

Decision No. 17399

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA  
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**ORIGINAL**

C. Swanston & Sons, )  
Complainant, )  
vs. )  
Southern Pacific Company, )  
Defendant. )  
- - - - - )

CASE NO. 2268

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 duly filed it is alleged that the refrigeration rate assessed and collected on 34 carloads of fresh meat shipped during the period December 15, 1923 to May 25, 1925 inclusive, from Swanston to Los Angeles, was unreasonable to the extent it exceeded a rate of \$20.00 per car. The freight charges on the fresh meat are not involved.

The statute of limitation was tolled by registering the claim with this Commission December 15, 1925 under informal complaint No. 34215.

Reparation only is sought. Rates will be stated in dollars per car.

Swanston is located on the Sacramento Division of the Southern Pacific Company 4.7 miles east of Sacramento, and Los Angeles is 446.5 miles south of Sacramento. Refrigeration charges on the shipments involved herein were assessed on the basis of the lawfully applicable rate of \$25.00 per car published in Perishable Protective Tariff No.2, C.R.C.No.1, Item No.11060. This rate is the stated charge for service or replenishing ice and/or salt in transit on carload shipments of perishable commodities, which includes fresh meat between points described by territorial groups. Swanston was shown as a Group 5 point, Los Angeles as a Group 2 point and Sacramento was and is now a Group 4 point. The rate between Group 2 points and Group 4 points is \$20.00 per car.

At the time the shipments involved in this complaint moved there was in effect a rate of \$20.00 per car between Sacramento and Los Angeles, and effective September 10,1925 defendant by its agent, R.C.Dearborn, voluntarily established this same rate between Swanston and Los Angeles. Complainant bases its plea for reparation upon the lower rate subsequently established.

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 \$20.00 per car; that complainant made the shipments as described, paid and bore the charges thereon and is entitled to reparation in the sum of \$170.00.

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 unto complainant, C. Swanston & Sons, of Sacramento, California, reparation in the amount of \$170.00 account of unreasonable refrigeration charges collected on 34 carloads of fresh meat moved during the period December 15, 1923 to May 25, 1925.

Dated at San Francisco, California, this 27<sup>th</sup> day of September, 1926.

H. A. Brundage

C. S. Lewis

Leon Whitall

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Commissioners.