

Decision No. 14450

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

The McGilvray Raymond Granite Company,)
Complainant,)

vs.)

Southern Pacific Company.)
Defendant.)

CASE NO. 2072

BY THE COMMISSION:

ORIGINAL

O P I N I O N

The McGilvray Raymond Granite Company, with offices at 634 Townsend Street, San Francisco, California, filed complaint November 21, 1924 alleging that the rates assessed and collected for the transportation of dressed granite from Hillside to Sacramento during the period September 1 to October 15, 1923, both dates inclusive, were unjust and unreasonable to the extent they exceeded the rates subsequently established, effective April 10, 1924.

Reparation only is sought. Rates are stated in cents per 100 pounds.

At the time these shipments moved there was in effect rate of 16 cents per 100 pounds, minimum weight 60000 pounds, and rate 19½ cents per 100 pounds, minimum weight 30000 pounds, applying to granite from Hillside to Sacramento, published in Southern Pacific Tariff 730-B. Effective April 10, 1924 in the same tariff there was published rate 14½ cents per 100 pounds, minimum weight 50000 pounds, from Hillside to Sacramento. The amount of reparation

claimed is set forth in the complaint as \$188.13.

Defendant submitted to the Commission an application for authority to adjust these reparation charges on the informal docket under the provisions of Rule 102 of our Tariff Circular No.2, upon the grounds that the charges were excessive and unreasonable and that the rate should have been reduced prior to movement of the shipments. Rule 102 of this Commission's Tariff Circular No. 2 provides that adjustments will only be authorized informally when the carrier admits the unreasonableness of the rates charged and has published, not exceeding six months after the shipments moved, the rate or rates upon which the reparation adjustment is sought. In this situation the complainant did not comply with the provisions of Rule 102 and, therefore, an informal authorization was not proper.

In the answer to this formal complaint defendant admits all of the allegations and prays that the relief requested by the complainant be granted. Under the issues as they stand a formal hearing is now unnecessary.

We find that the rates assailed for the transportation of dressed granite from Hillside to Sacramento during the period September 1,1923 to October 15,1923 were unreasonable and excessive to the extent they exceeded the rate of 14½ cents per 100 pounds, minimum weight 50000 pounds, which rate became effective April 10, 1924 in Southern Pacific Tariff 730-C, C.R.C. No.2904; that complainant made the shipments as described in the complaint and paid and bore the charges thereon; that it has been damaged to the amount of the difference between the charges paid and those that would have accrued at the rate herein found reasonable, and that it is entitled to reparation. The amount alleged to be due is set forth in the complaint as \$188.13, which amount cannot be verified upon the present record. The complainant should submit a statement of the

shipments to defendant for check.

If it is not possible to reach an agreement the matter may be referred to this 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, having been duly heard and submitted by the parties, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof,

IT IS HEREBY ORDERED that the Southern Pacific Company refund to the McGilvray Raymond Granite Company all charges that may have been collected in excess of the rate of $14\frac{1}{2}$ cents per 100 pounds, minimum weight 50000 pounds, which rate is found to be reasonable for the transportation of dressed granite involved in this proceeding moving during the period September 1 to October 15, 1923.

Dated at San Francisco, California, this 9th day
of January, 1925.

C. S. Seaver
H. C. Muddiford
Egerton Shore

Commissioners