

Decision No. 27107.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

CALIFORNIA WOOL GROWERS ASSOCIATION,
TUBBS ISLAND COMPANY,

Complainants,

vs.

NORThWESTERN PACIFIC RAILROAD COMPANY,
SOUTHERN PACIFIC COMPANY,

Defendants.

ORIGINAL

Case No. 3593.

BY THE COMMISSION:

O P I N I O N

Complainant Tubbs Island Company is a corporation, and California Wool Growers Association is an unincorporated organization.

By complaint filed May 29, 1933, and as amended April 24, 1934, it is alleged that the charges assessed and collected during the two years immediately preceding the filing of the complaint, for the transportation of feeder sheep in double deck cars from Dos Palos to Sears Point were unreasonable and in violation of Section 13 of the Public Utilities Act. The prayer is for reparation.

The shipments of complainant Tubbs Island Company, consisting of 13 double deck carloads of feeder sheep, moved from Dos Palos on the Southern Pacific to Sears Point on the Northwestern Pacific. Charges were assessed and collected on the basis of \$85.50 per double deck car. At the time the shipments moved the

legal rate in effect was \$84.00 per double deck car. The overcharges should be immediately refunded. Complainants contend that the charges should not exceed \$77.20 a double deck car. In answer to amended complaint filed April 28, 1934, defendants admit the allegation in the complaint and have signified their willingness to make a reparation adjustment in the sum of \$88.40 without interest. This adjustment is satisfactory to complainants. 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 rate legally applicable on the shipments of complainant Tubbs Island Company was unjust and unreasonable to the extent it exceeded \$77.20 per double deck car. We further find that complainant Tubbs Island Company made the shipments as described, paid and bore the charges thereon and is entitled to reparation in the sum of \$88.40 without interest. Complainant specifically waived the payment of interest. Defendants should establish for the future a rate not in excess of that 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 conclusion contained in the opinion which precedes this order,

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 to refund to complainant Tubbs Island Company the sum of \$88.40, without interest, in connection with the transportation

of 13 double deck carloads of feeder sheep from Dos Palos to
Sears Point involved in this proceeding.

Dated at San Francisco, California, this 28th
day of May, 1934.

CC Seaver

W. J. Carr

W. B. Lewis

W. H. Thomas
Commissioners.