

Decision No. 18117**ORIGINAL**BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA
- - - - -West Coast Porcelain Manufacturers,)
c-partnership, Complainant,)

vs.)

The Atchison, Topeka & Santa Fe Rail-)
way Company, Defendant.)

CASE NO. 2320

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BY THE COMMISSION:O P I N I O N

The West Coast Porcelain Manufacturers, with offices at Milbrae, California, filed complaint February 23, 1927, alleging that the rate charged for transporting 9 carloads of clay from Alberhill to Millbrae during the period from February 14, 1925 to August 6, 1926, inclusive, was unjustly discriminatory to the extent it exceeded a rate of 25 cents per 100 pounds.

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

Alberhill is located on a branch of the Atchison, Topeka & Santa Fe Railway in Southern California and Millbrae is located on the Southern Pacific main line between San Francisco and San Jose. The shipments involved moved via the Atchison, Topeka & Santa Fe Railway to San Francisco thence Southern Pacific to destination.

The applicable charges were based on a combination rate

of 28½ cents, made 25 cents to San Francisco and 3½ cents beyond. The factor from San Francisco to Millbrae is not involved in this proceeding. The 25 cent rate is shown in Atchison, Topeka & Santa Fe Railway Tariffs 9788-I and 9788-J, C.R.C. Nos. 533 and 558. (The former tariff was cancelled by the latter, which became effective December 1, 1925). Concurrently there was a rate of 22 cents published in the same tariffs applicable on brick in straight carloads or in mixed carloads with clay from and to the points involved.

Defendant admits the allegation of the complaint and has 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 rate of 25 cents assessed for that portion of the haul from Alberhill to San Francisco was unjustly discriminatory to the extent it exceeded the rate of 22 cents applicable on clay and brick in mixed carloads. We further find that complainant paid and bore the charges on the shipments involved and has been damaged to the extent of the difference between the freight charges paid and those that would have accrued at the rate herein found reasonable and that it is entitled to reparation.

Complainant will submit statement to defendant 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 the defendant, Atchison, Topeka & Santa Fe Railway Company, be and it is hereby authorized and directed to refund to complainant, West Coast Porcelain Manufacturers of Millbrae, California, all charges it may have collected in excess of 22 cents per 100 pounds for that portion of the haul from Alberhill to San Francisco, which rate is found to be reasonable for the transportation of the commodity involved in this proceeding and forwarded during the period from February 14, 1925 to August 6, 1926.

Dated at San Francisco, California, this 28th day of March, 1927.

Ervin J. ...
John B. ...
W. ...
Leon ...
John ...
 Commissioners.