

Decision No. 32182

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Establishment of )  
maximum and minimum, or maximum or )  
minimum rates, rules and regulations of )  
all common carriers, as defined in the )  
Public Utilities Act of the State of )  
California, as amended, and all highway )  
carriers, as defined in Statutes 1935, )  
Chapter 223, as amended, for the trans- )  
portation, for compensation or hire, )  
of any and all agricultural products. )

Case No. 4293

ORIGINAL

BY THE COMMISSION:

SUPPLEMENTAL OPINION AND ORDER

By Decision No. 31924 of April 11, 1939, as amended, in the above entitled proceeding, minimum rates were established for the transportation of livestock between points in California by highway common, radial highway common and highway contract carriers and, in addition, maximum rates were established for like transportation by common carriers by railroad. Pursuant to this order, Southern Pacific Company published revised rates for intrastate rail transportation of livestock between all points on its lines. By appropriate petition filed thereafter, however, this carrier sought exemption of transportation from, to and between points on its Mina Branch, a narrow gauge line extending from Benton to Keeler, and authority to restore the rates previously in effect. California Cattlemen's Association and California Wool Growers' Association opposed the petition. The matter was publicly heard at San Francisco before Examiner Broz and a brief was filed by protestants.

A cost engineer, testifying in petitioner's behalf, stated that the cost per mile of performing transportation over narrow gauge lines was considerably in excess of the cost over standard gauge lines. Following is a comparison of the estimated locomotive mile and train mile costs developed by the engineer for the two types of operations:

	<u>Cost Per Mile Operated</u> <u>Standard</u> <u>Gauge</u>	<u>Narrow</u> <u>Gauge</u>	<u>Excess Cost Narrow</u> <u>Gauge over</u> <u>Standard Gauge</u>
Locomotive Miles	\$0.2594	\$0.7245	179.2%
Train Miles	0.5247	1.0015	90.8%

The witness asserted also that the cents per 100 pounds cost of transporting livestock over narrow gauge lines exceeded the cost of performing like transportation over standard gauge lines for the additional reasons that a narrow gauge car would only accommodate about 3 tons of feeder sheep, for example, as compared with 6 tons for a single deck car and 10 tons for a standard double-deck car; and that the empty return haul involved in the use of narrow gauge cars was 100 per cent as compared with only 76 per cent in connection with standard gauge transportation.

In addition, the cost witness developed the estimated out-of-pocket cost of transporting feeder sheep by rail from representative points on the Mina Branch to various points in the San Joaquin Valley on the line of the Southern Pacific Company.<sup>1</sup> These estimated costs were compared with the rates prescribed by Decision No. 31924 and the comparisons were said to demonstrate that the prescribed maximum rates were lower than the out-of-pocket cost of performing the service.

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The movement of livestock from or to points on the Mina Branch was said to consist mainly of feeder sheep moving between points on the Southern Pacific Company between Fresno and Bakersfield on the one hand, and Laws and Hammil, on the Mina Branch, on the other hand.

Rate exhibits were introduced by a witness for petitioner comparing the prescribed rates for transportation between the territories covered by the cost studies with those in effect prior to the compliance date of Decision No. 31924. These exhibits show that the prescribed rail rates are from 6 cents to 13 cents per 100 pounds less than the former rail rates.

It was pointed out by petitioner's witness that in Docket 17000, Part 9, Livestock Western District Rates 176 I.C.C. 1, the Mina Branch was excluded from the application of rates established by the Interstate Commerce Commission as maximum for intrastate transportation between points in California. It was stated that the present interstate livestock rates from and to points on the Mina Branch are published on a combination basis over Owenyo. The combination was said to be based upon use of the prescribed interstate rates from and to Owenyo, plus the local Southern Pacific rates for narrow gauge hauls from or to Owenyo on the one hand and points on the Mina Branch on the other hand.

While authority to restore the rates in effect prior to compliance with Decision No. 31924 was sought, petitioner expressed a willingness to convert those rates from a dollars per car to a cents per 100 pound basis.

A witness for California Cattlemen's Association and California Wool Growers' Association, protestants, called attention to the fact that in August, 1924, the Southern Pacific Company voluntarily established a uniform mileage scale of intrastate rates for the transportation of livestock between all points in California, including points on the Mina Branch, and that this scale provided no additional charge for narrow gauge rail hauls from or to points between Benton and Keeler. He pointed out also that in August, 1925, the Southern Pacific

Company, pursuant to an order of the Interstate Commerce Commission, published the so-called "Arizona-California Livestock Scale" between Arizona points on the one hand, and all points in California, including points on the Mina Branch, on the other hand, without additional charge for the narrow gauge service.<sup>2</sup> Moreover, by Decision No. 26414, dated October 9, 1933, in Case No. 2900, the witness said, this Commission ordered the petitioner to establish a maximum scale of rates for the transportation of sheep between substantially all points in California, including points on the Mina Branch, without any additional charge for narrow gauge service.

