

Before the Railroad Commission  
of the  
State of California.

Grayson-Owen,  
Complainant,  
vs.  
Southern Pacific Company,  
Defendant.

Case No. 230

J. O. Bracken for complainant,  
George D. Squires for defendant.

DECISION.

Gordon, Commissioner.

The complaint in this case arises out of certain carload shipments of cattle made by complainant over the defendant's railroad from Gazelle and Sisson to Stockyards, California, between September 15, 1910, and November 3, 1910. It is admitted by both sides that at the time these shipments moved, a commodity rate of \$75 on cattle for cars 30 feet in length was in effect from Gazelle to Stockyards and a commodity rate of \$74 from Sisson to Stockyards. It is likewise admitted that defendant's tariffs showed a rate on cattle of \$55 for a car 30 feet in length from Montague, California, to Suisun, California, said rate being intermediate in effect and applicable from Gazelle and Sisson, which points are directly intermediate between Montague and Suisun, and also a rate of \$14 from Suisun to Stockyards. Complainant contends that it is entitled to a combination of the local commodity rates, making a total rate of \$69 per car, while defendant contends that the applicable rate is the through commodity rate

of \$75 per car. Complainant also contends that the through commodity rate from Sisson and Gazelle to Stockyards is unjust and unreasonable in the amount that it exceeds the combination of local commodity rates over Suisun.

Rule 7a of C.R.C. Tariff Circular No. I, as it stood at the time the shipments in question moved, read as follows:-

"In every instance where a commodity rate is named in a tariff upon a commodity, and between specified points, such commodity rate is the lawful rate and the only rate that can be used with relation to that traffic between those points, even though a class rate or some combination may make lower. The naming of a commodity rate on any article or character of traffic takes such article or traffic out of the classification and out of the class rates between the points to which such commodity rate applies."

It will be noted that the rule at that time stated that "where a commodity rate is named in a tariff upon a commodity, and between specified points, such commodity rate is the lawful rate and the only rate that can be used with relation to that traffic between those points, even though a class rate or some combination may make lower."

The rule as so worded was in effect from May 15, 1909, to November 21, 1910. As the shipments now under consideration moved between September 15, 1910 and November 3, 1910, it follows that the rate at that time in effect was the through commodity rate, as contended for by the defendant.

However, complainant has specifically pleaded that this rate was an unjust and unreasonable rate and has presented testimony in support of this allegation in the complaint. The Commission finds that the through commodity rate between Sisson and Gazelle on the one hand, and Stockyards on the other, in effect during the movements

under consideration was an unjust and unreasonable rate and finds that a just and reasonable rate would not have exceeded \$69 per 30 foot car.

The defendant is accordingly ordered and directed to pay to complainant the sum of \$260.22, being the difference between the charges paid by the complainant and those which they would have paid if the rate of \$69 had been in effect, together with interest at the rate of 7% per annum.

The principle upon which this decision is based shall be extended to all like shipments, and a similar order will be made by the Commission upon the presentation of proof of such like shipments, refunds thereon to be made by the carrier after receiving the authorization of the Commission therefor.

The foregoing decision is hereby approved and ordered filed as the decision of the Commission.

**FILED**  
RAILROAD COMMISSION  
STATE OF CALIFORNIA.

JAN 29 1912

CHARLES R. DETRICK,  
SECRETARY.

San Francisco, Calif.  
January 29, 1912.

John W. Eschleman

H. B. Loveland

W. Gordon  
Commissioners.

attest.  
Charles R. Detrick,  
Secretary.