

Decision No. 27461.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

D. J. METZGER COMPANY,
Complainant,

vs.

THE WESTERN PACIFIC RAILROAD COMPANY,
SACRAMENTO NORTHERN RAILWAY,
THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY,

Defendants.

Case No. 3901.

ORIGINAL

BY THE COMMISSION:

O P I N I O N

By complaint filed September 11, 1934, it is alleged that the charges assessed and collected on two double deck cars of sheep transported from Little Valley to Los Angeles were unjust and unreasonable in violation of Section 13 of the Public Utilities Act.

Reparation only is sought.

Complainant's shipments were forwarded from Little Valley, a point on the line of The Western Pacific Railroad Company 95 miles north of Keddle, on July 5, 1932. They moved via The Western Pacific Railroad Company to Sacramento, thence Sacramento Northern Railway to Millar, where they were fed in transit. On November 29, 1932, they were reshipped via the Sacramento Northern Railway to Port Chicago, thence The Atchison, Topeka and Santa Fe Railway Company to Los Angeles. Charges were assessed and collected on basis of a rate of 32½ cents per 100 pounds, minimum weight 20,000 pounds, applying on

feeder sheep from Little Valley to Millar, plus a rate of \$129.00 per 36 foot car applying on fat sheep from Millar to Los Angeles.¹ Effective June 19, 1933, in Supplement No. 6 to Pacific Freight Tariff Bureau Tariff 221, C.R.C. 528, of F. W. Gomph, Agent, defendants established two rates for the transportation of fat sheep from Little Valley to Millar via the route complainant's shipments moved. The one is \$150.00 per 36 foot car, plus an additional charge of \$12.00 per car regardless of length; the other is 58½ cents per 100 pounds, minimum weight 20,000 pounds, plus a like charge of \$12.00 per car. It is upon the basis of the lower of these subsequently established rates, plus a transit charge of \$5.85 per car, that complainant seeks reparation.

Defendants admit the allegations of the complaint and have signified their 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 the assailed rates were unjust and unreasonable to the extent they exceeded the lower of the subsequently established rates, plus a transit charge of \$5.85 per car; that complainant made the shipments as described, bore the charges thereon and is entitled to reparation with interest at six (6) per cent. per annum.

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

¹ Items 17157 and 1410 of Pacific Freight Tariff Bureau Tariff No. 193-C, C.R.C. No. 478 of F. W. Gomph, Agent.

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, The Western Pacific Railroad Company, Sacramento Northern Railway, and The Atchison, Topeka and Santa Fe Railway Company, according as they participated in the transportation; be and they are hereby authorized and directed to refund to complainant, D. J. Metzger Company, with interest at six (6) per cent. per annum, all charges collected in excess of those that would have accrued at 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 22^d day of October, 1934.

Leon A. ...

M. H. ...

M. B. ...

W. H. ...

Frank R. ...

Commissioners.