

Decision No. 17135

*see order 3*

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA  
- - - - -

ORIGINAL

C. Swanston & Sons,  
Complainant,

vs.

Southern Pacific Company,  
Defendant.

CASE No. 2251

BY THE COMMISSION:

O P I N I O N

Complainant, a corporation organized under the laws of the State of California, with its principal place of business at Sacramento, California, is engaged in the business of buying and slaughtering beef cattle.

By complaint filed June 19, 1926 it is alleged that the rate assessed and collected on nineteen carloads of cattle moved August 11 and November 23, 1923 from Merced to Swanston was unreasonable to the extent it exceeded a rate of \$47.50 per 36 foot car.

Reparation only is sought. Rates will be stated in dollars and cents per standard 36 foot car.

Merced is located on the San Joaquin Valley Division of the Southern Pacific Company, 115 miles south of Sacramento and 137 miles southeast of Stock Yards. Swanston is located 4.7 miles east of Sacramento. Charges on the shipments here involved were assessed on the basis of \$51.50 per car, published in Southern

Pacific Company Tariff 645-C, C.R.C.No.2556. This rate is named from Merced to Sacramento and under the provisions of Rule 20 of the Tariff the Sacramento rate is made applicable on shipments destined to Swanston.

At the time the shipments involved in this complaint moved there was in effect a rate of \$47.50 per car from Merced to Stock Yards, published in Southern Pacific Company Tariff 645-C, C.R.C.2556. Rule 105 of said tariff provided that the rate named to Stock Yards would also apply on shipments destined to Benicia, Washington and points between. Washington is located .5 of a mile west of Sacramento and shipments moving from Merced to Washington would pass through Sacramento, but due to the fact that the tariff named a specific rate to Sacramento, which also applied at Swanston, the Stock Yards rate could not be assessed on the shipments involved, therefore the higher charges assessed were in violation of the long and short haul rule of Section 24 of the Public Utilities Act. Effective September 13, 1924 this violation was removed by defendant publishing Rule 105-A cancelling Rule 105 and eliminating the application of the Stock Yards rate at Benicia, Washington and points between.

Complainant bases its plea for reparation upon the rate effective at time of movement from Merced to Washington.

Defendant admits the allegation of the complaint and has signified a willingness to make 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 unreasonable to the extent it exceeded a rate of \$47.50 per car; that complainant made the shipments as described, paid and bore the charges

thereon and is entitled to reparation. Complainant will submit statement to defendant for check; should it not be possible to reach an agreement as to the amount of reparation the matter may be referred to the Commission for further attention and the entry of a supplemental order, should such be necessary.

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 said opinion is hereby referred to and made a part hereof,

IT IS HEREBY ORDERED that the defendant, Southern Pacific Company, be and it is hereby authorized and directed to refund to complainant, C. Swanston & Sons of Sacramento, all charges it may have collected in excess of \$47.50 per standard 36 foot car for the transportation of nineteen carloads of cattle involved in this proceeding, forwarded August 1 and November 23, 1923 from Merced to Swanston.

Dated at San Francisco, California, this 19<sup>th</sup> day of July, 1926.

H. B. Brundage  
C. E. Seaver  
Ernest Scott  
Commissioners.