

Decision No. 20550.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

THE CALIFORNIA CATTLEMEN'S ASSOCIATION and )  
CALIFORNIA WOOL GROWERS' ASSOCIATION, )

Complainants, )

vs. )

NORTHWESTERN PACIFIC RAILROAD COMPANY, )  
SOUTHERN PACIFIC COMPANY, and THE ATCHISON, )  
TOPEKA AND SANTA FE RAILWAY COMPANY, )

Defendants. )

ORIGINAL

Case No. 2392.

John Curry, for complainants.

R. W. Palmer, for Northwestern Pacific Railroad  
Company, defendant.

F. W. Mielke and J. L. Fielding, for Southern  
Pacific Company, defendant.

Berne Levy, for The Atchison, Topeka and Santa  
Fe Railway Company, defendant.

Eison Abel, for California Farm Bureau Federation.

BY THE COMMISSION:

O P I N I O N

The complainants in this proceeding are the California Cattlemen's Association, a corporation engaged in the marketing of agricultural and horticultural products, and the California Wool Growers' Association, unincorporated, organized for the purpose of rendering various services to the sheep producers.

By complaint seasonably filed it is alleged (1) that the defendants exact and collect charges for the joint transportation of cattle and sheep in carloads from stations on the

Northwestern Pacific to San Francisco, Oakland, San Jose, Swanton and Los Angeles that are unreasonable, unjustly discriminatory and unduly prejudicial in that they exceed the charges collected in other parts of California for similar joint services and also exceed charges from interstate points; and (2) that the local rates for the transportation of cattle and sheep in carloads between all stations on the Northwestern Pacific are unreasonable, unjustly discriminatory and unduly prejudicial as compared with the rates assessed in other parts of the State of California for similar service under similar conditions. We are asked to establish just and reasonable rates for the future. Rates will be stated in amounts per 36-foot car.

A public hearing was held before Examiner Geary at San Francisco May 10, 1928, and the case having been duly submitted and briefs filed is now ready for our opinion and order.

The defendants, Northwestern Pacific Railroad Company, Southern Pacific Company, and The Atchison, Topeka and Santa Fe Railway Company, will be hereinafter referred to as the Northwestern, Southern Pacific and Santa Fe respectively.

Complainants presented as their Exhibit No. 1 a statement of single line distance rates on fat cattle and fat sheep. This exhibit included the distance rates in effect which are maximum for use between local points on the Northwestern, and compared them with the distance rates applicable between points in the State of California via the rails of the Santa Fe and Southern Pacific, and also with the distance rates in effect within the State of Arizona and between Arizona and California. There are however a large number of specific commodity rates between points on the Northwestern to which this exhibit makes no reference, therefore it is incomplete by failing to show these actual

rates. The distance scale referred to was published effective August 5, 1924, applying between all points on the Northwestern from and to which no specific commodity rates were in effect. It did not provide any rates on fat sheep in double-deck cars, and all such shipments were subject to double the charge for a single-deck car.

On June 30, 1925, the tariff was amended, providing that unless otherwise specifically published the rates on sheep in double-deck cars would be 170 per cent. of the rates applicable to sheep in single-deck cars. The testimony shows that the distance scale was put into effect after numerous conferences between the traffic officials of the Northwestern and the Cattle-men's and Wool Growers' Associations, and the distance cattle rates are based approximately 15 per cent. higher than the scales in effect via the Southern Pacific and Santa Fe. However, the specific commodity rates are on an arbitrary basis and lower than the charges would be under the distance scale, as is illustrated by the following comparisons:

Local Distance Rates on Northwestern for Representative Distances are:

	:	:	Single-Deck	Double-Deck
	:	Fat Cattle	Fat Sheep	Fat Sheep
50 miles	\$41	\$33	\$56.10	
100 "	60	48	81.60	
150 "	71	57	96.90	
200 "	84	67	113.90	
250 "	94	75	127.50	
300 "	108	86	146.20	
350 "	117	94	159.80	

Northwestern Tariff C.R.C. 291 shows commodity rates for similar distances to San Francisco lower in some instances than the distance rates.

Miles :	From :	Fat Cattle :	Single-Deck : Fat Sheep :	Double-Deck Fat Sheep :
52	Santa Rosa	\$33.50	\$25.00	\$42.50
99	Hopland	42.00	33.50	56.95
152	Sherwood	66.50	58.50	99.45
199	Kekawaka	84.00	67.00	113.90
248	Elinor	94.00	75.00	127.50
299	Samoa	108.00	86.00	146.20
311	Trinidad	113.00	90.00	153.00

Some of these local rates are actually lower than the single line distance rates of the Southern Pacific and Santa Fe. This record is very meager, consisting of only a few rate comparisons and offers no explanation of the differences in transportation or traffic conditions in the various territories, neither is any consideration given to financial condition of the Northwestern as contrasted with the lines with which the rates are compared.

