

Decision No. 27446.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

FIBREBOARD PRODUCTS, INC.,

Complainant,

vs.

THE WESTERN PACIFIC RAILROAD COMPANY,
SACRAMENTO NORTHERN RAILWAY,

Defendants.

ORIGINAL

Case No. 3902.

BY THE COMMISSION:

O P I N I O N

By complaint filed September 13, 1934, it is alleged that the charges assessed and collected on a carload shipment of soft cord wood transported from Rio Oso to Stockton on September 3, 1933, were unjust and unreasonable in violation of section 13 of the Public Utilities Act.

Reparation only is sought.

Rio Oso is on the Sacramento Northern Railway, 33 miles north of Sacramento. Charges were assessed and collected on complainant's shipment on basis of a rate of \$3.37½ per cord of 128 cubic feet, named in Item 2060 of Pacific Freight Tariff Bureau Tariff 48-N, C.R.C. 506 of F. W. Gomph, Agent. Effective June 11, 1934, in Item 3635 of Supplement No. 14 to F. W. Gomph's C.R.C. 540, P.F.T.B. No. 48-0, defendants published a rate of 8 cents per 100 pounds, minimum weight 40,000 pounds, applicable for the transportation involved and it is upon the basis of this subsequently established rate that complainant seeks reparation.

Defendants admit the allegations of the complaint and have signified their 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 8 cents per 100 pounds, minimum weight 40,000 pounds. We further find that complainant made the shipment as described, bore the charges thereon and is entitled to reparation without interest. Complainant specifically waived the payment of interest.

The exact amount of reparation due is not of record. Complainant will submit to defendants for verification a statement of the shipment made and upon payment of reparation defendants 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 defendants, The Western Pacific Railroad Company and Sacramento Northern Railway, according as they participated in the transportation, be and they are hereby authorized and directed to refund without interest to complainant, Fibreboard Products, Inc., all charges collected in excess of 8 cents per 100

pounds, minimum 40,000 pounds, for the transportation from Rio Oso to Stockton of the shipment of soft cord wood involved in this proceeding.

Dated at San Francisco, California, this 15th day of October, 1934.

Leon Whitley
W. H. Cunn
M. B. Davis
Wm. H. [unclear]
Greene R. [unclear]
Commissioners.