

Decision No. 27771

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

C. SWANSTON & SON,

Complainant,

vs.

SOUTHERN PACIFIC COMPANY,
THE WESTERN PACIFIC RAILROAD COMPANY,
SACRAMENTO NORTHERN RAILWAY,

Defendants.

ORIGINAL

Case No. 3952.

BY THE COMMISSION:

O P I N I O N

Complainant alleges that the rates now maintained by defendants for the transportation to Swanston of sheep (other than feeder sheep) in double deck cars from Norvell on the Western Pacific Railroad, Sankey on the Sacramento Northern Railway and in single and double deck cars "from points of origin listed on pages 141-B to 141-G inclusive of Southern Pacific Company Tariff C.R.C. 3118, including points located between those named but excluding points from which rates to swanston are now published on the said pages,"¹ are and for the future will be unjust and unreasonable and that those applying on sheep in single and double deck cars from Sankey and in double deck cars from Norvell and Truckee were unjust and unreasonable during the period March 10, 1934, to August 17, 1934, inclusive.

Reparation is sought on the shipments from Sankey, Norvell

¹ Roughly the territory embraced in the pages referred to extends from Bakersfield on the south to the Oregon state line.

and Truckee and rates for the future from all of the points covered by the complaint.

Swanston is served by both the Sacramento Northern Railway and the Southern Pacific Company. The points of origin are all on the line of the Southern Pacific Company excepting Sankey which is on the Sacramento Northern Railway and Norvell which is on The Western Pacific Railroad.

By Decision No. 26414, supra. and as supplemented by Decision No. 26502², the Commission prescribed a distance scale of rates for the transportation of sheep in single and double deck cars for movements from various points in California to San Francisco, South San Francisco, Los Angeles and San Diego and awarded reparation on all shipments moving subsequent to July 9, 1930. It is upon the basis of this scale applied to the movements here involved that complainant seeks reparation and rates for the future.

Defendants have signified their willingness to make a reparation adjustment and to establish rates 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 rates to Swanston now maintained by defendants Sacramento Northern Railway and The Western Pacific Railroad Company for the transportation of sheep (other than feeder sheep) in double deck cars from Norvell and Sankey and by defendant Southern Pacific Company for single and double deck cars "from points of origin listed on pages 141-B to 141-G in-

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clusive of Southern Pacific Company Tariff C.R.C. 3118, including points located between those named but excluding points from which rates to Swanston are now published on the said pages," are and for the future will be unjust and unreasonable to the extent that they exceed rates which would result from the application of the mileage scale prescribed in Decision Nos. 26414 and 26502 supra.

We further find that the rates assessed and collected on complainant's shipments in single and double deck cars from Sankey and in double deck cars from Norvell and Truckee to Swanston moving during the period March 10, 1934, to August 17, 1934, inclusive, were unjust and unreasonable to the extent they exceed rates equivalent to the mileage scale prescribed in Decisions Nos. 26414 and 26502 supra. We further find that complainant paid and bore the charges thereon and is entitled to reparation, together with interest at the rate of six (6) per cent per annum.

The exact amount of reparation due is not of record. Complainant 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 answers 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 defendants Southern Pacific Company, The Western Pacific Railroad Company and Sacramento Northern Railway, according as they participated in the transportation, be and they are 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 to Swanston of sheep (other than feeder sheep) in single and double deck cars "from points of origin listed on pages 141-B to 141-G inclusive of Southern Pacific Company Tariff C.R.C. 3118, including points located between those named but excluding points from which rates to Swanston are now published on the said pages" and in double deck cars from Sankey and Norvell rates not in excess of those herein found lawful.

IT IS HEREBY FURTHER ORDERED that defendants, Sacramento Northern Railway, The Western Pacific Railroad Company and Southern Pacific Company, according as they participated in the transportation, be and they are hereby authorized and directed to refund to complainant, C. Swanston and Son, together with interest at six (6) per cent per annum, all charges collected for the transportation from Sankey, Norvell and Truckee to Swanston of the shipments of sheep involved in this proceeding in excess of those that would have accrued on basis of the rates found reasonable in the opinion which precedes this order.

Dated at San Francisco, California, this 25th day of February, 1935.

Leon Whelan
M. B. Linn
M. B. Linn
W. B. Linn
W. B. Linn
COMMISSIONERS.