

Decision No. 34702.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

CALIFORNIA WOOL GROWERS' ASSOCIATION,
N. J. KVALE,

Complainants,

vs.

NORTHWESTERN PACIFIC RAILROAD COMPANY,
SOUTHERN PACIFIC COMPANY,

Defendants.

ORIGINAL

Case No. 3087.

BY THE COMMISSION:

O P I N I O N

Complainants allege by complaint filed July 3, 1931, and as amended that the charges assessed and collected for the transportation of feeder sheep in double-deck cars from Hopland to Colusa, Artois and Yolo during July and October, 1929, were unjust, unreasonable and discriminatory in violation of the Public Utilities Act.

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

All of the shipments here involved were made by complainant N. J. Kvale; they consist of 2 double-decks to Yolo, 8 to Colusa and 3 to Artois. Yolo, Colusa and Artois are on the Southern Pacific Company 94, 137 and 161 miles respectively north of San Francisco; Hopland is on the Northwestern Pacific Railroad 99 miles north thereof. Charges of \$97.50 to Yolo, \$108.00 to Colusa and \$109.50 to Artois were assessed and

collected on complainant's shipments. These charges are obtained by adding to the Northwestern Pacific rate from Hopland to Santa Rosa the local rates of the Southern Pacific Company from Santa Rosa to the respective destinations. Complainants contend that they are unjust, unreasonable and discriminatory to the extent they exceed \$80.00 to Yolo, \$90.00 to Colusa and \$100.50 to Artois. The rates sought are obtained by taking 115% of the California intrastate scale applying on feeder sheep in single-deck cars and 170% of that figure for the double-deck movement.

Defendants admit the allegations of the complaint and have signified their 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 charges assessed and collected on complainant's shipments were unlawful; that complainant N.J. Kvale 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 payment of the reparation defendants will notify the Commission of 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 preceding opinion,

IT IS HEREBY ORDERED that defendants Northwestern Pacific Railroad Company and Southern Pacific Company, according as they participated in the transportation, be and they are hereby authorized and directed to refund without interest to complainant N. J. Kvale all charges collected in excess of \$80.00, \$90.00 and \$100.50 per car for the transportation from Hopland to Yolo, Colusa and Artois respectively of the shipments of feeder sheep involved in this proceeding.

Dated at San Francisco, California, this 14th day of April, 1932.

C. Kearney
Leon Whitney
M. P. Carr
M. B. Hayes
Fred G. Stewart
Commissioners.