

Decision No. 27420.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

C. SWANSTON & SON,

Complainant,

vs.

SOUTHERN PACIFIC COMPANY,
THE WESTERN PACIFIC RAILROAD COMPANY,
INDIAN VALLEY RAILROAD COMPANY,
HOBART SOUTHERN RAILROAD COMPANY,

Defendants.

Case No. 3803.

BY THE COMMISSION:

O P I N I O N

Complainant alleges that the charges assessed and collected by defendants¹ for the transportation of sheep (other than feeder sheep) in single and double deck cars from Soda Springs, Truckee, Nelson, Madison, Codora, Los Banos, Jasmin, Crescent Mills, Poe, Westwood, Blairsden, Portola, Hobart Mills and Veramont to Swanston were, during the two-year period immediately preceding the filing of the complaint, are now and for the future will be unjust and unreasonable in violation of Section 13 of the Public Utilities Act.

Reparation and rates for the future are sought.

Soda Springs, Truckee, Nelson, Madison, Codora, Los Banos, Jasmin and Swanston are on the line of the Southern Pacific Company; Swanston is also on the Sacramento Northern Railway; Crescent Mills, Poe, Westwood and Blairsden are on the Western Pacific Railroad; Hobart Mills is on the Hobart Southern, and Veramont is on the Indian

¹ The Sacramento Northern Railway was added as a defendant by amendment filed June 29, 1934.

Valley Railroad.

By Decision No. 26414,² dated October 9, 1933, the Commission prescribed a distance scale of rates on sheep in single and double deck cars for movements from various points in California to San Francisco, South San Francisco, Los Angeles and San Diego. Reparation was awarded with interest and rates established for the future. It is upon the basis of the distance scale prescribed therein applied for movements from the points of origin here (except Hobart Mills and Veramont) to Swanston that complainant seeks reparation and rates for the future. From Hobart Mills and Veramont the basis sought is obtained by adding to the rates prescribed in Decision 26414 6.5 cents per 100 pounds.

Defendants originally denied the allegations of the complaint but later withdrew their denial and signified their willingness to make a reparation adjustment and to establish rates for the future. Therefore under the issues as they now stand a formal hearing will not be necessary.

Upon consideration of all of the facts of record we are of the opinion and find that the rates assessed and collected on complainant's shipments of sheep in single and double deck cars from Soda Springs, Truckee, Nelson, Madison, Codora, Los Banos, Jasmin, Crescent Mills, Poe, Westwood, Blairsden, Portola, Hobart Mills and Veramont to Swanston were, are and for the future will be unjust and unreasonable to the extent they exceeded and now do exceed rates based on the mileage scale prescribed by Decision No. 26414 applied for the movements from and to the points and over the lines involved, and that those from Hobart Mills and from Veramont to Swanston were, are, and for the future will be unjust and unreasonable to the extent they exceeded and now

² Woodward-Bennett Packing Company vs. Southern Pacific Company, Case 2900 et al.

do exceed rates based on the same scale plus 6.5 cents per 100 pounds. We further find that complainant made the shipments described, paid and bore the charges thereon and is entitled to reparation without interest. Complainant specifically waived the payment of interest.

The exact amount of reparation due is not of record. The complainant will submit to defendants for verification a statement of the shipments made and upon the payment of 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 answers 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, The Western Pacific Railroad Company, Indian Valley Railroad Company, Hobart Southern Railroad Company and Sacramento Northern Railway, be and they are hereby ordered and directed to cease and desist on or before thirty (30) days from the effective date of this order from demanding, collecting or receiving charges for the transportation of sheep in single and double deck cars between the points involved in this proceeding in excess of those herein found reasonable.

IT IS HEREBY FURTHER ORDERED that defendants, Southern Pacific Company, The Western Pacific Railroad Company, Indian Valley Railroad Company, Hobart Southern Railroad Company and Sacramento Northern Railway, on or before thirty (30) days from the effective date of this

order, on not less than five (5) days' notice to the Commission and the public, establish for the transportation of sheep in single and double deck cars between the points involved in this proceeding, rates not in excess of those herein found reasonable.

IT IS HEREBY FURTHER ORDERED that defendants, Southern Pacific Company, The Western Pacific Railroad Company, Indian Valley Railroad Company, Hobart Southern Railroad Company and Sacramento Northern Railway, according as they participated in the transportation, be and they are hereby authorized and directed to refund to complainant, C. Swanston & Son, without interest, 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 8th day of October, 1934.

Leon Arthur

W. H. Lane

W. E. Lane

W. H. Lane

Commissioners.