

Decision No. 21611

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

HAUSER PACKING COMPANY,

Complainant,

vs.

SOUTHERN PACIFIC COMPANY,

Defendant.

Case No. 2742.

BY THE COMMISSION:

ORIGINAL

O P I N I O N

Complainant is a corporation engaged in the business of operating an abattoir and packing house plant at Los Angeles. By complaint filed August 15, 1928, it is alleged that the rate assessed and collected on three carloads of sheep moving from Soda Springs to Los Angeles on or about August 27, 1927, was unjust and unreasonable in violation of Section 13 of the Public Utilities Act.

Reparation only is involved. Rates are stated in dollars per double deck car.

Complainant's shipments, consisting of three double deck carloads of sheep, originated at Soda Springs, a point 38 miles west of the California-Nevada state line, and were originally billed to Guadalupe, located on defendant's "Coast Route", where they were fed in transit and later reshipped to Los Angeles. For the movement from Soda Springs to Los Angeles defendant assessed and collected charges aggregating \$190.00, obtained by use of

a rate of \$111.00 from Soda Springs to Guadalupe plus a rate of \$79.00 from Guadalupe to Los Angeles, both of which are named in Southern Pacific Company Tariff 645-D, C.R.C. 3118. An additional charge of \$1.50 was collected for sanding, which charge however is not here in issue.

At the time these shipments moved defendant had on file with the Interstate Commerce Commission in its Local, Joint and Proportional Freight Tariff No. 102-E, I.C.C. No. 4430, a rate from Fleish, Nevada, a point beyond Soda Springs, to Los Angeles of \$140.00, which rate applied via defendant's "Coast Route" when live stock was to be fed in transit at a point south of San Jose. Item 1110 Series of this same tariff provided for the collection of an additional charge of \$5.85 for the privilege of stopping the shipment in transit. Effective June 20, 1929, defendant published in its Local, Joint and Proportional Freight Tariff No. 645-D, C.R.C. No. 3118, a rate of like volume from Floriston, California, to Los Angeles and permitting feeding in transit at points south of San Jose, which rate applies as a maximum from Soda Springs. It is on the basis of this interstate rate from Fleish, Nevada, subsequently established from Soda Springs that complainant seeks reparation.

Defendant admits the allegations of the complaint and has signified a willingness to make a 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 unjust and unreasonable to the extent that it exceeded the subsequently established rate of \$140.00 per double deck car plus a charge of \$5.85 per double deck car for the privilege of stopping the shipment for feeding in transit; that complainant made the shipments

as described, paid and bore the charges thereon and is entitled to reparation without interest. Complainant specifically waived the payment of interest.

Complainant will submit statement of shipments 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 consideration 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 precedes this order,

IT IS HEREBY ORDERED that defendant, Southern Pacific Company, be and it is hereby authorized and directed to refund to complainant, Hauser Packing Company, all charges collected on the shipments of sheep involved in this proceeding in excess of \$145.85 per double deck car for the transportation from Soda Springs to Los Angeles, including the privilege of stopping in transit for feeding at Guadalupe.

Dated at San Francisco, California, this 26th day of September, 1929.

W. J. C.
Ed. S.
Wm. G.
Leon A. Kelly
W. J. C.
Commissioners.