

Decision No. 22651.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

CALIFORNIA LIVESTOCK COMMISSION
 COMPANY,
 SOUTHWEST COMMISSION COMPANY,
 WASHBURN & CONDON,
 BABY BEEF EXTENSION, INC.,
 D. E. LILLYWHITE COMPANY,
 CALIFORNIA DRESSED BEEF COMPANY,
 ASSOCIATED MEAT COMPANY,
 NEWMARKET COMPANY,
 WOODWARD-BENNETT COMPANY,
 GLOBE PACKING COMPANY,
 LOS ANGELES PACKING COMPANY,
 MERCHANTS PACKING COMPANY,
 NATIONAL PACKING COMPANY,
 UNION PACKING COMPANY,
 COAST PACKING COMPANY,
 STANDARD PACKING COMPANY,
 HAUSER PACKING COMPANY,
 WILSON & CO. INC. OF CALIFORNIA,

Complainants,

vs.

SOUTHERN PACIFIC COMPANY,
 HOLTON INTER-URBAN RAILWAY COMPANY,

Defendants.

Case No. 2471.

Richard T. Eddy and Alexander Gould for complainants.

Richard T. Eddy for Cudahy Packing Company, intervener.

J. E. Lyons, J. L. Fielding and Harry E. McElroy for defendants.

BY THE COMMISSION:

O P I N I O N

Complainants are corporations, partnerships or individuals engaged in buying, selling, feeding, fattening and slaughtering live stock. By complaint filed December 29, 1927, and as

amended March 29, 1929, it is alleged that the rates maintained by defendants for the transportation of cattle and sheep from points in the Imperial Valley to Los Angeles were, are, and for the future will be, unjust and unreasonable, in violation of Section 13 of the Public Utilities Act, and unduly discriminatory and prejudicial, in violation of Section 19 of the Act.

The Cudahy Packing Company intervened on behalf of complainants. Complainants and intervener, hereafter collectively referred to as complainants, ask for reparation on all shipments of cattle and sheep moving subsequent to July 1, 1925. Shipments made more than two years prior to the filing of the complaint were registered with the Commission within the two-year statutory period by the filing of informal complaints, but are barred from further consideration by reason of the decision of the California Supreme Court rendered April 26, 1928, in Los Angeles & Salt Lake Railroad Co. vs. Railroad Commission of California et al., 77 Cal. Dec. 594.

Public hearings were held before Examiner Geary at Los Angeles, and the case having been submitted and briefs filed, is now ready for an opinion and order.

The Imperial Valley is an important feeding district for cattle and sheep, a large part of which are later slaughtered at the Los Angeles packing plants. A portion of this stock is produced locally, while the balance originates in Arizona and New Mexico. Most of the Arizona and New Mexico stock is fed in the Imperial Valley under feeding in transit arrangements and subsequently moves to Los Angeles at the through interstate rates from point of origin to final destination, plus a feeding in transit charge. There is however a considerable amount of Arizona and New Mexico stock not entitled to transit privileges, and this,

together with the cattle and sheep produced locally, moves into Los Angeles at the intrastate rates here at issue.

Complainants' shipments originated at Calipatria, Rockwood, Brawley, Imperial, El Centro, Heber, Calexico, Orita, Sandia, Verdant, Westmoreland and Holtville. The first seven points are situated on the Inter-California Railway division of the Southern Pacific, extending from Niland south to Calexico. Orita and Sandia are on the Sandia branch of the same carrier, Verdant and Westmoreland on the Westmoreland branch, and Holtville on the Holton Interurban Railway connecting with the Southern Pacific Company at El Centro. The distances from these points to Los Angeles range from 194 to 229 miles. They are located in a section which in the past few years has increased rapidly in productivity. In 1923 there were shipped from the Imperial Valley 24,001 carloads of fruit and vegetables, while in 1928 the movement of these commodities had increased to 37,753 carloads, a gain of 57.3%. The movement of live stock is likewise fairly heavy. In 1928 there were 1871 cars of cattle and sheep shipped to Los Angeles under the intrastate rates. Approximately 600 of the cars were produced locally in the Imperial Valley, while the balance originated in Arizona and New Mexico.

The present intrastate rates on cattle and sheep from the Imperial Valley to Los Angeles are the same as or lower than this Commission established in Board of Supervisors of Imperial County vs. Southern Pacific, 22 C.R.C. 93, decided July 28, 1922. The rates when prescribed were predicated upon the intrastate rates then in effect, particularly with respect to those applicable between Los Angeles and points situated between Niland and Araz Junction. Subsequent to our decision the rail carriers in California adopted a maximum distance scale of intrastate live stock rates, hereafter referred to as the California scale, which

produced rates generally lower than those previously in effect. The California scale, effective August 5, 1924, provides rates in amounts per car for distances up to 1000 miles, with \$3.50 per car added for each branch line traversed, with the exception that certain branch line points were accorded the main line basis of rates. The scale applied from and to points in the Imperial Valley; and effective November 1, 1926, when the Southern Pacific acquired the Holtan Interurban Railway, it was extended to Holtville. However, from and to Brawley, Imperial, El Centro and other points on the so-called Inter-California Railway division of the Southern Pacific, a branch line arbitrary of \$3.50 per car was added, although in the Board of Supervisors case we held that this part of the Southern Pacific should be considered as main line.

