

Decision No. 24447.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

STANDARD PACKING COMPANY
 WOODWARD-BENNETT PACKING COMPANY
 COAST PACKING COMPANY
 DISTRIBUTORS PACKING COMPANY
 UNION PACKING COMPANY
 MERCHANTS PACKING COMPANY
 NEWMARKET COMPANY
 GLOBE PACKING COMPANY
 LOS ANGELES PACKING COMPANY
 ASSOCIATED MEAT COMPANY
 ASSOCIATED MEAT COMPANY OF CALIFORNIA
 SAN ANTONIO MEAT COMPANY
 PEERLESS PACKING COMPANY
 W. H. GOODNO
 D. H. LILLYWHITE
 WASHBURN & CONDON
 SOUTHWEST COMMISSION COMPANY
 CALIFORNIA LIVE STOCK COMMISSION
 COMPANY, INC.

Complainants,

vs.

SOUTHERN PACIFIC COMPANY
 HOLTON INTER-URBAN RAILWAY COMPANY

Defendants.

ORIGINAL

Case No. 3040.

Richard T. Eddy, for complainants and The Cudahy Packing Company, intervener.

James E. Lyons and E. H. McElroy, for defendants.

CARR, Commissioner:

OPINION ON REHEARING

The rehearing herein was granted largely upon defendants' representation that they had been taken by surprise at the original hearing and had not properly presented their defense. Following this, various hearings were had at which the defendants, as well as the complainants, were given rather wide latitude in presentation of additional evidence. At the request of the parties briefs were permitted. These were finally filed on December 26, 1931, and the case submitted.

At one stage of the proceedings on rehearing defendants argued that the rule of tariff construction announced by this Commission in Griffith Co. et al. vs. P.E.Ry.Co., 34 C.R.C. 796, and later by the United States Supreme Court in Great Northern R.Co. vs. Delmar Co., 75 L. ed. 1349, admittedly taking precedence over the ambiguity rule stated in the original opinion, should be applied in interpreting the tariff in question. Subsequently however the defendants, for reasons of their own, withdrew all evidence supporting the application of this rule.

With the record as thus deliberately left, no ground has been shown for departing from the reasoning and conclusions contained in the original opinion, which should therefore be reaffirmed.

I recommend the following form of order:

ORDER ON REHEARING

Hearings on rehearing having been had and the case finally submitted, and the Commission being fully advised,

IT IS HEREBY ORDERED that the original opinion and order herein be reaffirmed as the opinion and order of the Commission.

The effective date of this order shall be thirty (30) days from the date hereof.

The foregoing opinion and order on rehearing are hereby adopted as the opinion and order on rehearing of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 18th day of January, 1932.

C. J. Lundy
Leon C. White
W. J. Lundy
M. B. Lundy
Jos. G. Stevens
Commissioners.