

Decision No. 27422.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

STERLING MEAT COMPANY,  
ASSOCIATED MEAT COMPANY,  
SWIFT & COMPANY,

Complainants,

vs.

SOUTHERN PACIFIC COMPANY,

Defendant.

Case No. 3851.

BY THE COMMISSION:

O P I N I O N

By complaint filed June 7, 1934, and as amended, it is alleged that charges assessed and collected on numerous shipments of fat sheep (lambs) transported in double deck cars from Soda Springs and Truckee 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 Cudahy Packing Company, Standard Packing Company, Coast Packing Company, Distributors Packing Company, Union Packing Company, Merchants Packing Company, Globe Packing Company, Newmarket Company, Hauser Packing Company, United Dressed Beef Company, Peerless Packing Company, Wilson & Co. Inc. of California, Cornelius Brothers, Ltd., and Washburn & Condon, by petition filed June 21, 1934, intervened in behalf of complainants and seek like relief.

The movements here in issue are similar to those involved

in Case 3310, Distributors Packing Co. 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 the rates prescribed in the decision. Reparation was awarded with interest and rates established for the future. It is on the basis of the rates established in that proceeding that complainants and interveners here seek reparation.

Defendant does not admit that the assailed rates were unjust or unreasonable. However, in view of the Commission's finding in the Distributors Packing Case, supra, it has signified its willingness to make a reparation adjustment provided complainants and interveners furnish proper proof that they were damaged. 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 rates assessed and collected upon complainants' and interveners' shipments of sheep in double deck cars from Soda Springs and Truckee to Los Angeles were unjust and unreasonable to the extent they exceeded 56 cents per 100 pounds from Soda Springs and 57 cents per 100 pounds from Truckee to Los Angeles. We further find that upon proper proof that they were damaged by the collection of the assailed rates on the shipments involved, complainants 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. Complainants 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.

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 were damaged by the assailed rates defendant Southern Pacific Company be and it is hereby authorized and directed to refund to complainants, Sterling Meat Company, Associated Meat Company and Swift & Company, and to interveners, The Cudahy Packing Company, Standard Packing Company, Coast Packing Company, Distributors Packing Company, Union Packing Company, Merchants Packing Company, Globe Packing Company, Newmarket Company, Hauser Packing Company, United Dressed Beef Company, Peerless Packing Company, Wilson & Co. Inc. of California, Cornelius Brothers, Ltd. and Washburn & Condon, 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 9<sup>th</sup> day of October, 1934.

Leon C. White

W. B. Lamm

M. B. Lamm

M. B. Lamm

Commissioners.