

Decision No. 24144.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

CONSOLIDATED PRODUCE COMPANY, LIMITED,  
KINGSBAKER BROTHERS COMPANY,  
LOUIE PRODUCE COMPANY,  
MYERS, DARLING AND HINTON,  
RIVERS BROTHERS COMPANY,  
SAFEWAY STORES INCORPORATED,

Complainants,

vs.

SOUTHERN PACIFIC COMPANY,

Defendant.

**ORIGINAL**

Case No. 3059.

H. M. Avey, V. O. Conaway and Edgar B.  
Byers, for complainants.

J. E. Lyons and H. H. McElroy, for defendant.

CARR, Commissioner:

O P I N I O N

In this proceeding complainants allege that the charges assessed and collected during the two-year period immediately preceding the filing of the complaint, for the transportation of fresh lettuce, in carloads, from Guadalupe to Los Angeles were, are, and for the future will be unjust and unreasonable, in violation of Section 13 of the Public Utilities Act, and unduly discriminatory and prejudicial, in violation of Section 19 of the Act.

Complainants ask for reparation and a rate for the future. The Western Growers' Protective Association intervened

on behalf of complainants. Rates will be stated in cents per 100 pounds.

A public hearing was held at Los Angeles June 9, 1931, and the proceeding submitted. Complainants presented no evidence with respect to the allegation of undue discrimination and prejudice. This issue will be deemed to have been abandoned.

Guadalupe is situated in a vegetable-producing section on the Coast Division of the Southern Pacific Company, 196 miles northwest of Los Angeles. Complainants' shipments were transported to Los Angeles in refrigerator cars, with ice placed in and on top of the crates but not in the bunkers of the car. The line-haul rate applicable, and the one here under attack, was and is a commodity rate of  $35\frac{1}{2}$  cents. The shipments were also assessed a refrigeration charge, which is not in issue.

The  $35\frac{1}{2}$ -cent rate just referred to had its inception over 30 years ago, when defendant established a blanket rate of 25 cents to Los Angeles from the origin territory extending from Watsonville on the south to Marysville on the north. This rate has remained unchanged except for the general increases and reductions and is held as maximum at all intermediate points south of Watsonville, of which Guadalupe is one, wherever the Class C rate is higher.

For many years rates predicated on the Class C rates have been considered as the maximum reasonable rates for the movement of fresh fruits and vegetables within California and between other points in the adjacent territory. (Board of Supervisors of Imperial County vs. Southern Pacific, 22 C.R.C. 93; California Packing Corporation vs. Southern Pacific, 30 C.R.C. 576; California Packing Corporation vs. A.T. & S.F. Ry., 30 C.R.C. 746; Schuckl & Company vs. Northwestern Pacific, 33 C.R.C. 3; Murray

& Layne Co. vs. S.P.Co., 59 I.C.C. 552; Buxton Smith Co. vs. Director General, 61 I.C.C. 623; Phoenix Chamber of Commerce vs. Director General, 62 I.C.C. 368, 73 I.C.C. 284; Arizona Copper Co. vs. A.& N.M.Ry., 73 I.C.C. 493; Melcozer Co. vs. A.E.R.R., 78 I.C.C. 319; Buxton Smith Co. vs. A.T.& S.F.Ry., 89 I.C.C. 373; Walter Hill vs. A.T.& S.F.Ry., 107 I.C.C. 101.) This basis had its origin in California when the fruit and vegetable industry was in its infancy, the Southern Pacific endeavoring to foster the movement of fresh fruits and vegetables by publishing season commodity rates which approximated the Class C rates. After the season's movement was completed the rates were allowed to expire. This method of publication proved burdensome however, and defendant, to simplify its tariffs, established the Class C basis as maximum in California by publishing an exception to the Western Classification rating, although in many instances commodity rates lower than Class C were published and are now in effect. Gradually the Class C basis was extended to other lines and beyond the confines of California.

Lettuce from the Imperial Valley, the largest vegetable-producing district of the state, to Los Angeles now moves under the Class C rates. (See Board of Supervisors of Imperial County vs. Southern Pacific Co., supra.) But the Class C rates from the Imperial Valley to Los Angeles are lower than from equidistant points on defendant's Coast Division (including Guadalupe) to Los Angeles. The present Class C rate from Guadalupe to Los Angeles is 36½ cents for a distance of 196 miles, while from Rockwood and Tortuga, points in the Imperial Valley approximately the same distance from Los Angeles, the Class C rate is 30 cents. Probably little or no lettuce moves from Rockwood and Tortuga to Los Angeles. However from other Imperial Valley points where there is a substantial movement the Class C rates

to Los Angeles are lower for a longer haul than from Guadalupe to Los Angeles, being 32 cents from Brawley and El Centro for distances of 204 and 217 miles respectively, and 34 cents from Calexico for a distance of 227 miles.

The class rates between the Imperial Valley and Los Angeles were published in 1923 as a compromise adjustment following the decision in Board of Supervisors of Imperial County vs. Southern Pacific Co., supra. These rates are based on those prescribed by the Interstate Commerce Commission for application between California and Arizona in Docket 14999, Arizona Corporation Commission vs. A.E.R.R., 113 I.C.C. 52, hereafter referred to as the Docket 14999 scale. In San Pedro Chamber of Commerce vs. A.T. & S.F. Ry., 34 C.R.C. 342, this Commission prescribed the Docket 14999 scale between Los Angeles Harbor and points east of Los Angeles, and defendant is now before the Commission for authority to establish the same basis for the class rates between Los Angeles, San Francisco and related points on the one hand, and points on its Coast Division on the other (Application 16637). Under the Docket 14999 scale the Class C rate from Guadalupe to Los Angeles would be 30 cents.

Complainants are here seeking a rate of 25 cents, this rate now being in effect from Guadalupe to Los Angeles on lettuce transported without refrigeration. The record however is not persuasive that there should here be prescribed any rate less than 30 cents.

The Commission should find that the  $35\frac{1}{2}$ -cent rate was, is, and for the future will be unjust and unreasonable to the extent it exceeded, exceeds or may exceed 30 cents; that complainants made certain shipments within the two-year period

immediately preceding the filing of this complaint on which they paid and bore the charges and that on those shipments they are entitled to reparation with interest at 6% per annum.

The exact amount of reparation due is not of record. Complainants will submit to defendant for verification a statement of the shipments made and upon the 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.

The following form of order is recommended:

#### O R D E R

This case having been duly heard and submitted, 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 ordered and directed to establish on or before thirty (30) days from the effective date of this order, upon not less than five (5) days' notice to the Commission and the public, and thereafter to maintain for the transportation of lettuce from Guadalupe to Los Angeles a rate not in excess of 30 cents per 100 pounds.

IT IS HEREBY FURTHER ORDERED that defendant Southern Pacific Company be and it is hereby authorized and directed to refund with interest at six (6) per cent. per annum to complainants, Consolidated Produce Company, Limited, Kingsbaker Brothers

Company, Louie Produce Company, Myers, Darling and Hinton, Rivers Brothers Company and Safeway Stores Incorporated, according as their interests may appear, all charges collected in excess of 30 cents per 100 pounds for the transportation from Guadalupe to Los Angeles of the shipments of lettuce involved in this proceeding and upon which they paid and bore the freight charges.

The foregoing opinion and order are hereby adopted as the opinion and order of the Commission.

Dated at San Francisco, California, this 19<sup>th</sup> day of October, 1931.

Leon Whitney

M. J. Carr

W. B. Harris

Fred G. Stewart,  
Commissioners.