

Decision No. 27655

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

CARNATION MILK SALES CO.,  
a corporation,

Complainant,

v.

SOUTHERN PACIFIC COMPANY,  
a corporation.

Defendant.

Case No. 3865

ORIGINAL

BY THE COMMISSION -

OPINION

Complainant alleges that the charges assessed and collected on four (4) carload shipments of canned milk, transported by defendant from Gustine to Redding on July 22, September 30 and December 27, 1933, and on February 24, 1934, 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.

Gustine is on the Southern Pacific Company, 41 miles south of Tracy. Charges were assessed and collected on complainant's shipments on basis of a commodity rate of 40 cents, named in Item 1690 Series of Southern Pacific Company's Tariff 730-D, C.R.C. 3353. Complainant contends that this rate was unreasonable to the extent it exceeded 32 cents, which is the volume of a rate obtained by adding to one of 12 cents applying on canned milk from Gustine to Sacramento, another of 20 cents applying on mixed carloads of freight including canned milk from Sacramento to Redding. Effective May 3, 1934, defendant, in Item 1690-0

of its Tariff 730-D, C.R.C. 3353, established a rate of 30 cents applicable on canned milk from Gustine to Redding.

Defendant admits the allegations of the complaint and has signified its 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 32 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.

#### ORDER

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 to complainant, Carnation Milk Sales Company, without interest, all charges collected in excess of 32 cents per 100 pounds for the transportation from Gustine to Redding of the shipments of canned milk involved in this proceeding.

Dated at San Francisco, California, this 7th day of

January, 1935.

Leon A. White  
M. B. Harris  
Walter J. Brown  
Frank E. Brown  
COMMISSIONERS.