

BEFORE THE RAILROAD COMMISSION  
OF THE STATE OF CALIFORNIA.

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ORIGINAL

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 FRED L. HILMER COMPANY,  
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 Complainant, :  
 :  
 - vs. - :  
 :  
 ATCHISON, TOPEKA & SANTA FE :  
 RAILWAY COMPANY and SOUTHERN :  
 PACIFIC COMPANY, :  
 :  
 Defendants. :  
 .....

Case No. 392.

Wm. R. Wheeler for complainant.  
 E. W. Camp and U. T. Clotfelter for Atchison, Topeka  
 & Santa Fe Railway Co.  
 C. W. Durbrow and Geo. D. Squires for Southern  
 Pacific Company.

ESHELMAN, Commissioner.

O P I N I O N

The complainant sets out the fact that the refrigeration charge on a carload of eggs from San Francisco to Los Angeles charged by the defendant carriers is \$35.00 per car, and that the charge for refrigeration charged by the carriers from the Missouri River to coast points is only \$25.00; and alleges that there is a discrimination against the local shipper in California and that the rate of \$35.00 for refrigeration is exorbitant. It is further urged that two tons of ice are sufficient for the refrigeration of a carload of eggs moving from San Francisco to Los Angeles, and that the shipper should be permitted to furnish this ice at his own expense and should have an option as to the amount of ice to be used for refrigeration. The defendants deny that the circumstances affecting the movement from Missouri River points to the coast are at all similar to those surrounding the movement from San Francisco to Los Angeles, and I think the evidence amply

justifies this position. It appears that the \$25.00 rate from Missouri River points to the coast points only covers the cost of re-icing en route; that the cars are delivered to the carriers by private car lines thoroughly precooled and initially iced, while in the movement between San Francisco and Los Angeles the carriers perform the entire service for the \$35.00 charge, both initial icing and icing en route. Evidence was introduced showing that the actual cost of ice for certain cars of eggs shipped by way of the Southern Pacific in the cars of the Pacific Fruit Express was in the neighborhood of \$25.00, while the Atchison, Topeka and Santa Fe shows an average cost of over \$30.00 for ice alone.

While I would not hold that from the evidence in this case the refrigeration rates between San Francisco and Los Angeles are reasonable, yet I do not believe the evidence justifies us in granting the prayer of the complaint.

It is urged, however, that regardless of the propriety of the charge of \$35.00 for the service as now performed, that the service could be performed by the carrier without the use of as great a quantity of ice. The complainant only ships fresh eggs, and it is contended that only a small quantity of ice is necessary properly to preserve a carload of fresh eggs transported from San Francisco to Los Angeles, while it is admitted that more refrigeration is necessary for cold storage eggs. This contention is entirely without the issues raised by the pleadings, and if passed upon at all by this Commission should be passed upon when properly presented. If as a matter of fact, the carriers are performing this service in an extravagant manner and are using more ice than is necessary, and it is proper to have a different rate apply upon fresh eggs than upon cold storage eggs, this matter should be presented to the Commission and evidence taken responsive to such issue.

Under all of the circumstances of this case, I believe the complaint should be dismissed.

I submit the following order:

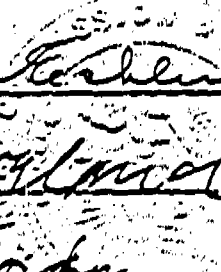
O R D E R .

FRED L. HILMER COMPANY having filed its complaint against the Atchison, Topeka & Santa Fe Railway Company and the Southern Pacific Company, and a hearing having been held, and being fully apprised in the premises

IT IS HEREBY ORDERED that the said complaint be and the same is hereby dismissed without prejudice.

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

Dated at San Francisco, California, this 26th day of June, 1913.

  
John M. Ketchum  
H. H. ...  
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Commissioners.