

Decision No. 24768

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

TOOBY BROTHERS,  
CALIFORNIA CATTLEMEN'S ASSOCIATION,

Complainants,

vs.

SOUTHERN PACIFIC COMPANY,  
NORTHWESTERN PACIFIC RAILROAD COMPANY,

Defendants.

Case No. 3151.

BY THE COMMISSION:

O P I N I O N

By complaint filed December 5, 1931 and as amended, complainants allege that the charges assessed and collected on numerous carloads of feeder cattle transported during the two-year period immediately preceding the filing of the complaint were unjust, unreasonable and discriminatory in violation of the Public Utilities Act.

Reparation only is sought. Rates are stated in cents per 100 pounds.

The points of origin and destination, the charges assessed and collected and those sought by complainants are set forth in the following tabulation:

<u>From</u>	<u>To</u>	<u>Collected</u>	<u>Sought</u>
Fort Seward	Tolenas	\$104.50	\$83.50
Bell Springs	Cooperstown	121.50	111.00
Alton	Tolenas	111.50	92.50
Alton	Cooperstown	138.50	125.00
Bell Springs	Suisun	90.00	75.50
Alton	Suisun	104.50	90.50
Alton	Cordelia	104.50	90.50
Alderpoint	Tolenas	95.50	81.00
Alderpoint	Cordelia	95.50	79.00
Alderpoint	Cooperstown	126.50	115.50

Fort Seward, Bell Springs, Alton and Alderpoint are on the Northwestern Pacific Railroad 215, 133, 261 and 208 miles respectively north of San Francisco; Tolenas, Suisun and Cordelia are on the Southern Pacific Company 56, 53 and 59 miles respectively east of San Francisco; Cooperstown is on the line of the Sierra Railway Company of California. The charges assessed and collected on complainants' shipments were obtained by combining rates applying to and from intermediate points; there were no through rates in effect. The rates on basis of which reparation is sought are obtained by taking 115% of the mileage scale applying between Nevada and California for the distances traversed in the movement over the Southern Pacific and Northwestern Pacific Railroad, and on the shipments to Cooperstown adding to the rates so made to Oakdale the local rate of the Sierra Railway Company of California. This latter company is not made a party to this proceeding.

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 complainants' shipments were in violation of the Public Utilities Act in that they exceeded the following:

<u>From</u>	<u>To</u>	<u>Charges</u>
Fort Seward	Tolenas	\$83.50
Bell Springs	Cooperstown	111.00
Alton	Tolenas	92.50
Alton	Cooperstown	125.00
Bell Springs	Suisun	75.50
Alton	Suisun	90.50
Alton	Cordelia	90.50
Alderpoint	Tolenas	81.00
Alderpoint	Cordelia	79.00
Alderpoint	Cooperstown	115.50

We further find that complainants made the shipments as described.

paid and bore the charges thereon, and are entitled to reparation without interest. Complainants specifically waived the payment of interest.

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

#### 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 defendants Southern Pacific Company and Northwestern Pacific Railroad Company according as they participated in the transportation, be and they are hereby authorized and directed to refund without interest to complainants Tooby Brothers and California Cattlemen's Association, according as their interests may appear, all charges collected for the transportation of the shipments of feeder cattle involved in this proceeding in excess of those herein found lawful.

Dated at San Francisco, California, this 16th day of May, 1932.

C. S. Seaver  
Leon Whitsett  
W. A. C.  
W. B. Harris  
Fred G. Stewart  
Commissioners.