There was testimony by defendants to the effect that the Arizona intrastate and Arizona-California interstate rates were the results of a local situation in that territory at the time and are not on a reasonable basis.

A mere comparison of the rates under attack with lower rates on the same commodity in other territories is no convincing proof that the Northwestern rates are per se unreasonable. The complainants' contentions as to the unreasonableness of the rates is not supported by direct evidence and in a proceeding of this kind nothing can be treated as controlling which is not in the record.

The only joint commodity rates between Northwestern points and points on the Southern Pacific and Santa Fe are to San Francisco, Oakland and the Bay points, and these are on the same basis as the Northwestern local commodity rates. To other stations on the Southern Pacific and Santa Fe, to which complainant seeks joint rates, viz., San Jose, Swanston and Los Angeles,

the through charges are compiled on a combination of the locals on the junction points resulting in total charges at variance with reasonable practices for joint transportation of a commodity such as live stock to different competing markets. It is also difficult for shippers under existing conditions to ascertain the lowest applicable rates for movements over more than one line, and when ascertained they are excessive and unreasonable. The Southern Pacific, Santa Fe and Western Pacific now have maximum distance rates for joint movements between points in California and Nevada, California and Arizona and other states. There is no just reason why this arrangement should not be extended to the Northwestern and joint rates published to San Jose, Swanston and Los Angeles. Complainants contend that the Northwestern, being controlled by the Southern Pacific and Santa Fe, should have rates no higher than the trunk lines, but the Northwestern as shown by this record is an entirely separate corporation and its traffic is handled in the same manner as other rail lines independently operated. See *Union Paving Co. vs. Sunset Ry. et al.*, Case 2449, Decision 19612, April 13, 1928.

After careful consideration of all the facts of record we are of the opinion and so find that the local rates maintained by defendants for the transportation of cattle and sheep, in carloads, between stations on the Northwestern Pacific Railroad Company and the joint rates on cattle and sheep, in carloads, from points on the Northwestern Pacific Railroad Company to San Francisco and Oakland, have not been shown on this record to be unjust, unreasonable, unduly discriminatory or prejudicial. We are however of the opinion and so find that the joint rates for the transportation of fat cattle, in carloads, and fat sheep, in single-deck and double-deck cars, from points on the Northwestern Pacific Railroad Company to Swanston, San Jose and Los Angeles are now and for the future will be unjust, unreasonable,

unduly discriminatory and prejudicial to the extent they exceed or may exceed the following:

From	To	Rates per 36-ft. car		
		Fat Cattle	Single-Deck Fat Sheep	Double-Deck Fat Sheep
Eureka	Swanston	\$114.00	\$91.00	\$155.00
"	San Jose	114.00	91.00	155.00
"	Los Angeles	161.00	129.00	177.00
Willits	Swanston	78.00	62.00	105.00
"	San Jose	79.00	63.00	107.00
"	Los Angeles	154.00	123.00	169.00
Ukiah	Swanston	74.00	59.00	100.00
"	San Jose	74.00	59.00	100.00
"	Los Angeles	154.00	122.00	169.00

Because of the scope of the origin territory it is impracticable to name the specific rate to apply from and to each individual point. Defendants will be expected to revise the rates at points not specifically named in harmony with those herein set forth.

#### O R D E R

This case being at issue upon complaint, and answers 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 defendants, Northwestern Pacific Railroad Company, Southern Pacific Company, and The Atchafalaya, Topeka and Santa Fe Railway Company, according as they participate in the transportation, be and they are hereby notified and required to cease and desist on or before forty-five (45) days from the effective date of this order and thereafter to abstain from publishing, maintaining and applying joint rates for the transportation of cattle, in carloads, and fat sheep, in

single-deck and double-deck cars, not in accordance with the opinion which precedes this order.

IT IS HEREBY FURTHER ORDERED that the defendants, North-western Pacific Railroad Company, Southern Pacific Company, and The Atchison, Topeka and Santa Fe Railway Company, according as they participate in the transportation, be and they are hereby notified and required to establish on or before forty-five (45) days from the effective date of this order, upon notice to the Commission and to the general public by not less than five (5) days' filing and posting in the manner prescribed in Section 14 of the Public Utilities Act, and thereafter to maintain and apply to the transportation of cattle, in carloads, and fat sheep in single-deck and double-deck cars, the joint rates as prescribed in the opinion which precedes this order.

Dated at San Francisco, California, this 3rd day of December, 1928.

Leon Whitall  
Clarence

Thos. J. Laidlaw

M. A. C.  
Commissioners.