

Decision No. 28317.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

CARNATION COMPANY OF CALIFORNIA,  
a corporation,  
Complainant,

vs.

SOUTHERN PACIFIC COMPANY,  
a corporation,  
Defendant.

Case No. 3220.

**ORIGINAL**

BY THE COMMISSION:

O P I N I O N

Complainant alleges that a charge of \$1.00 per car assessed, in addition to the lawfully published line-haul rates for the transportation of carload shipments of evaporated milk from Gustine to complainant's warehouse in San Francisco, was, is and for the future will be unreasonable, inapplicable, unduly prejudicial and preferential in violation of Sections 13, 17(a) and 19 of the Public Utilities Act.

Reparation and rates for the future are sought. The additional \$1.00 per car charge however is no longer assessed and an order for the future is therefore unnecessary.

Complainant's warehouse (Albers Bros. Milling Company's plant) is located at the southeast corner of Vallejo and Davis Streets in San Francisco and is served by tracks owned by defendant. The tracks however are detached from defendant's main line and are reached only via the State Belt Railroad of California (hereinafter referred to as the

Belt Line). These tracks are outside defendant's established switching limits. The Belt Line furnishes all motive power after the cars leave defendant's main line.

Prior to November 1, 1929, a charge of \$3.50 per car was made for the switching service performed by the Belt Line. This charge was absorbed in its entirety by defendant (subject to a minimum requirement as to net revenue) on shipments on which it received the line haul. On November 1, 1929, the Belt Line charge was increased to \$4.50, of which amount defendant absorbed \$3.50, leaving a balance of \$1.00 to be paid by complainant. On January 1, 1932, the Belt Line charge was reduced to \$4.00, all of which is now absorbed by defendant.

The facts in this case are analogous to those in California Packing Corporation vs. The Western Pacific Railroad Company (Decision No. 27527 dated November 13, 1934, in Cases Nos. 3161 and 3162), and Albers Bros. Milling Co. vs. Southern Pacific Company (Decision No. 27982 dated May 20, 1935, in Case No. 2952). By Decision No. 28198, dated August 26, 1935, a petition filed by complainant for rehearing and reconsideration of this latter proceeding was denied. In those proceedings the Commission found after hearing that no violation of Section 13 of the Public Utilities Act had been shown and that the charge assailed was not in violation of Sections 17(a) and 19 of the Act. The proceedings were dismissed and reparation denied. Similar findings were made by the Interstate Commerce Commission in connection with complaints embracing the same issues with respect to interstate traffic and heard jointly with this Commission. (California Packing Corporation vs. Atchison, Topeka and Santa Fe Railway Company, 204 I.C.C. 741.) Upon this record like findings should be made here.

Upon consideration of all the facts of record and the Commission's decisions in California Packing Corporation vs. The Western

Pacific Railroad Company, supra, and Albers Bros. Milling Co. vs. Southern Pacific Company, supra, we are of the opinion and find that the charge assailed was applicable and that it was not unduly prejudicial and preferential and has not been shown to be unreasonable. The complaint will be dismissed.

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 the above entitled proceeding be and it is hereby dismissed.

Dated at San Francisco, California, this 4<sup>th</sup> day of November, 1935.

Leon Whitney  
M. H. Cunn  
W. B. Cunn  
Arthur C. Cunn  
Frank R. Cunn  
Commissioners.