

Decision No. 27421.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

D. J. METZGER,
HAUSER PACKING COMPANY,
THE CUDAHY PACKING COMPANY,

Complainants,

vs.

McCLOUD RIVER RAILROAD COMPANY,
SOUTHERN PACIFIC COMPANY,

Defendants.

Case No. 3843.

BY THE COMMISSION:

O P I N I O N

By complaint filed May 23, 1934, it is alleged that the charges assessed and collected on numerous shipments of sheep transported in double deck cars from stations on the line of the McCloud River Railroad Company to Los Angeles 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.

The movements here in issue are similar to those involved in Case 3490, Sevier Commission Company et al. vs. McCloud River Railroad Co. et al. In that proceeding the Commission found that the applicable charges were unreasonable to the extent they exceeded those that would have accrued on basis of a rate of 69½ cents per 100 pounds on shipments from McCloud and Bartle and 70½ cents per 100 pounds on shipments from Hambone and Pondsosa to Los Angeles. Reparation was

awarded with interest and rates established for the future. It is upon the basis of the rates established in that proceeding that complainants here seek reparation.

Defendants do not deny that the applicable charges are unreasonable to the extent they exceed those sought, and have signified their willingness to make a reparation adjustment provided complainants furnish proper proof that they were damaged by the assailed rates. 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 to the extent the rates assessed and collected on complainants' shipments of sheep in double deck cars from stations on the line of the McCloud River Railroad Company to Los Angeles exceeded 69½ cents per 100 pounds from McCloud and Bartle and 70½ cents per 100 pounds from Hambone and Ponzosa they were unjust and unreasonable. We further find that upon proper proof that they were damaged by the collection of the assailed rates on the shipments involved, complainants are entitled to reparation with interest at six (6) per cent. per annum.

The exact amount of reparation due is not of record. Complainants 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 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 of damages defendants McCloud River Railroad Company and Southern Pacific Company, according as they participated in the transportation, be and they are hereby authorized and directed to refund to complainants, D. J. Metzger, Hauser Packing Company and the Cudahy Packing Company, according as their interests may appear, with interest at six (6) per cent. per annum, all charges collected in excess of those that 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 C. Whelan

W. H. Egan

M. B. Harris

W. H. Egan

Commissioners.