

Decision No. 25314.

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

PACIFIC GAS & ELECTRIC COMPANY,)

Complainant,)

vs.)

SOUTHERN PACIFIC COMPANY,)

Defendant.)

Case No. 3322.

BY THE COMMISSION:

O P I N I O N

By complaint filed August 22, 1932, it is alleged that the charges assessed and collected on three carloads of wrought iron pipe transported from Emeryville, a sub-station of Oakland, to Mayfield on August 23, 1930, were unjust and unreasonable in violation of Section 13 of the Public Utilities Act.

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

Mayfield is on the main line of the Southern Pacific Company 32 miles south of San Francisco and 39 miles from Oakland. Charges were assessed and collected on complainant's shipments on basis of the legally applicable fifth class rate of 11 cents. Complainant alleges that this rate was unreasonable to the extent it exceeded 9 cents, minimum carload weight 40,000 pounds, which is the volume of a rate applying from Oakland and San Francisco to San Jose, for distances of 41 and 47 miles respectively. From Oakland and San Francisco to Palo Alto, distances of 37 and 30 miles respectively, defendant contemporaneously maintained a rate of 7 cents,

minimum carload weight 40,000 pounds.

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 assailed rate was unjust and unreasonable to the extent it exceeded 9 cents, minimum carload weight 40,000 pounds. 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. Defendant should establish for the future a rate not in excess of that herein found reasonable.

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 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.

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 defendant Southern Pacific Company be and it is hereby authorized and directed to refund without interest to complainant Pacific Gas & Electric Company all charges

collected in excess of 9 cents per 100 pounds, minimum carload weight 40,000 pounds, for the transportation from Emeryville to Mayfield of the shipments of wrought iron pipe involved in this proceeding.

Dated at San Francisco, California, this 31st day of October, 1932.

C. J. Kenny
Leon A. White
M. J. Lee
M. B. Lewis
Fred G. Stewart
Commissioners.