

Decision No. 24509.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

THE PARAFFINE COMPANIES, INC.,  
Complainant,

vs.

THE NORTHWESTERN PACIFIC RAILROAD  
COMPANY,  
SOUTHERN PACIFIC COMPANY,  
Defendants.

**ORIGINAL**

Case No. 3159.

BY THE COMMISSION:

O P I N I O N

Complainant is engaged in manufacturing roofing materials. By complaint filed December 21, 1931, it alleges that the charges assessed and collected on 54 carloads of refuse redwood bark transported from Little River Junction and Samoa to Paraffin Station during the period extending from February 25, 1930, to January 10, 1931, were unreasonable in violation of Section 13 of the Public Utilities Act.

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

Little River Junction and Samoa are on the Northwestern Pacific Railroad 304 and 299 miles respectively north of San Francisco. Paraffin is a substation of Oakland. Charges were assessed and collected on complainant's shipments on basis of a rate of 22½ cents applying on "Forest Waste, viz. Redwood Bark,

refuse". This rate is contained in Item 490 of Pacific Freight Tariff Bureau Tariff No. 117-K, C.R.C. No. 460 of F. W. Comph, Agent, and previous issues thereof. At the time complainant's shipments moved there was in effect in the same tariffs and between the same points a rate of 21½ cents applying on lumber and certain related articles. The rate was not applicable on refuse redwood bark. However, effective January 10, 1931, the tariff was amended to include bark except tan bark, spent bark or medicinal bark. It is on the basis of the rate contemporaneously applicable on finished forest products and subsequently established on refuse redwood bark 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 charges assessed and collected on complainant's shipments of refuse redwood bark were unjust and unreasonable in violation of Section 13 of the Public Utilities Act. 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.

#### O R D E R

This case being at issue upon complaint and answer 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 and Southern Pacific Company, according as they participated in the transportation, be and they are hereby authorized and directed to refund without interest to complainant The Paraffine Companies, Inc., all charges collected in excess of  $21\frac{1}{2}$  cents per 100 pounds for the transportation from Little River Junction and Samoa to Paraffin Station of the shipments of refuse redwood bark involved in this proceeding.

Dated at San Francisco, California, this 23rd day of February, 1932.

C. S. Seaver  
Leon Whiteley  
M. A. Curran  
W. B. Lewis  
Fred G. Stewart  
Commissioners.