

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

Southern California Edison Company,
Complainant

vs.

The Atchison, Topeka & Santa Fe
Railway Company, Los Angeles & Salt
Lake Railroad Company, Pacific
Electric Railway Company, Southern
Pacific Company,
Defendants.

Case No. 2229

BY THE COMMISSION:

O P I N I O N

Complainant, a corporation, with its principal place of business at Los Angeles, California, is engaged in the business of producing, distributing and selling electricity, electric energy, lighting and power. By complaint filed April 14, 1926, it is alleged that the rates assessed on various carloads of sand and gravel, as set forth in Exhibit "A" of the complaint, moving during the period from January 14, 1924 to April 22, 1925 from Kincaid, Rivas and Crushton to Power were excessive, unjust and unreasonable to the extent they exceeded a rate of 4½ cents per 100 pounds on sand and 5 cents per 100 pounds on gravel.

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

Kincaid is situated on the Atchison, Topeka and Santa Fe Railway Company; Rivas and Crushton on the Southern Pacific Company and Power on the Los Angeles & Salt Lake Railroad Company. The shipments from Kincaid to Power moved via the Atchison, Topeka & Santa Fe Railway to Hobart thence Los Angeles & Salt Lake Railroad, and those from Rivas and Crushton to Power moved via the

Southern Pacific Company to Los Angeles thence Los Angeles & Salt Lake Railroad. The record indicates that defendant, Pacific Electric Railway did not participate in the transportation.

The applicable rates in effect at the time the shipments moved were $5\frac{1}{2}$ cents on sand and 6 cents on gravel as published in Pacific Freight Tariff Bureau Tariff No. 166 Series C.R.C. Nos. 280 and 335. Effective September 6, 1925, defendants voluntarily reduced the rate on sand to $4\frac{1}{2}$ cents and on gravel to 5 cents, and it is upon the basis of these lower rates subsequently established that complainant seeks reparation.

Defendants, by formal answer, admit the allegations of the complaint and have signified a willingness to make a reparation adjustment; therefore, under the issues as they now stand, a formal hearing will not be necessary.

Upon consideration of all the facts of record, we are of the opinion and find that the rates assessed and collected on the certain shipments of sand and gravel as set forth in Exhibit "A" of the complaint, moving during the years 1924 and 1925 from Kincaid, Rivas and Crushton to Power on which the freight charges were paid within two years immediately preceding the filing of the complaint, were excessive, unjust and unreasonable to the extent they exceeded the subsequently established rates of $4\frac{1}{2}$ cents on sand and 5 cents on gravel.

We further find that complainant paid and bore the charges on the shipments in question and has been damaged to the extent of the difference between the charges paid and those that would have accrued at the rates herein found reasonable and that it is entitled to reparation, except on the shipments set forth in Exhibit "A" of the complaint on which the freight charges were paid prior to April 14, 1924.

The amount of reparation due cannot be determined on

this record. Complainant will submit to defendants a statement of the shipments and should it not be possible to reach an agreement as to the amount of reparation, the matter may be referred to this Commission for further attention and the entry of a supplemental order.

O R D E R

This case being at issue upon complaint and answer on file, full investigation of the matters and things involved having been had and basing this order on the finding of fact and the conclusion contained in the opinion, which said opinion is hereby referred to and made a part hereof,

IT IS HEREBY ORDERED that defendants, The Atchison, Topeka & Santa Fe Railway Company, Los Angeles & Salt Lake Railroad Company, and Southern Pacific Company, according as they participated in the transportation be, and they are hereby authorized and directed to refund to complainant, Southern California Edison Company, all charges they may have collected for the transportation of the shipments of sand and gravel, as set forth in Exhibit "A" of the complaint moving from Kincaid, Rivas and Crushton to Power during the years 1924 and 1925, which exceeded the charges that would have accrued at a rate of 4½ cents per 100 pounds on sand and 5 cents per 100 pounds on gravel, provided this reparation award shall apply only to the shipments here involved on which the freight charges were paid on or subsequent to April 14, 1924.

Dated at San Francisco, California this 25th day of June, 1926.

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