

Decision No. 28717

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

Southwestern Ice and Cold Storage
Company

vs.

Southern Pacific Company

Case No. 4093

BY THE COMMISSION:

ORIGINAL

O P I N I O N

Complainant alleges that the charges assessed and collected by defendant for the transportation of 87 carload shipments of ice from Calexico to Colorado, California, between February 24 and March 7, 1935, based upon the applicable Class E rate of 14 cents per 100 pounds, were unjust and unreasonable, in violation of Section 13 of the Public Utilities Act, to the extent that such charges exceeded those which would have accrued at a rate of 7 cents per 100 pounds. Reparation only is sought.

Complainant is engaged in the manufacture of commercial ice at Yuma, Arizona. It alleges that the demand for ice to preserve the 1935 vegetable crop in the Yuma district was beyond the manufacturing capacity of its plant, which necessitated bringing in ice from Calexico, the nearest outside source of supply. Only class rates were available for this emergency movement. Defendant subsequently published a rate of 7 cents per 100 pounds from Calexico to Yuma, Arizona, a more distant point.

The shipments here involved were consigned to Colorado, a point in California approximately one mile west of and intermediate to Yuma,

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1. Referred to as "Colorado Siding" in the complaint.
 2. Effective March 26, 1935, in Pacific Freight Tariff Bureau Tariff No. 26-R, C.R.C. No. 557 of F.W. Gomph, Agent.

in expectation that the subsequently established 7 cent rate would be published to Colorado as well as to Yuma and in the belief that the intrastate rate would be the first effective. On some 140 shipments which moved direct to Yuma under the same circumstances before the 7 cent rate became effective, the Interstate Commerce Commission has authorized³ reparation on the basis herein sought. No rates for the future are sought to Colorado for the reason that future shipments will move under interstate rates to Yuma.

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 7 cents per 100 pounds. 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,

³ Interstate Commerce Commission S.D.No.179799 of December 23, 1935.

Southwestern Ice and Cold Storage Company, without interest, all charges collected in excess of 7 cents per 100 pounds for the transportation from Calexico to Colorado of the shipments of ice involved in this proceeding.

Dated at San Francisco, California, this 13th day of April, 1936.

M B Harris
Leon Anthony
M J Carr
W. H. Harrison
Stuart R. Rubin
Commissioners.