

Decision No. 27622.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

HAMPTON LIVE STOCK COMMISSION
COMPANY,

Complainant,

vs.

SOUTHERN PACIFIC COMPANY,

Defendant.

OPINION

Case No. 3880.

BY THE COMMISSION:

O P I N I O N

Complainant alleges that the charges assessed and collected on numerous shipments of sheep transported from Delta to Los Angeles on July 30 and August 1, 1932, were and are unreasonable, discriminatory and prejudicial in violation of Sections 13 and 19 of the Public Utilities Act.

Reparation and rates for the future are sought.

Delta is on the line of the Southern Pacific Company 649 miles north of Los Angeles. Charges were assessed and collected on complainant's shipments on basis of a rate of \$144 per double deck car, named in Southern Pacific Company's Tariff 645-D, C.R.C. 3112. Complainant contends that this rate was and is unlawful to the extent it exceeded and now does exceed the rate obtaining under the mileage scale prescribed by the Commission in Decision No. 26414 of October 9, 1933, in Woodward-Bennett Packing Co. vs. Southern Pacific Co., Case No. 2900 et al., which for a distance of 649 miles is 60 cents per 100 pounds subject to a minimum of 20,000 pounds for a standard 36 ft. 7 inch

double deck car.

Defendant admits the allegation of the complaint and has signified its willingness to make a reparation adjustment and to establish the rate sought for the future; 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 rate was and is unlawful to the extent it exceeded and now does exceed the rate obtaining under the mileage scale prescribed by the Commission in Decision No. 26414, supra. We further find that complainant made the shipments as described, paid 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. Complainant will submit to defendant for verification a statement of the shipments made and upon 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 defendant Southern Pacific Company be and it is hereby ordered and directed to cease and desist 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, from demand-

ing, collecting or receiving charges for the transportation of sheep in double deck cars from Delta to Los Angeles in excess of those found lawful in the opinion which precedes this order.

IT IS HEREBY FURTHER ORDERED that defendant Southern Pacific Company be and it is hereby ordered to establish 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, and thereafter to apply for the transportation of sheep in double deck cars from Delta to Los Angeles a rate not in excess of that herein found lawful.

IT IS HEREBY FURTHER ORDERED that defendant Southern Pacific Company be and it is hereby ordered and directed to refund without interest to complainant Hampton Live Stock Commission Company all charges collected for the transportation of the shipments of sheep from Delta to Los Angeles involved in this proceeding in excess of those which would have accrued at the rate found lawful in the opinion which precedes this order.

Dated at San Francisco, California, this 22^d day of December, 1934.

Leon A. Wheeler

W. H. Cunn

W. B. Lewis

W. H. Cunn

Frank R. Sullivan
Commissioners.