

Decision No. 24013.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

JOSEPH L. CROUCE,

Complainant,

vs.

SOUTHERN PACIFIC COMPANY,  
THE ATCHISON, TOPEKA AND SANTA  
FE RAILWAY COMPANY,

Defendants.

Case No. 2906.

BY THE COMMISSION:

ORIGINAL

O P I N I O N

Complainant is an individual engaged in buying, selling and producing cattle and sheep. By complaint filed August 21, 1930, and as amended, it is alleged that the charges assessed and collected on thirteen carloads of feeder cattle shipped from Escondido to Winters on or about August 18, 1928, were unjust, unreasonable and discriminatory in violation of Sections 13 and 19 of the Public Utilities Act. The charges on the shipments were paid August 22, 1928.

Reparation only is sought. Rates are stated in dollars and cents per car.

Escondido is on The Atchison, Topeka and Santa Fe Railway, 107 miles south of Los Angeles. Winters is on the Elmira branch of the Southern Pacific, 80 miles east of San Fran-

cisco. Charges were assessed on complainant's shipments on basis of a rate of \$155.50. Complainant contends that these charges were unreasonable and discriminatory to the extent they exceeded \$131.50. This is 115% of the rate named in Pacific Freight Tariff Bureau Tariff 193-C, F.W.Gomph's C.R.C. No. 478, applying for a like distance between California and Nevada.

Defendants admit the allegations of the complaint and have 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 unlawful in that it exceeded \$131.50 per car; 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.

The exact amount of reparation due is not of record. Complainant will submit to defendants for verification a statement of the shipments made and upon the payment of the reparation defendants 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.

#### C 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, Southern Pacific Company and The Atchison, Topeka and Santa Fe Railway Company, according as they participated in the transportation, be and they are hereby authorized and directed to refund without interest to complainant, Joseph L. Crouch, all charges collected in excess of \$131.50 per car for the transportation from Escondido to Winters of the shipments of feeder cattle involved in this proceeding.

Dated at San Francisco, California, this 8<sup>th</sup> day of September, 1931.

C. L. Seaver

W. J. Ann

W. B. Hansen

Fred G. Stewart  
Commissioners.