

Decision No. 27409.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

SWIFT & COMPANY,

Complainant,

vs.

SOUTHERN PACIFIC COMPANY,

Defendant.

Case No. 3834.

BY THE COMMISSION:

ORIGINAL

O P I N I O N

By complaint filed May 14, 1934, and as amended it is alleged that the charges assessed and collected on numerous shipments of sheep transported in double deck cars from stations on the Southern Pacific Company, Redding on the north, Bakersfield on the south, San Francisco on the west (except main line points Sacramento to Oakland via Port Costa and Niles), and Colfax on the east to San Francisco and South San Francisco during the two-year period immediately preceding the filing of the complaint were unjust and unreasonable in violation of Section 13 of the Public Utilities Act.

Reparation only is sought. Western Meat Company, James Allan & Sons, H. Moffat Company, Roth Blum Packing Company, Wm. Taaffe & Company, Union Sheep Company, Washburn & Condon, Sevier Commission Company and Holm Commission Company, by petition filed May 22, 1934, intervened in behalf of complainant and seek like relief.

The movements here in issue are similar to those involv

Case 3110, James Allen & Sons et al. vs. Southern Pacific Company.

In that proceeding the Commission found that the applicable charges were unjust and unreasonable to the extent they exceeded those that would have accrued on basis of rates prescribed in the decision. Reparation was awarded with interest and rates established for the future. It is on basis of the rates established in that proceeding that complainant and interveners here seek reparation.

Defendant originally denied the allegations of the complaint but later withdrew its denial and signified its 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 rates assessed and collected on complainant's shipments of sheep in double deck cars from stations on the Southern Pacific Company, Redding on the north, Bakersfield on the south, San Francisco on the west (except main line points Sacramento to Oakland via Port Costa and Niles), and Colfax on the east to San Francisco and South San Francisco, were unjust and unreasonable to the extent they exceeded those established in Case 3110, supra. We further find that upon proper proof that they paid and bore the charges on the shipments involved, complainant and interveners are entitled to reparation with interest at six (6) per cent. per annum.

The exact amount of reparation due is not of record. Complainant and interveners will submit to defendant for verification a statement of the shipments made and upon the payment of reparation defendant 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.

CORRECTION

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THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY

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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 upon proper proof that they paid and bore the charges, defendant Southern Pacific Company be and it is hereby authorized and directed to refund to complainant, Swift & Company, and to interveners, Western Meat Company, James Allan & Sons, H. Moffat Company, Roth Blum Packing Company, Wm. Taaffe & Company, Union Sheep Company, Washburn & Condon, Sevier Commission Company and Holm Commission Company, according as their interests may appear, with interest at six (6) per cent. per annum, all charges collected in excess of those which would have accrued on basis of the rates found reasonable in the opinion which precedes this order, for the transportation of the shipments of sheep involved in this proceeding.

Dated at San Francisco, California, this 29th day of September, 1934.

Leon Whittell

W. J. Carr

W. B. Harris

W. H. [unclear]

Commissioners.