

Decision No. 28318.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

NESTLE'S MILK PRODUCTS, INC.,
Complainant,
vs.
SOUTHERN PACIFIC COMPANY,
Defendant.

Case No. 4040.

BY THE COMMISSION:

ORIGINAL

O P I N I O N

Complainant alleges that the charges assessed and collected on two carload shipments of canned milk, transported by defendant from Ripon to Redding on October 2, 1933, and January 15, 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.

Ripon is on the Southern Pacific Company, 10 miles south of Lathrop. Charges were assessed and collected on complainant's shipments 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 Ripon 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-A of its Tariff 730-D, C.R.C. 3353, established a rate of 30 cents applicable on canned milk from Ripon to Redding.

Defendant admits that the assailed rate was unreasonable to the extent it exceeded 32 cents, 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.

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 Nestle's Milk Products, Inc., without interest, all charges collected in excess of 32 cents per 100 pounds for the transportation from Ripon to Redding of the shipments of canned milk involved in this proceeding.

Dated at San Francisco, California, this 4th day of November, 1935.

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M. B. Cune
M. B. Cune
W. B. Cune
W. B. Cune
W. B. Cune
Commissioners.