

Decision No. 30996

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

CALIFORNIA SUPPLY COMPANY,
Complainant,

vs.

SOUTHERN PACIFIC COMPANY,
Defendant.

Case No. 4329

ORIGINAL

BY THE COMMISSION:

O P I N I O N

By complaint filed May 16, 1938, complainant seeks reparation, without interest, in connection with eleven shipments of vinegar in tank cars, moving from Melrose to Mountain View during the period October 2, 1935 to May 27, 1936. It alleges that the charges assessed and collected were unreasonable, in violation of Section 13 of the Public Utilities Act.

Charges on the shipments involved were collected on the basis of the applicable fifth class rate of 11 cents per 100 pounds, published in Southern Pacific Company's Tariff No. 917-D, C.R.C. No. 2929. Complainant seeks reparation to the basis of a subsequently published commodity rate of 8 cents per 100 pounds, which became effective December 15, 1936, in Southern Pacific Company's Tariff No. 730-D, C.R.C. No. 3353. Emergency charges assessed under authority of Decision No. 28227, as amended, in Application No. 19610, are not in issue.

Defendant admits that the charges assessed and collected were unreasonable to the extent that they exceed charges which would have accrued under a rate of 8 cents per 100 pounds, and signifies its willingness to pay reparation on all shipments moving within the statutory period. Under these circumstances a public hearing will not be necessary.

Upon consideration of all the facts of record, we are of the opinion and find that the charges assessed and collected on the shipments involved herein were unreasonable to the extent they exceeded

charges which would have accrued on the basis of a rate of 8 cents per 100 pounds; that complainant paid and bore the freight charges and is entitled to reparation, without interest, on all shipments moving during the statutory period.

It appears that except as to one shipment moving on May 25, 1936, all of the shipments involved moved more than two years prior to the filing of the complaint and that reparation as to them is barred by the provisions of Section 71(b) of the Public Utilities Act.

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 California Supply Company, without interest, all charges collected in excess of 8 cents per 100 pounds for the transportation of the shipment of vinegar in tank cars moving from Melrose to Mountain View on May 25, 1936.

Dated at San Francisco, California, this 20th day of

June, 1938.

Walter Ware
Leon Whittell
Frank DeWitt
Ray Wakefield
Al L. Kelly
COMMISSIONERS