

Decision No. 8217

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

C. A. Smith Lumber Company,  
Complainant,

vs.

Southern Pacific Company,  
Defendant.

CASE NO. 328.

The Pacific Lumber Company,  
The Charles Nelson Lumber Company,  
E. K. Wood Lumber Company,  
C. A. Smith Lumber Company,  
Complainants,

vs.

Southern Pacific Company,  
Defendant.

CASE NO. 335.

C. A. Smith Lumber Company,  
The Charles Nelson Lumber Company,  
E. K. Wood Lumber Company,  
The Pacific Lumber Company,  
Complainants,

vs.

Southern Pacific Company,  
Defendant.

CASE NO. 338.

C. A. Smith Lumber Company,  
The Charles Nelson Lumber Company,  
E. K. Wood Lumber Company,  
Complainants,

vs.

Southern Pacific Company,  
Defendant.

CASE NO. 339.

BY THE COMMISSION:

ORDER DISMISSING APPLICATION FOR REHEARING.

In this application for rehearing the Southern Pacific Company alleges that this Commission's opinion and order, Decision No. 7982, dated August 12, 1920, in the above numbered cases, was in

excess of and beyond its jurisdiction.

Paragraph III of the petition for rehearing reads:

"That this Commission has no power or jurisdiction to consider, entertain or hear any proceeding, the object of which is to obtain an order from the Commission authorizing, directing or requiring the payment of reparation or damages by any common carrier subject to the provisions of the Public Utilities Act of the State of California, for or on account of any freight charges alleged to have been collected or received by such common carrier from any shipper or receiver of freight, moving over its line or lines of railroad contrary to, or in violation of the so-called long-and-short-haul provision of the Constitution of the State of California (being Article XII, Section 21 thereof) as it existed both prior to and since the amendment of October 10, 1911, or contrary to, or in violation of the so-called long-and-short-haul provision of any statute or statutes of the State of California nor has the Commission power or jurisdiction to make, render or enter any decision or order in any such proceeding authorizing or directing, or purporting to authorize or direct any such common carrier to repay or refund by way of reparation or damages any sum or sums alleged or claimed to have been collected or received in violation of said long-and-short-haul provision of the Constitution, or any statute or statutes of the State of California."

No authorities are cited in support of this contention, and it would serve no purpose to discuss the numerous decisions of this Commission wherein reparation has been awarded under the power given by Section 21 of Article XII of the California Constitution and under Section 71 of the Public Utilities Act.

We find no merit in the petition for rehearing. The petition should be denied.

O R D E R

Southern Pacific Company having filed its petition for rehearing herein, due consideration having been given thereto, and

the Railroad Commission finding that there is no good reason why a rehearing should be granted herein.

IT IS HEREBY ORDERED that this petition for rehearing be and the same is hereby denied.

Dated at San Francisco, California, this 11<sup>th</sup> day of October, 1920.

Edwin O. Edgerton  
H. D. Loveland  
H. D. Dunning  
Dwight Martin  
Commissioners.