

Decision No. 25729.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ALBERS BROS. MILLING CO.,
a corporation,
Complainant,

vs.

ATCHISON, TOPEKA & SANTA FE
RAILWAY COMPANY, a corporation,
SOUTHERN PACIFIC COMPANY,
a corporation,
WESTERN PACIFIC RAILROAD COMPANY,
a corporation,
Defendants.

Case No. 3391.

ORIGINAL

BY THE COMMISSION:

O P I N I O N

By amendment to the complaint this complainant dismissed the Southern Pacific Company as a party defendant, and withdrew all allegations of violations of Sections 13, 17 and 19 of the Public Utilities Act.

The complaint filed October 24, 1932, and as amended alleges that during the three years preceding the filing of this proceeding the total charges assessed and collected for the transportation of certain carload shipments of hay via the rails of defendants The Atchison, Topeka and Santa Fe Railway Company and The Western Pacific Railroad Company from numerous points in California to complainant's plant at San Francisco on the rails of the Southern Pacific Company, were in violation of Section 24(a) of the Public Utilities Act to the extent of the switching charges of \$2.70 per car, making the total greater than the amount contemporaneously

assessed and collected on similar shipments of hay moving to South San Francisco, a more distant point on the same railroads and their connections.

Defendants The Atchison, Topeka and Santa Fe Railway Company and The Western Pacific Railroad Company have admitted the allegations of the complaint, and therefore it follows that the proceeding may now be disposed of without the necessity of a formal hearing.

Upon consideration of all the facts of record we are of the opinion and find that the aggregate charges assessed and collected on the carloads of hay involved in this proceeding violated Section 24(a) of the Public Utilities Act to the extent of \$2.70 per car, and that complainant is entitled to the reparation prayed for.

The exact amount of reparation due is not of record. Complainant will submit to defendants for verification a statement of the shipments made and upon payment of the reparation defendants will notify the Commission of 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 answers 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 defendants, The Atchison, Topeka and Santa Fe Railway Company and The Western Pacific Railroad

Company, according as they participated in the transportation, be and they are hereby authorized and directed to refund with interest at six (6) per cent. per annum to complainant Albers Bros. Milling Co., all charges collected for the transportation of the shipments of hay involved in this proceeding in excess of the charges contemporaneously in effect on like traffic to more distant stations.

Dated at San Francisco, California, this 13th day of March, 1933.

Albers
Leon Albers
M. A. C.
M. B. Harris
N. H. Adams
Commissioners.