

Decision No. 27810

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

THE BORDEN SALES COMPANY, INCORPORATED)

Complainant,)

vs.)

SOUTHERN PACIFIC COMPANY,
A Corporation,)

Defendant.)

Case No. 3970

BY THE COMMISSION:

O P I N I O N

Complainant alleges that the charges assessed and collected on one (1) carload shipment of canned milk, transported by defendant from Modesto to Redding on May 17, 1933, 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.

Modesto is on the Southern Pacific Company, 20 miles south of Lathrop. Charges were assessed and collected on complainant's shipment on basis of a commodity rate of 40 cents, named in Item 1710 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 Modesto 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 1710-Q of its Tariff 730-D, C.R.C. 3353, established a rate of 30 cents applicable on

canned milk from Modesto 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 upon proper proof that it was damaged by the collection of the assailed rate on the shipment involved complainant is entitled to reparation without interest. Complainant specifically waived the payment of interest.

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 defendant Southern Pacific Company be and it is hereby authorized and directed to refund to complainant, The Borden Sales Company, Incorporated, without interest, all charges collected in excess of 32 cents per 100 pounds for the transportation from Modesto to Redding of the shipment of canned milk involved in this proceeding.

Dated at San Francisco, California, this 11th day of March, 1935.

Leon A. Whalley
M. H. Carr
W. B. Shinn
Arthur J. Stone
JOHN R. KIMMEL
Commissioners.