

BEFORE THE RAILROAD COMMISSION
OF THE STATE OF CALIFORNIA

ORIGINAL

CALIFORNIA CENTRAL CREAMERIES,
a corporation,

Complainant,

-vs-

Case No. 307.

WELLS FARGO & COMPANY,

Defendant.

Gavin McNab and Oliver B. Wyman, for complainant
E. S. Pillsbury, for defendant

BY THE COMMISSION:

SUPPLEMENTAL OPINION.

The complaint of California Central Creameries alleges that the rates charged by Wells Fargo & Company for the transportation of cream between points within the State of California are unjust and unreasonable, and also, that the rates charged by Wells Fargo & Company for the transportation of butter between Lemoore, Hardwick, Riverdale and San Luis Obispo to Los Angeles, are unjust and unreasonable. The complaint prays that the Commission fix just and reasonable rates in lieu of the rates alleged to be unjust and unreasonable, and also, to make an award of reparation in the sum of \$4,568.75, to be paid to complainant by Wells Fargo & Company.

This case was consolidated for hearing with Case No. 122,-
In the Matter of the Schedule of Tariff of Rates and Charges of Wells Fargo & Company, this being an investigation on the Commission's own motion into the reasonableness of all the rates of

said Company within the State of California; Case No. 279,- Merchants' & Manufacturers' Association of Los Angeles v. Wells Fargo & Company and American Express Company, and Case No. 312,- The County of Orange v. Wells Fargo & Company. After a thorough investigation, the Commission made its order on August 1, 1913, in all of these proceedings, finding the rates of Wells Fargo & Company within the State of California to be unjust and unreasonable and prescribing just and reasonable rates to be charged by the said Company within the State of California. With certain modifications made by supplemental orders in these consolidated proceedings, the rates fixed by the Commission to be charged by Wells Fargo & Company within the State of California will become finally effective on or before August 31, 1915.

The orders so far made in this proceeding, however, deal only with the question of the unreasonableness of the rates of the defendant company, the question of reparation in this particular proceeding being left for a supplemental order.

The question of the power of the Commission to award reparation was fully considered in the opinion and order made on June 25, 1913, issued in the consolidated proceedings in Case No. 596,- Steiger Terra Cotta & Pottery Works vs. Southern Pacific Company; Case No. 669,- California Pottery Company vs. Southern Pacific Company, and Case No. 672,- N. Clark & Sons vs. Southern Pacific Company. The Commission there announced that one seeking an award of reparation must show, not only that he has paid an unreasonable or discriminatory rate, but also, that he has been damaged by the payment of an unreasonable or discriminatory rate. In the present proceeding there is absolutely nothing in the record to show that California Central Creameries is entitled to an award of reparation. It appears, at least in the case of the shipments of cream, that it was the practice for the

party selling cream to California Central Creameries to bear the express charges. In so far as butter is concerned, the rates which the Commission has ordered Wells Fargo & Company to charge within the State of California do not, in their final form, contain any reduction in the rates theretofore in effect on butter shipped between the points involved in this complaint. The complainant, accordingly, has made out no case for reparation on shipments of butter. For these reasons, the complaint of California Central Creameries, in so far as the same contains a prayer for reparation, must be dismissed.

We submit the following form of supplemental order:

SUPPLEMENTAL ORDER.

This case having been regularly heard and the Commission having heretofore made its order therein, in so far as the complaint questions the reasonableness of the rates of Wells Fargo & Company, and it appearing that in so far as the complaint contains a prayer for reparation, the complaint must be dismissed,--

IT IS HEREBY ORDERED that the complaint in this proceeding, in so far as the same seeks reparation, be, and the same is hereby, dismissed without prejudice.

The foregoing supplemental opinion and order are hereby approved as the supplemental opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 28th day of June, 1915.

Max Shelden

Edwin A. Edgerton

Commissioners.