Complainants contend the California scale, when compared with other live stock rates in the Mountain-Pacific territory, is too high, particularly as to branch line points, where an arbitrary of \$3.50 per car is added. They are here seeking the so-called California-Arizona scale of rates, which is slightly lower than the California scale for main line application. The Arizona-California scale was established by the Interstate Commerce Commission in American Livestock Association vs. S.P.Co., 26 I.C.C. 37, decided January 7, 1913. When first established it prescribed a \$2.50 arbitrary for branch line hauls, which later became \$3.50 by reason of the war-time increases and reductions. This arbitrary was subsequently removed in Arizona Cattle Growers Association vs. Apache Railway, 101 I.C.C. 181, decided July 22, 1925, thus placing both branch and main line points on the same relative basis. In the latter proceeding the

Interstate Commerce Commission again approved the California-Arizona scale as modified by the general increases and reductions, and later used it as the measure of rates on cattle and sheep between points on the Arizona Eastern Railroad in Arizona and El Paso, Texas. (Peyton Packing Company vs. A.E.R.R., 100 I.C.C. 4.)

There are now innumerable live stock rates in the Mountain-Pacific territory, both for interstate and intrastate application, including a number between points in California, lower than the California-Arizona scale, but complainants are willing to concede that for the most part the rates are depressed to a point below maximum reasonable rates. However they contend, and with considerable logic, that a scale of rates repeatedly approved by the Interstate Commerce Commission for interstate hauls in the same general territory should be a reasonable basis for the charges from the Imperial Valley to Los Angeles. Moreover they point to the fact that the Southern Pacific and The Atchafalaya, Topeka and Santa Fe Railway Company have maintained for years from points in Arizona and New Mexico to El Paso, Texas, rates on cattle and sheep lower than the California-Arizona scale, and that the Southern Pacific Company is now before the Interstate Commerce Commission in I. & S. Docket 3222 for authority to increase those rates to the basis of the California-Arizona scale, indicating, it is claimed, that defendant in this proceeding has accepted the California-Arizona scale as reasonable.

Below is a composite statement compiled from complainants' exhibits comparing the present rates on cattle and sheep from the Imperial Valley to Los Angeles, with the California scale, the California-Arizona scale, the Arizona Intrastate scale and the Arizona-New Mexico-El Paso scale.

RATES ON CATTLE AND SHEEP FROM
IMPERIAL VALLEY POINTS TO LOS ANGELES

CATTLE (FAT)

F r o m	Dis- tance	Assess- ed	R a t e s			
			Intrastate Scale	California- Arizona- Scale	Arizona Intrastate Scale	Ariz.-New Mex.-El Paso Scale
Calipatria	194	\$75.50	*\$75.50	\$71.00	\$60.50	\$59.00
Rockwood	199	76.50	*76.50	72.50	60.50	59.00
Brawley	204	78.50	*78.50	74.50	62.50	61.00
Imperial	214	81.00	*81.50	76.50	64.50	62.00
El Centro	218	81.00	*81.50	76.50	64.50	62.00
Heber	222	81.50	*82.50	78.50	66.50	63.50
Calxico	227	81.50	*82.50	78.50	66.50	63.50
Crita	210	82.00	**82.00	74.50	62.50	61.00
Sandia	216	85.00	**85.00	76.50	64.50	62.00
Westmoreland	207	82.00	**82.00	74.50	62.50	61.00
Holtville	229	85.00	**86.00	78.50	66.50	63.50

SHEEP (DOUBLE-DECK CARS)

Calipatria	194	82.50	*82.50	71.00	60.50
Rockwood	199	83.50	*83.50	72.50	60.50
Brawley	204	86.50	*86.50	74.50	62.50
Imperial	214	89.50	*89.50	76.50	64.50
El Centro	218	89.50	*89.50	76.50	64.50
Heber	222	90.50	*90.50	78.50	66.50
Calxico	227	90.50	*90.50	78.50	66.50
Crita	210	90.00	**90.00	74.50	62.50
Sandia	216	93.00	**93.00	76.50	64.50
Westmoreland	207	90.00	**90.00	74.50	62.50
Holtville	229	93.00	**94.00	78.50	66.50

* Includes \$3.50 Branch Line Arbitrary.
** " " \$7.00 " " " "

