

Decision No. 28413.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

A. GALLI FRUIT CO.,

Complainant,

vs.

SOUTHERN PACIFIC COMPANY,

Defendant.

Case No. 4064.

BY THE COMMISSION:

O P I N I O N

By complaint filed September 3, 1935, complainant, A. Galli Fruit Co., a corporation, alleges that the charges collected by defendant, Southern Pacific Company, on a carload shipment of fresh vegetables transported from Brawley to Oakland on or about January 22, 1934, were unjust and unreasonable in violation of Section 13 of the Public Utilities Act, and discriminatory and preferential in violation of Section 19 of the Act. On October 21, 1935, complainant withdrew its allegation of violation of Section 19 of the Act.

Reparation only is sought.

Complainant avers that defendant has generally maintained rates not in excess of Class C on fresh fruits and vegetables transported between California points, and contends that the restriction in Southern Pacific Company's Tariff 711-C, C.R.C. 2843, withholding Class C rating between the points involved in this proceeding was unjust and unreasonable. The same issue was raised in Case 3515, A. Levy and J.

Zentner Co. et al. vs. Southern Pacific Company, wherein by Decision 26948 of April 16, 1934, the Commission found for the complainants.

Defendant has admitted the allegations of the complaint as amended, and has expressed its willingness to reparate to the basis of the Class C rate. Therefore, under the issues as they now stand a formal hearing will not be necessary.

Upon consideration of all the facts of record and of the Commission's Decision 26948 supra, we are of the opinion and find that the charges assessed and collected on the shipment of fresh vegetables involved in this proceeding were unjust and unreasonable to the extent that they exceeded the charges which would have accrued had the contemporaneous Class C rate of 55 cents per 100 pounds been assessed; that complainant made the shipment 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 A. Calli Fruit Co., without interest, all charges collected for the transportation of the shipment involved in this proceeding in excess of those found reasonable in the opinion which precedes this order.

Dated at San Francisco, California, this 9th day of December, 1935.

Leon O'Connell  
M. J. Quinn  
W. B. Quinn  
W. H. Quinn  
Frank R. Quinn  
Commissioners.