

Decision No. 17571

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

The Lemon Cove-Woodlake Growers  
and Shippers Association,  
Complainant,

vs.

CASE NO. 2140

The Atchison, Topeka & Santa Fe  
Railway Company,  
Visalia Electric Railroad Company,  
Defendants.

Gwyn H. Baker, for Complainant.

E.W.Camp, M.W.Reid, and A.M.Reinhardt, for The  
Atchison, Topeka & Santa Fe Railway Company, Defendant,

C.W.Cornell, F.W.Mielke, Donald McFadden and G.F.Squires,  
for Visalia Electric Railroad Company,

F.W.Mielke and C.W.Cornell, for Southern Pacific Company,  
Intervener.

BY THE COMMISSION:

O P I N I O N

Complainant is an unincorporated association with its principal place of business at Lemon Cove, California, whose members are engaged in growing, packing and marketing citrus and deciduous fruits and shipping fruits and other commodities between points on the Visalia Electric Railroad and points located in California and other States.

By complaint filed July 2, 1925 it alleges that defendant's refusal to install track connections and maintain facilities for interchange of traffic between their respective lines, and their failure to establish through joint rates between points on the

Visalia Electric Railroad and points on or reached via The Atchison, Topeka & Santa Fe Railway are unreasonable, unduly discriminatory and unduly prejudicial.

The Commission is asked to require the Visalia Electric Railroad Company and The Atchison, Topeka & Santa Fe Railway Company to provide joint track connections at or near the town of Exeter, California, and after the installation of such joint track connection to provide through joint rates:

First, to points on or reached via the Southern Pacific Company which are also on or reached via the Atchison, Topeka & Santa Fe Railway, the same as those now in effect via the Visalia Electric Railroad and the Southern Pacific Company, and

Second, to other points on or reached via The Atchison, Topeka & Santa Fe Railway the same as those now in effect via the line of that company direct from points also on or near points on the Visalia Electric Railroad.

A similar complaint was filed with the Interstate Commerce Commission, and the complaint was set for hearing before both Commissions at Visalia, California, October 23, 1925. Commissioner Squires presided for this Commission and Examiner Hoover for the Federal Commission. At the hearing, counsel for defendant, Visalia Electric Railroad Company, moved to dismiss the proceeding before this Commission for lack of jurisdiction. Acting upon this motion Commissioner Squires retired from the joint hearing and the case was continued to a later date.

We are of the opinion that as a matter of law this Commission is without jurisdiction to grant the relief sought herein and that this proceeding, therefore, should be dismissed.

The United States Supreme Court in a recent decision held that under the Federal Transportation Act of 1920 (Chap.91, 41 Stat. at L. 456) the Interstate Commerce Commission is possessed of exclusive jurisdiction to order a physical connection between carriers operating in interstate commerce. (Alabama & Vicksburg Railway Company vs. Jackson & Eastern Railway Company, decided April 16, 1926, U.S. Supreme Court Advance Opinions 70 L.Ed. 584).

The Lemon Cove-Woodlake Growers & Shippers Association advised the Commission that it is agreeable to dismissing the complaint.

The complaint will be dismissed.

#### O R D E R

A public hearing having been held in the above entitled complaint and the Railroad Commission finding that it does not have jurisdiction to require the installation of the joint track connections,

IT IS HEREBY ORDERED that said complaint be and the same is hereby dismissed.

Dated at San Francisco, California, this 5<sup>th</sup> day of November, 1926.

*W. B. ...*  
*C. ...*  
*...*  
*...*  
*...*  
Commissioners.