

ORIGINAL

Decision No. 19794.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

AMERICAN POTASH AND CHEMICAL CORPORATION,)

Complainant,)

vs.)

Case No. 2522.

TROMA RAILWAY COMPANY,)

Defendant.)

BY THE COMMISSION:

O P I N I O N

Complainant, a Delaware corporation, is engaged in the manufacture of potash, borax and boric acid at Troma, California. It alleges by complaint filed March 30, 1928, that the rate charged for the transportation of numerous carloads of sulphuric acid moving from Searles to Troma during the period from February 8, 1927, to March 3, 1928, both dates inclusive, was unjust and unreasonable in violation of Section 13 of the Public Utilities Act to the extent it exceeded 9 cents.

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

The shipments involved herein originated at Los Angeles and moved from that point to Searles over the Southern Pacific Company thence over defendant's line to destination. The rate to Searles is not in issue. There was no commodity rate in effect on sulphuric acid from Searles to Troma at the time these shipments moved and charges were assessed on the basis of the appli-

cable fifth-class rate of 34 cents. Effective March 4, 1928, this defendant established a commodity rate of 9 cents applicable to the transportation as hereinbefore described.

Complainant bases its plea for reparation upon the subsequently established rate. 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 assailed was unjust and unreasonable to the extent it exceeded 9 cents; that complainant made the shipments as described, paid and bore the charges thereon and is entitled to reparation.

Complainant will submit statement of shipments 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 defendant, Tirona Railway Company, be and it is hereby authorized and directed to refund to complainant, American Potash and Chemical Corporation, all charges it may have collected in the amount of the difference between the freight charges paid and those that would have accrued at 9

cents per 100 pounds on the shipments involved in this proceeding and moved from Searles to Trona, California, during the period from February 8, 1927, to March 8, 1928, inclusive.

Dated at San Francisco, California, this 22nd day of May, 1928.

Leon Whitell
Attorney

Thos S. Lattin

M. J. Quinn
COMMISSIONERS.