

Decision No. 22959.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

HAUSER PACKING COMPANY,

Complainant,

vs.

SOUTHERN PACIFIC COMPANY,

Defendant.

ORIGINAL

Case No. 2901.

BY THE COMMISSION:

O P I N I O N

Complainant is a corporation with its principal place of business at Los Angeles. By complaint filed August 11, 1930, it is alleged that the charges assessed and collected on four double-deck cars of sheep moving from Soda Springs to Guadalupe on or about August 5, 1928, were unjust and unreasonable in violation of Section 13 and in violation of the long and short haul provisions of Section 24 of the Public Utilities Act. The freight charges on all of the shipments were paid within the two-year statutory period immediately preceding the filing of the complaint.

Reparation and rates for the future are sought. Rates are stated in dollars per double-deck car.

Soda Springs is on the main line of the Southern Pacific Railroad 100 miles east of Sacramento. Complainant's shipments consisting of four double-deck cars of sheep, were destined to Guadalupe, a point on the coast route of the Southern Pacific Company 197 miles north of Los Angeles, for feeding in transit,

and were later reshipped to Los Angeles. Charges were assessed and collected against these shipments on basis of a combination rate of \$190.00, there being no through rate published.

Effective June 20, 1929, defendant published in its Local, Joint and Proportional Freight Tariff 645-D, C.R.C. 3118, a rate of \$140.00 upon sheep from Soda Springs to Los Angeles applying via Guadalupe. It is on the basis of this subsequently established rate as well as upon the fact that defendant at the time the shipments moved maintained a rate of like volume from Fleisch, Nevada, to Los Angeles via Guadalupe that complainant seeks reparation.

Defendant admits that the rate assessed was unreasonable to the extent it exceeded \$140.00 plus a feeding-in-transit charge of \$5.85 per double-deck car and has signified its willingness to make a reparation adjustment on complainant's shipments, therefore under the issues as they now stand a formal hearing will not be necessary. No admission is made as to the alleged violation of Section 24 of the Public Utilities Act.

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 it exceeded \$140.00 per double-deck car, plus the lawfully applicable feeding-in-transit charge; 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.

In view of the foregoing finding it will not be necessary to pass upon the alleged violation of Section 24 of the Act.

The exact amount of reparation due is not of record. Complainant will submit to defendant for verification a statement of the shipments made and upon payment of the reparation defendant will notify the Commission the amount thereof. Should it not

be possible to reach an agreement as to the reparation award, 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 precedes this order,

IT IS HEREBY ORDERED that defendant, Southern Pacific Company, be and it is hereby authorized and directed to refund, without interest, to complainant, Hauser Packing Company, all charges collected in excess of \$140.00 per double-deck car plus the lawfully applicable feeding-in-transit charge for the transportation of the sheep involved in this proceeding.

Dated at San Francisco, California, this 8th day of October, 1930.

C. L. Sawyer  
Commissioner

Wm. B. Lott

M. A. Cain  
Commissioners.