

Decision No. 14877

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA
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California Fruit Growers Exchange,
Complainant.

vs.

Los Angeles & Salt Lake Railroad Company,
Southern Pacific Company.
Defendants.

CASE NO. 2106

BY THE COMMISSION:

O P I N I O N

Complainant is a co-operative association engaged in the production and marketing of citrus fruits, with its principal place of business at Los Angeles, California.

By complaint filed February 19, 1925, as amended March 27, 1925, it alleges that during the period from February 20, 1923 to May 10, 1923 it shipped and bore the freight charges on 19 carloads of citrus fruits from Arroyo Park to San Francisco, Oakland and Stockton, and that during the period March 17, 1924 to May 13, 1924 it shipped and bore the freight charges on 10 carloads of citrus fruits from Ontario to San Francisco, Oakland and Stockton. The movement from both Arroyo Park and from Ontario was via the Los Angeles and Salt Lake Railroad to Los Angeles, thence via the Southern Pacific to destinations. Charges were assessed at the applicable rate of 46 cents per 100 pounds from Arroyo Park and 51 cents per 100 pounds from Ontario. Both rates were a combin-

ation of class and commodity rates over Los Angeles. The factors from Arroyo Park and Ontario to Los Angeles were the applicable Class C rates of 10½ cents per 100 pounds and 15½ cents per 100 pounds, respectively, as published in Los Angeles and Salt Lake Railroad Company's Tariffs C.R.C. Nos. 260 and 294. The factor from Los Angeles to destinations was 35½ cents per 100 pounds, as published in Southern Pacific Company's C.R.C. 2503, for shipments from Arroyo Park, and C.R.C. 2865, for shipments from Ontario.

Reparation is sought in the amount of \$812.47.

It is alleged by complainant that the charges via the route over which the shipments moved should not have been in excess of 35½ cents per 100 pounds from Arroyo Park and 45 cents per 100 pounds from Ontario, which rates were subsequently established, effective January 11, 1925, in Agent F. W. Gomp's C.R.C. 274.

Defendants admit complainant's allegations. Therefore, under the circumstances, a public hearing will not be necessary.

After due consideration we find that complainant made shipments as described in statements attached to and made a part of the complaint, paid and bore the charges thereon, and that upon carriers' admission that the amount collected was excessive, reparation should be awarded.

We are of the opinion that complainant has been damaged in the amount of the difference between the charges collected and those that would have accrued at the subsequently established rates of 35½ cents per 100 pounds from Arroyo Park and 45 cents per 100 pounds from Ontario and is entitled to reparation in a sum not to exceed \$812.47. Complainant should submit a statement of the shipments to defendants for check. Should it not be possible to reach an agreement, the matter may be referred to the Commission

for further consideration 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 conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof.

IT IS HEREBY ORDERED that defendants, Los Angeles and Salt Lake Railroad Company and Southern Pacific Company, according as they participated in the transportation, be, and they are hereby, authorized to pay to complainant, California Fruit Growers Exchange, all charges they may have collected in excess of 35 $\frac{1}{2}$ cents per 100 pounds for the transportation of 19 carloads of citrus fruits moving during the period February 20, 1923 to May 10, 1923, both dates inclusive, from Arroyo Park to San Francisco, Oakland and Stockton, and all charges they may have collected in excess of 45 cents per 100 pounds for the transportation of 10 carloads of citrus fruits moving during the period March 17, 1924 to May 13, 1924, both dates inclusive, from Ontario to San Francisco, Oakland and Stockton, as shown in statement attached to and made a part of the complaint, as reparation account excessive rates.

Dated at San Francisco, California, this 1st day of May, 1925.

O. Leary

E. J. Shue

George H. Jones

E. J. Shue
Commissioners.