

Decision No. 25023.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

POULTRY PRODUCERS OF CENTRAL CALIFORNIA,
a corporation,

Complainant,

vs.

NORTHWESTERN PACIFIC RAILROAD COMPANY,
a corporation,

Defendant.

Case No. 3270.

BY THE COMMISSION:

ORIGINAL

O P I N I O N

By complaint filed June 6, 1932, complainant alleges that the charges assessed and collected for the transportation of 13 carloads of grain from Holt to West Petaluma were in violation of the long and short haul provisions of Section 24 of the Public Utilities Act and of Section 21 Article XIII of the State Constitution.

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

Holt is on The Atchison, Topeka and Santa Fe Railway Company 8 miles west of Stockton. West Petaluma is on the Petaluma and Santa Rosa Railroad Company 1.4 miles from Petaluma. Charges were assessed on complainant's shipments on basis of the line haul rate of 9 cents from Holt to Petaluma named in the applicable tariffs, plus a switching charge equivalent to 1½ cents per 100 pounds for the movement from Petaluma to West Petaluma.

At the time these shipments moved there was in effect a line haul rate of $9\frac{1}{2}$ cents from Stockton, a competitive point beyond Holt, to Petaluma, and under the provisions of defendant's Terminal Tariff 4-N, C.R.C. No. 343 the switching charge between Petaluma and West Petaluma was absorbed. Thus the aggregate charges from Stockton were less than assessed on complainant's shipments moving from the directly intermediate point of Holt, creating a departure from the long and short haul provisions of Section 24(a) of the Act. At the time complainant's shipments moved this departure was unauthorized.

Defendant admits the allegations of the complaint and has signified its 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 were in violation of the long and short haul provisions of Section 24(a) of the Public Utilities Act, and of Section 21 Article XII of the State Constitution. 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 waives the payment of interest.

The exact amount of reparation due is not of record. Complainant 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.

ORDER

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 preceding opinion,

IT IS HEREBY ORDERED that defendant Northwestern Pacific Railroad Company be and it is hereby authorized and directed to refund without interest to complainant, Poultry Producers of Central California, all charges collected in excess of 9½ cents per 100 pounds for the transportation from Holt to West Petaluma of the shipments of grain involved in this proceeding.

Dated at San Francisco, California, this 12th day of August, 1932.

C. J. Seaver
Leon. Whitely
M. A. Ginn
M. B. Harris
Fred G. Cleveland
Commissioners.