

Decision No. 14719

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

Coast Rock & Gravel Company,  
Complainant.

vs.

Southern Pacific Company,  
The Western Pacific Railroad Company.  
Defendants.

CASE NO. 2092

BY THE COMMISSION:

ORIGINAL

O P I N I O N

The Coast Rock and Gravel Company, a corporation, with offices in San Francisco, California, filed complaint January 28, 1925 alleging that the rate assessed and collected for the transportation of two carloads of crushed rock moving on November 28, 1922 from Fair Oaks, on the Southern Pacific Company, to Bradford, on the Western Pacific, was unjust and unreasonable to the extent it exceeded  $3\frac{1}{2}$  cents per 100 pounds.

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

The statute of limitation was tolled by the Commission's letter to complainant dated November 3, 1923, File I.C.28854.

At the time the aforesaid shipments moved there was in effect a rate of 4 cents per 100 pounds on crushed rock from Fair Oaks to Bradford, which was a combination of commodity rates over Sacramento. The factor from Fair Oaks to Sacramento was  $2\frac{1}{2}$  cents.

as published in Southern Pacific Company Tariff 330-E, C.R.C. No.2673, and the factor from Sacramento to Bradford was  $2\frac{1}{2}$  cents, as published in Western Pacific Railroad Company Tariff 36-F, C.R.C. 257. Both factors were subject to the deductions as provided for in Agent W.J.Kelly's Combination Tariff 228, C.R.C.No.1.

Effective August 16,1923 defendants established in Supplement 13 to Pacific Freight Tariff Bureau Tariff 166-A, C.R.C. 280, of Agent F.W.Gomph, a rate of  $3\frac{1}{2}$  cents, applicable to the transportation hereinbefore described.

In answer to this formal complaint defendants admit all of the allegations and pray 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 rate assessed for the transportation of crushed rock from Fair Oaks to Bradford on November 28,1922 was unreasonable and excessive to the extent it exceeded the subsequently established rate of  $3\frac{1}{2}$  cents; that complainant made the shipments as described in the complaint and paid and bore the charges thereon; that it has been damaged to the extent 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 not set forth in the complaint. The complainant should submit a statement of the shipments to defendants 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 supplementary order if such be necessary.

O R D E R

This case being at issue upon complaint and answer on file, full information of the matter and things involved having been had and basing this order on the findings of facts and the conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof,

IT IS HEREBY ORDERED that defendants Southern Pacific Company and The Western Pacific Railroad Company, according as they participated in the transportation, be, and they are hereby authorized and directed to refund to complainant, Coast Rock and Gravel Company, all charges they may have collected in excess of  $3\frac{1}{2}$  cents per 100 pounds for the transportation of two carloads of crushed rock, involved in this proceeding, moved November 28, 1922, from Fair Oaks to Bradford.

Dated at San Francisco, California, this 31<sup>st</sup> day of March, 1925.

H. B. Brundige  
C. Seavey  
Egerton Shore

Frank H. [unclear]  
Commissioners.