The evidence is convincing that operating conditions encountered in connection with transportation from, to and between points on the Mina Branch of the Southern Pacific Company are more adverse than in connection with ordinary standard gauge transportation and that higher operating costs result. It appears clear, therefore, that rates somewhat in excess of those prescribed by Decision No. 31924 are justified.

It is true that, as pointed out by protestants, the California intrastate scale established voluntarily by Southern Pacific Company in 1924 did not specifically provide a rate arbitrary for transportation over narrow gauge lines. It did, however, provide an added charge of \$3.50 per car for movements over branch lines. Under this scale an added charge of \$7.00 per car would be applicable for a movement from Bakersfield to Laws, for example, since both the Owenyo and Mina Branches would be traversed. In any event, the rates in this scale were substantially higher than those prescribed by Decision No. 31924. In the Arizona-California scale prescribed by the Interstate Commerce Commission

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Arizona Cattle Growers' Association v. Apache Railway Company, et al., Docket No. 15153, (Decided July 22, 1925; Reported 101 I.C.C. 181).

in 1925 no branch line or narrow gauge arbitrary was added, but the rates in that scale also were much higher than those prescribed by this Commission for transportation within California. Moreover, it does not appear that the propriety of an added amount for narrow gauge service was given separate attention by the Interstate Commerce Commission in that proceeding. The so-called 26414 scale prescribed by this Commission did not apply to transportation from, to or between points on the Mina Branch. For the latter traffic the decision merely provided that the California intrastate scale should not be exceeded. As has been pointed out, the latter scale provided a branch line arbitrary of \$3.50 per car and named rates considerably higher in volume than those prescribed by Decision No. 31924.

Although the adverse operating conditions encountered in narrow gauge transportation warrant higher rates, it cannot be said on this record that the rates previously in effect for this transportation are reasonable or justified. The basis upon which these rates were constructed was not explained and only the rates from and to a very limited number of points were shown. In Decision No. 31924 a rate arbitrary of 6½ cents per 100 pounds was authorized to be added for joint movements involving Class II or Class III railroads. It appears that many of the reasons justifying this added charge exist also in connection with narrow gauge transportation and that the authorization of such a rate arbitrary to be added to the prescribed rates for transportation from, to or between points on the Mina Branch will give as much recognition as can be given on this record to the higher operating costs shown. In order to this effect will be entered, subject to the condition that rates in effect prior to compliance with Decision No. 31924 shall not be exceeded.

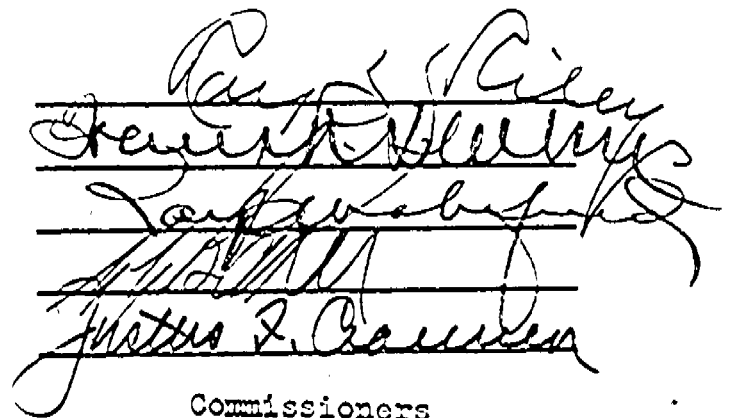
Therefore, good cause appearing,

IT IS HEREBY ORDERED that Southern Pacific Company be and it is hereby authorized to establish, in lieu of the rates prescribed by Decision No. 31924, as amended, for transportation from, to or between points on the Mina Branch of said carrier, Benton to Koeler, inclusive, rates no higher in volume or effect than those prescribed as maximum in said decision plus  $6\frac{1}{2}$  cents per 100 pounds; provided, however, that the rates so authorized to be established shall in no event exceed the rates in effect for this transportation on November 6, 1939, converted to cents per 100 pounds on the basis of average loading weights.

IT IS HEREBY FURTHER ORDERED that in all other respects said Decision No. 31924, as amended, shall remain in full force and effect.

This order shall become effective twenty (20) days after the date hereof.

Dated at Los Angeles, California, this 26<sup>th</sup> day of March, 1940.

  
Commissioners