refrigeration and detention charges were also assessed and collected but are not here at issue.

At the time these shipments moved there were in effect from Connors and Shafter to both Klamath Falls and Medford, Oregon, interstate rates of 55½ cents and 49½ cents respectively. The 55½-cent rate is made by adding to a local rate of 6 cents applying from Connors to Bakersfield a rate of 49½ cents applicable from Bakersfield to Klamath Falls and Medford. These rates are published in Pacific Freight Tariff Bureau Tariffs 38-J, F.W.Gomph's I.O.C. 1009, and 65-H, F.W.Gomph's I.O.C. 973, respectively. The 49½-cent rate applying from Shafter is also named in the tariff last mentioned.

Complainant sells and distributes produce in Northern California and Southern Oregon in competition with jobbers located at Klamath Falls and Medford. Because of the higher rates in effect to Mount Shasta it alleges that it has been directly damaged and that the free distribution of its products has been retarded. Effective December 26, 1930, in Pacific Freight Tariff Bureau Tariff 65-H, F.W.Gomph's C.R.C. 453, defendants published rates for the transportation of potatoes from Connors and Shafter to Mount Shasta of the volume here sought.

Defendants admit the allegations of the complaint and have 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 rates were unduly discriminatory in violation of Section 19 of the Public Utilities Act; we further find that complainant made the shipments as described; that, excepting for the undercharge heretofore mentioned, it paid and bore the charges thereon and that it has been damaged to the extent the charges paid exceed those subsequently established. Complainant is entitled to reparation without interest. The payment of interest was specifically waived.

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 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, Sunset Railway and The Atchison, Topeka and Santa Fe Railway Company, according as they participated in the transportation, be and they are hereby authorized and directed to

refund, without interest, to complainant Pacific Fruit & Produce Company, all charges collected in excess of 55½ cents and 49½ cents for the transportation from Connors and Shafter respectively to Mount Shasta of the shipments of potatoes involved in this proceeding.

IT IS HEREBY FURTHER ORDERED that defendants Southern Pacific Company, Sunset Railway and The Atchison, Topeka and Santa Fe Railway Company, according as they participated in the transportation, be and they are hereby authorized and directed to waive the undercharges found to exist on the shipments of potatoes from Connors to Mount Shasta involved in this proceeding.

Dated at San Francisco, California, this 8th day of September, 1931.

C. Deary

M. J. C.

M. B. Harris

Fred G. Stewart
Commissioners.