

ORIGINAL

Decision No. 26887

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

FELICE AND PERELLI CANNING COMPANY,)

Complainant,)

vs.)

SOUTHERN PACIFIC COMPANY,)

Defendant.)

Case No. 3675.

BY THE COMMISSION:

O P I N I O N

Complainant alleges by this complaint filed September 1, 1933, that the charges assessed and collected for the transportation of various carload shipments of peaches from Marysville to Richmond during the two years preceding the filing of the complaint were unjust and unreasonable and in violation of Section 19 of the Public Utilities Act. Reparation only is sought.

The charges assessed were at the rate of 17 cents per hundred pounds, this being the commodity rate in effect from Marysville to Oakland applied as a maximum at Richmond. The rate sought of 16 cents per hundred pounds is the Class C rate between Marysville and Richmond, disregarding the minimum Third Class Western Classification rate of 17½ cents per hundred pounds. Effective July 21, 1933, a commodity rate of 15 cents per hundred pounds minimum weight 30,000 pounds was established on peaches from Marysville to Oakland applying as maximum to Richmond. Complainants, however, are not contending for this subsequently established rate.

Under date of November 28, 1933, defendant admitted the allegations of the complaint and has signified its willingness to

make a reparation adjustment on the basis of 16 cents per hundred pounds; 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 complainants shipments were unlawful, that complainant Felice and Perelli Canning Company 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 payment of the reparation defendant will notify the Commission of the amount thereof. Should it not be possible to reach an agreement as to a reparation award, the matter may be referred to the Commission for further attention and the entering 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 preceding opinion;

IT IS HEREBY ORDERED that the Southern Pacific Company be and it is hereby authorized and directed to refund, without interest, to complainant Felice and Perelli Canning Company all charges collected in excess of 16 cents per 100 pounds for the transportation of various carload shipments of peaches from

Marysville to Richmond, involved in this proceeding.

Dated at San Francisco, California, this 11th day
of December, 1933.

C. L. Seaver

Leon Whalley

M. A. Pugh

W. B. Harris

W. B. Harris

Commissioners,