

Decision No. 27444.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

SWIFT & COMPANY,

Complainant,

vs.

SOUTHERN PACIFIC COMPANY,

Defendant.

ORIGINAL  
Case No. 3835.

BY THE COMMISSION:

O P I N I O N

By complaint filed May 14, 1934, and as amended, it is alleged that charges assessed and collected on numerous shipments of sheep transported in double deck cars from stations on the line of the Southern Pacific Company<sup>1</sup> 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 Pack-

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<sup>1</sup> Specifically the origin territory embraced by the complaint is as follows: "Main and branch line points, Redding on the north, Roseville on the east and Bakersfield on the south, excepting and excluding from such territory as above generally described origin points located on defendant's lines as follows \* \* \* :

Davis to Elmira

Elmira to Rumsey

Elmira to Suisun-Fairfield

Suisun-Fairfield to Napa Jet.-

Calistoga-Santa Rosa-Wingo

Suisun-Fairfield to Avon (via  
Port Costa)

Avon to Janney

Avon to Radum

Radum to Medal

Port Costa to San Francisco via Oakland

San Francisco to Alvarado

Alvarado to Niles (via Halvern and via  
Newark)

Elmhurst to Halvern

Niles to Pleasanton"

ing Company, Newmarket Company, Hauser Packing Company, Associated Meat Company, Peerless Packing Company, Wilson & Co. Inc. of California, Cornelius Brothers, Ltd., Washburn & Condon and D. J. Metzger, by petition filed May 16, 1934, intervened in behalf of complainant and seek like relief.

The movements in issue are similar to those involved in Case 2900, Woodward-Bennett Packing Co. et al. vs. Southern Pacific Company et al. 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 provided complainant and interveners 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 the rates assessed and collected for the transportation to Los Angeles of complainant's and interveners' shipments of sheep involved in this proceeding were unjust and unreasonable to the extent they exceeded those that would have accrued on basis of the rates prescribed in Case 2900, *supra*. We further find that upon proper proof that they were damaged by the collection of the assailed rates complainant and interveners are entitled to reparation with interest at six 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.

### 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 complainant Swift & Company and to interveners The Gudahy 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, Associated Meat Company, Peerless Packing Company, Wilson & Co. Inc. of California, Cornelius Brothers, Ltd., Washburn & Condon and D. J. Metzger, 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 15<sup>th</sup> day of October, 1934.

Leon A. Whelan  
W. J. C. C.  
W. J. C. C.  
W. J. C. C.  
W. J. C. C.  
Commissioners.