Defendants contend the California-Arizona scale is not a proper measure for the rates from the Imperial Valley to Los Angeles, first, because it was designed to apply to the movement of live stock for substantially longer hauls, and second, because the cost of service from the Imperial Valley to Los Angeles is higher than for the normal movement of live stock. When the Interstate Commerce Commission first established the scale in 1913, it applied for hauls varying from 240 to 1000 miles, but in Arizona Cattle Growers Association vs. A.R.V. Co., supra, it was recognized there was need for a modification of

the scale due to the fact that live stock was moving for distances less than 240 miles. Accordingly the Commission prescribed rates for the shorter hauls. Thus the scale at the present time applies for distances comparable to those from the Imperial Valley to Los Angeles. Likewise defendants' claim that the cost of handling live stock from the Imperial Valley to Los Angeles is greater than normal is not sustained. At the present time the Southern Pacific provides through live stock trains to Los Angeles on Tuesdays and Saturdays. These trains are assembled in the afternoons, leaving Niland at about 6:00 P.M. and arriving at Los Angeles at 6:00 the next morning. Defendants have not attempted to show the total cost of performing this service, although they did compare the expenses for wages and fuel on 21 trains from various points in the Imperial Valley for a portion of the haul, viz., to Niland or Indio with the average main line expenses for wages and fuel for all traffic on the Los Angeles Division of the Southern Pacific. While applied to these particular movements wages and fuel costs were higher than the average costs for the same items on the Los Angeles Division, this alone cannot be accepted as conclusively showing that the cost of moving live stock from the Imperial Valley to Los Angeles is higher than moving live stock between other points in this territory. What the partial cost for transporting a commodity a portion of the haul may be, is of little value in determining the approximate cost for the entire movement.

Considerable stress was laid by defendants upon the fact that while practically all sheep in this territory move under double-deck rates, due to lack of double-deck cars, they were forced to furnish two single-deck cars in lieu of one double-deck car. The rates on sheep in double-deck cars are the same as the

rates on cattle under the California-Arizona scale, but under the California scale they are 110% of the cattle rates. They contend that inasmuch as practically all the sheep tendered for movement in double-deck equipment actually moves in two single-deck cars, the rates should not be less than 110% of the cattle rates. The Southern Pacific owns 76 double-deck cars and has 95 single-deck cars which may be converted into double-deck cars. The cost of moving two single-deck cars is somewhat in excess of moving one double-deck car, but there is nothing in this proceeding to show that it is not possible to furnish double-deck equipment for the fairly steady movement of sheep from the Imperial Valley. Apparently defendants' failure to furnish double-deck cars is due to the fact that it is more economical to furnish single-deck cars, as this type of equipment can be utilized to haul other commodities, while double-deck cars are used almost exclusively to haul live stock.

We are of the opinion and so find on this record that complainants have justified for the future the California-Arizona scale of rates. There is now pending before the Interstate Commerce Commission Docket 17000, Part 9, involving the general level of the live stock rates in the Western District. Counsel for defendants on brief urge that the decision in this case be deferred pending a decision in the Interstate proceeding. We however see no reason for further delaying our decision pending a final conclusion by the Interstate Commerce Commission in a proceeding which because of its magnitude may not be terminated for an indefinite period. If the decision of the Interstate Commerce Commission is such as to make necessary a revision of the intrastate rates, this proceeding may be reopened for further consideration.

Complainants ask for reparation. The rates under review are as already stated either the same as or lower than we established in Board of Supervisors of Imperial County vs. S.P. Co., supra. While there is evidence in this record showing that for the future the rates under attack will be unreasonable, there is nothing here presented indicating the time when the rates established by us as reasonable in the Imperial Valley case, because of changed conditions, became unreasonable.

After consideration of all the facts of record we are of the opinion and so find that for the future the rates here under attack from the points shown to Los Angeles will be unjust, unreasonable and discriminatory to the extent they may exceed the following:

F r o m	Cattle (Fat)	Sheep (Double-Deck Cars)
Calipatria	\$71.00	\$71.00
Rockwood	72.50	72.50
Brawley	74.50	74.50
Imperial	76.50	76.50
El Centro	76.50	76.50
Heber	78.50	78.50
Calxico	78.50	78.50
Orita	74.50	74.50
Sandía	76.50	76.50
Verdant	72.50	72.50
Westmoreland	74.50	74.50
Holtville	78.50	78.50

ORDER

This case having been duly heard and submitted, 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, Southern Pacific Company and Holtton Inter-urban Railway Company, according as they

participate in the transportation, be and they are hereby ordered to cease and desist and thereafter to abstain from applying for the transportation of fat cattle and sheep in double-deck cars rates in excess of those set forth in the opinion which precedes this order.

IT IS HEREBY FURTHER ORDERED that defendants, Southern Pacific Company and Holton Inter-urban Railway Company, according as they participate in the transportation, be and they are hereby notified and required to establish on or before thirty (30) days from the effective date of this order, upon not less than five (5) days' notice to the Commission and the public, and thereafter to maintain and apply to the transportation of fat cattle and sheep in double-deck cars from Calipatria, Rockwood, Brawley, Imperial, El Centro, Heber, Calexico, Orita, Sandia, Verdant, Westmoreland and Holtville to Los Angeles, rates not to exceed those set forth in the opinion which precedes this order.

IT IS HEREBY FURTHER ORDERED that in all other respects the complaint in this proceeding be and it is hereby dismissed.

Dated at San Francisco, California, this 9th day of July, 1930.

Edward A. [Signature]
Leon Whitney
Paul D. [Signature]

Commissioners.