

Decision No. 25878.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

J. SHELDON POTTER, TOBY BROTHERS,
CALIFORNIA CATTLEMEN'S ASSOCIATION,

Complainants,

vs.

SOUTHERN PACIFIC COMPANY,
NORTHWESTERN PACIFIC RAILROAD
COMPANY,

Defendants.

Case No. 3293.

ORIGINAL

BY THE COMMISSION:

O P I N I O N

The complaint alleges that the charges assessed and collected on numerous carloads of cattle transported during the two-year period immediately preceding the filing of the complaint were, are, and for the future will be unjust, unreasonable and discriminatory in violation of Sections 13 and 19 of the Public Utilities Act.

Reparation only is sought. Rates are stated in dollars and cents per standard 36-foot car.

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

<u>Commodity</u>	<u>From</u>	<u>To</u>	<u>Collected</u>	<u>Sought</u>
Fat Cattle	Kekawaka	Athlone	\$136.00	\$115.00
Feeder Cattle	"	"	123.00	115.00
"	"	Merced	118.50	114.00
"	Alton	Suisun-Fairfield	104.50	98.00
"	Ft. Seward	"	95.50	89.50

Kekawaka, Alton and Fort Seward are on the Northwestern Pacific Railroad Company 199, 261 and 215 miles respectively north of San Francisco; Athlone, Merced and Suisun-Fairfield are on the Southern Pacific Company 151, 141 and 53 miles respectively east of San Francisco. The charges assessed and collected on complainants' shipments were obtained by combining rates to or from intermediate points. Those on basis of which reparation is sought are made by taking 115% of the mileage scale published by the Southern Pacific Company for the transportation of fat cattle between points in California.

Defendants admit that the charges assessed and collected were unjust and unreasonable to the extent they exceeded those sought. The allegation of discrimination has been abandoned. 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 unjust and unreasonable to the extent they exceeded the following:

<u>From</u>	<u>To</u>	<u>Charges</u>
Kekawaka	Athlone	\$115.00
Kekawaka	Merced	114.00
Alton	Suisun-Fairfield	98.00
Fort Seward	Suisun-Fairfield	89.50

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. Defendants should establish for the future rates not in excess of those herein found reasonable.

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 J. Sheldon Potter, according as their interests may appear, all charges collected for the transportation of the shipments of cattle involved in this proceeding in excess of those herein found reasonable.

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

Dated at San Francisco, California, this 27th day of February, 1933.

W. C. Lewis
Leon Whitely
W. A. Carr
M. B. Harris
A. B. ...
Commissioners.