

Decision No. 12554

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

J. A. Vink,
Complainant,

vs.

California Southern Railway Company,
a Corporation,
Atchison, Topeka & Santa Fe Railway Company,
a Corporation,
Los Angeles & Salt Lake Railroad Company,
a Corporation,
Pacific Electric Railway Company,
a Corporation,

Defendants.

ORIGINAL

CASE NO. 1895.

F.W. Turcotte and B.H. Carmichael, For Complainant,
M.W. Reed and B. Levy, For Atchison, Topeka & Santa Fe
Railway Company, Defendant,
E.E. Bennett and J.P. Quigley, For Los Angeles & Salt Lake
Railroad Company, Defendant,
R.E. Wedekind, For Pacific Electric Railway Company,
Defendant.

BY THE COMMISSION:

O P I N I O N

The complaint in this proceeding was filed March 26, 1923 by J. A. Vink, who is engaged in the business of buying and selling live stock; also stock feed, cotton seed and articles used in the preparation of stock feed.

The allegations are that the rates charged by the defendants for the transportation of three carloads of cottonseed from Blythe to Hynes and Artesia were excessive, unjust and unreasonable and in violation of Section 13 of the Public Utilities Act. Repar-

ation is requested.

A public hearing was held at Los Angeles on June 21, 1923 before Examiner Geary and the matter is now ready for a decision.

The shipments involved moved during the month of March, 1921, at which time the rate was 80½ cents per 100 pounds from Blythe to Hynes, and 77½ cents from Blythe to Artesia. The points of origin are located on the rails of the California Southern Railroad Company and in the movements from Blythe to Hynes the tonnage passes over the California Southern, Atchison, Topeka & Santa Fe and Los Angeles & Salt Lake. To Artesia the movement is over the California Southern, Atchison, Topeka & Santa Fe and the Pacific Electric.

Since these shipments moved the rates on cotton seed have been materially reduced. On May 16, 1921 the rate from Blythe to Hynes was 80½ cents; on May 17, 1921, 62½ cents; on February 6, 1922, 57½ cents and on May 13, 1922, 49½ cents. On May 16, 1921 the rate to Artesia was 77½ cents; on May 17, 1921, 59½ cents and on July 1, 1922, 53½ cents. The reductions, effective May 17, 1921, were by order of this Commission in Case No. 1512, Decision No. 8852, Blythe Chamber of Commerce, et al., vs. California Southern Railroad Company, et al. decided April 12, 1921, 19, C.R.C. 681.

In the case referred to the Commission had before it all of the class and commodity rates of the California Southern Railroad, as well as certain joint, class and commodity rates of California Southern and the Atchison, Topeka & Santa Fe, and since the decision in that case goes into the details of the rates and financial conditions of the California Southern Railroad it will not be necessary to review them in this decision. The California Southern at that time was operating at a very heavy loss and shortly after the Commission rendered its decision the property was leased to the Atchison, Topeka & Santa Fe Railway Company and

is being operated by that company.

The California Southern Railroad Company is now a non-operating organization and was not represented by counsel in the instant proceeding.

The complainants presented a number of exhibits intended to show that the rates assailed are materially higher than those in effect between other points in California and between points outside of California for equidistances. However, the exhibits dealt principally with rates involving movements via one line of railroad, whereas in this situation the tonnage moved over three lines.

Defendants presented similar exhibits intended to show that the rates now in effect compare favorably with the rates on the same commodity from other shipping points.

In the former proceeding we prescribed 50 cents per 100 pounds as a reasonable rate to Los Angeles in place of 68 cents, a reduction of 18 cents, or 27½ per cent. Since the date of this order, May 17, 1921, further reductions have been voluntarily published by the carriers until the rate to Hynes became 49½ cents instead of 80½ cents, a total reduction of 31 cents, or 38½ per cent; to Artesia the rate became 53½ cents instead of 77½ cents, a total reduction of 24 cents, or 31 per cent.

No shipments of cotton seed other than the three cars involved in this proceeding have moved to Hynes or Artesia, notwithstanding rate reductions by more than 30 per cent. The evidence would indicate that there are no prospects of any future movements and that this proceeding was for the purpose of securing reparation award.

At the time these shipments moved we had under consideration Case No. 1512, supra, which involved an adjustment of these

same rates and claims for reparation. In that proceeding we said:

"Reparation was sought by the complaint, but no testimony in support of the same was offered. This Commission has held that in a general readjustment of all rates reparation cannot be granted without creating discrimination and as there is here no basis for an award, the same is denied."

In view of the reductions made by our order in Case No. 1512, and of the voluntary reductions made by defendants, we do not find the present rates either excessive or unreasonable, nor do we find that complainant was ~~entitled to reparation on account of the rates charged~~ entitled to reparation on account of the rates charged under the conditions then existing.

Reparation is denied.

The complaint will be dismissed.

O R D E R

This case being at issue upon complaint and answer on file, and having been duly heard and submitted by the parties, and full investigation of the matters and things involved having been had, and the Commission having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

IT IS ORDERED that the complaint in this proceeding be, and it is hereby dismissed.

Dated at San Francisco, California, this 27th
day of August, 1923.

C. Seaver
W. H. ...

Egerton Shore
J. S. Whittier
Commissioners.