

Decision No. \_\_\_\_\_,

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

IMPERIAL GRAIN GROWERS, INC. )  
Complainant, )  
vs. )  
SOUTHERN PACIFIC COMPANY, )  
Defendant. )

Case No. 4401

ORIGINAL

BY THE COMMISSION:

O P I N I O N

By complaint filed February 23, 1939, it is alleged that the rates assessed on fifty-one carload shipments of wheat, barley and maize transported by the Southern Pacific Company from Munyon, Orita, Sandia, Estelle and Turn to Brawley, and from Munyon and Moss to Rockwood, during the period May 16, 1936 to June 22, 1937, were unjust and unreasonable, in violation of Section 13 of the Public Utilities Act. Reparation amounting to \$596.19, without interest, and the waiver of uncollected undercharges amounting to \$2,179.01 are sought .

The points of origin and destination involved are all located in the Imperial Valley on the lines of the Southern Pacific Company. Estelle, Rockwood and Brawley are on the main line extending from Niland to El Centro; the others are on a branch of that line extending from Calipatria to Sandia. Charges were assessed on complainant's shipments on the basis of the applicable tariff rates, which ranged from 9½ cents to 18½ cents. <sup>1</sup> These rates were made by a combination of class and commodity rates over Calipatria. Complainant seeks reparation and waiver of outstanding undercharges to the basis of a commodity rate of 9 cents,

<sup>1</sup>

Rates are stated in cents per 100 pounds.

minimum carload weight 60,000 pounds. This rate was published by defendant in its Tariff No. 659-F, C.R.C. No. 3552, effective August 14, 1937, to apply from and to the points involved.

Defendant admits the allegations of the complaint and has signified its willingness to make reparation and to waive outstanding undercharges; 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 rates were unjust and unreasonable to the extent they exceeded the subsequently established rate of 9 cents. We further find that complainant made the shipments as described, paid and bore the charges thereon except to the extent to which there are uncollected undercharges outstanding, and is entitled to payment of reparation without interest and a waiver of said outstanding undercharges. An appropriate order will be entered.

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 upon the findings and conclusions contained in the opinion which precedes this order,

IT IS HEREBY ORDERED that Southern Pacific Company be and it is hereby authorized and directed to waive collection of uncollected undercharges on the shipments involved in this complaint and to refund to complainant, without interest, all charges collected on said shipments in excess of charges which would have accrued under a rate of 9 cents per 100 pounds, minimum weight 60,000 pounds.

Dated at San Francisco, California, this 23rd day of

May, 1939.

Frank H. Miller  
Carl H. Carey  
Justice J. Cooney  
Commissioners.