

Decision No. 18002**ORIGINAL**BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA
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G. H. Beekman, W. E. Woods, and
T. P. Kelso, as Receivers of the
Woods-Beekman Lumber Company,
Complainants,

vs.

Pacific Electric Railway Company
Southern Pacific Company,
Defendants.

CASE NO. 2301

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BY THE COMMISSION:O P I N I O N

By complaint filed December 16, 1926 and as amended January 5, 1927, G.H. Beekman, W.E. Woods and T.P. Kelso, Receivers of the Woods-Beekman Lumber Company, allege that the rate charged for the transportation of 82440 pounds of magnesite stucco and 4000 pounds of crushed rock, in sacks, from Porterville December 30, 1922 and delivered at Beverly Hills January 9, 1923, was unreasonable to the extent it exceeded rate of 29½ cents per 100 pounds on magnesite stucco and 73½ cents per 100 pounds on crushed rock.

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

The statute of limitation was tolled by registering the shipment with this Commission January 8, 1925, under Informal Complaint No. 32060.

Beverly Hills is located on the Pacific Electric Railway 16 miles from Los Angeles/ Porterville is on the San Joaquin division of the Southern Pacific Company approximately 225 miles north of Los Angeles. The combination class C rate of 40 cents was charged, made $29\frac{1}{2}$ cents to Los Angeles and $10\frac{1}{2}$ cents beyond. Concurrently there was a joint commodity rate of $29\frac{1}{2}$ cents applicable on stucco and plaster from Mound House, Nevada, to Beverly Hills. Porterville is located between these points, but Pacific Freight Tariff Bureau Tariff 4-1, containing the $29\frac{1}{2}$ cent rate, was filed only with the Interstate Commerce Commission, therefore the rate was not applicable to the shipment involved.

Defendants voluntarily established, to become effective February 23, 1927, a rate of the same volume on magnesite stucco from Porterville to Beverly Hills. Complainant bases its plea for reparation upon the interstate rate effective at time of movement, which rate is now published on intrastate traffic.

Defendants admit the allegation of the complaint and have signified a willingness to make 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 assailed rate was unreasonable to the extent it exceeded the subsequently established rate of $29\frac{1}{2}$ cents on magnesite stucco and that the less than carload consign-

ment of crushed rock, weighing 4000 pounds, is subject to the fourth class rate of 73½ cents; that complainant made the shipments as described; paid and bore the charges thereon and is entitled to reparation.

Complainant will submit statement to defendants for check. Should it not be possible to reach an agreement as to the amount of reparation the matter may be referred to the Commission for further attention 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, 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 defendants, Southern Pacific Company, and Pacific Electric Railway Company, according as they participated in the transportation, be and they hereby are authorized and directed to refund to complainants, G. H. Beekman, W. E. Woods and T. P. Kelso, receivers of Woods-Beekman Lumber Company of Beverly Hills, California, all charges they may have collected in excess of 29½ cents per 100 pounds on 82440 pounds of Magnesite stucco, and 73½ cents per 100 pounds on 4000 pounds of crushed rock, forwarded December 30, 1922 from Porterville to Beverly Hills.

Dated at San Francisco, California, this

14th day of February, 1927.

Frank W. ...
H. B. ...
A. ...
Leon ...

Commissioners.