

Decision No. 25674.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

PACIFIC GAS & ELECTRIC COMPANY,

Complainant,

vs.

SOUTHERN PACIFIC COMPANY,

Defendant.

Case No. 3224.

ORIGINAL

BY THE COMMISSION:

O P I N I O N

By complaint filed March 21, 1932, it is alleged that the charges assessed and collected on six carload shipments of steel welded pipe transported from Salinas to Stockton on March 13 and 14, 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.

The charges on all the shipments involved were paid March 22, 1930, on basis of the legally applicable fifth class rate of 40½ cents. Complainant alleges that these charges were unreasonable to the extent they exceeded those collectible at a rate of 36 cents. This rate is obtained by combining a rate of 20 cents found reasonable by this Commission in Pacific Gas & Electric Company vs. Southern Pacific Company, 37 C.R.C. 316, for the transportation of wrought iron pipe from Salinas to

Emeryville, a sub-station of Oakland, with the fifth class rate of 16 cents applicable on steel welded pipe from Oakland to Stockton.

Defendant admits that the assailed rate was unjust and unreasonable and has signified its willingness to make a reparation adjustment providing the claim is not barred by operation of the statute of limitations. It appears that the complaint was seasonably filed. 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 rate assessed and collected on complainant's shipments of steel welded pipe was unjust and unreasonable to the extent it exceeded 36 cents. 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 36 cents per 100 pounds for the transportation from Salinas to Stockton of the shipments of steel welded pipe involved in this proceeding.

Dated at San Francisco, California, this 27<sup>th</sup> day of February, 1933.

CC Lewis  
Leon Whidney  
M. P. Case  
M. B. Harris  
M. J. ...  
Commissioners.