

Decision No. 24212.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

M. VONSEN COMPANY,  
 G. P. McNEAR CO.,  
 COULSON POULTRY AND STOCK FOOD COMPANY,

Complainants,

vs.

NORTEWESTERN PACIFIC RAILROAD COMPANY,  
 PETALUMA & SANTA ROSA RAILROAD COMPANY,  
 SOUTHERN PACIFIC COMPANY,

Defendants.

**ORIGINAL**

Case No. 2854.

BY THE COMMISSION:

O P I N I O N

Complainants are corporations engaged in the poultry food business at West Petaluma. By complaint filed April 18, 1930, and as amended it is alleged that the charges assessed and collected on numerous carloads of grain and other articles as listed in Item 90 of Southern Pacific Company Tariff 659-D, C.R.C. 3283, transported from various points of origin to West Petaluma during the two-year period immediately preceding the filing of the complaint were in violation of the long and short haul provision of Section 24(a) of the Public Utilities Act and of Section 21 Article XII of the State Constitution. Reparation only is sought. Rates are stated in cents per 100 pounds.

The following statement shows the points of origin and destinations of complainants' shipments together with the rates assessed and those contemporaneously applicable from more

distant point on the same line or route:

<u>Points of Origin</u>	<u>Destinations</u>	<u>Rate Assessed</u>	<u>More Distant Point and Rate Applicable Therefrom</u>
Byron	West Petaluma	10 <sup>3</sup> / <sub>4</sub>	Stockton 9 <sup>3</sup> / <sub>4</sub>
Pittsburg	" "	10 <sup>3</sup> / <sub>4</sub>	" 9 <sup>3</sup> / <sub>4</sub>
Antioch	" "	10 <sup>3</sup> / <sub>4</sub>	" 9 <sup>3</sup> / <sub>4</sub>
Brentwood	" "	10 <sup>3</sup> / <sub>4</sub>	" 9 <sup>3</sup> / <sub>4</sub>
Tracy	" "	10 <sup>3</sup> / <sub>4</sub>	" 9 <sup>3</sup> / <sub>4</sub>
Alvarado	" "	10 <sup>3</sup> / <sub>4</sub>	" 9 <sup>3</sup> / <sub>4</sub>
Livermore	" "	10 <sup>3</sup> / <sub>4</sub>	" 9 <sup>3</sup> / <sub>4</sub>
Tremont	" "	13 <sup>3</sup> / <sub>4</sub>	Sacramento 12 <sup>3</sup> / <sub>4</sub>
Graino	" "	20 <sup>3</sup> / <sub>4</sub>	Colusa 19 <sup>3</sup> / <sub>4</sub>
Grimes	" "	20 <sup>3</sup> / <sub>4</sub>	" 19 <sup>3</sup> / <sub>4</sub>
Rupert	" "	17 <sup>3</sup> / <sub>4</sub>	Marysville 16 <sup>3</sup> / <sub>4</sub>
West Petaluma	San Rafael	8 <sup>3</sup> / <sub>4</sub>	San Francisco 7 <sup>3</sup> / <sub>4</sub>

The rates assessed by defendants were the line-haul rates named in the applicable tariffs plus a switching charge equivalent to 1<sup>1</sup>/<sub>4</sub> cents for the movement between Petaluma and West Petaluma. This switching rate is contained in Petaluma & Santa Rosa Railroad Terminal Tariff 1-E, C.R.C. 104, and is not absorbed on the shipments here involved. Under the provisions of Northwestern Pacific Railroad Terminal Tariff 4-N, C.R.C. 343, and previous issues thereof that carrier will absorb the 1<sup>1</sup>/<sub>4</sub>-cent charge in connection with competitive traffic as that term is defined in the tariff. All of the more distant points shown above are competitive points and thus by the absorption of the switching charge at West Petaluma the aggregate charges were less than assessed on complainants' shipments moving from directly intermediate points, creating departures from the long and short haul provisions of Section 24(a) of the Act. At the time complainants' shipments moved these departures were unauthorized.

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 charges assessed and collected on complainants' shipments were in violation of the long and short haul provisions of Section 24(a) of the Public Utilities Act and of Section 21 Article XIII of the State Constitution; we further find that complainants made the shipments as described, paid and bore the charges thereon and are entitled to reparation with interest at 6% per annum.

The exact amount of reparation due is not of record. Complainants 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 Northwestern Pacific Railroad Company, Petaluma & Santa Rosa Railroad Company and Southern Pacific Company, according as they participated in the transportation, be and they are hereby authorized and directed to refund with interest at six (6) per cent. per annum to complainants M. Vonsen Company, G. P. McNear Company and Coulson Poultry and Stock Food Company according as their interests may appear, all charges collected for the transportation of the shipments of

grain and other articles involved in this proceeding in excess of the following: 9½ cents per 100 pounds for the transportation from Byron, Pittsburg, Antioch, Brentwood, Tracy, Alvarado and Livermore, 12 cents per 100 pounds from Tremont, 19 cents from Graino and Grimes and 16 cents from Rupert to West Petaluma, and 7½ cents from West Petaluma to San Rafael.

Dated at San Francisco, California, this 24 day of November, 1931.

C. A. Scully  
Leon Sweeney  
W. J. Lane  
M. B. Harris  
Fred G. Stewart  
Commissioners.