

Decision No. 19858.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

POMONA TILE MANUFACTURING COMPANY,
a corporation,

Complainant,

vs.

SOUTHERN PACIFIC COMPANY,

Defendant.

ORIGINAL

Case No. 2531.

BY THE COMMISSION:

O P I N I O N

Complainant, a corporation organized under the laws of the State of California with its principal office at Los Angeles, is engaged in manufacturing and marketing tile and clay products at Pomona. It alleges by complaint filed April 16 and amended May 9, 1928, that the rate charged on 17 carloads of crude clay shipped from Lincoln and Lone to Pomona between February 16, 1926, and September 22, 1927, was unjust and unreasonable, in violation of Sections 13 and 24 of the Public Utilities Act, to the extent it exceeded 28½ cents.

An informal complaint was filed February 4, 1928, and registered under this Commission's file No. 38425.

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

Of the shipments involved 12 moved from Lincoln and 5 from Lone. The lawfully applicable combination rate of 32 cents, composed of commodity rate of 21½ cents to Los Angeles and the Class "E" rate of 10½ cents beyond, was charged. Contempor-

neously there was a joint commodity rate of 7 cents applicable from Santa Monica to Comona on like traffic moving over the Pacific Electric to Los Angeles, thence Southern Pacific Company beyond. This rate used in conjunction with the rate from Lincoln and Lone to Los Angeles results in combination rate of 28½ cents and it is upon this basis that complainant seeks reparation.

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 unreasonable to the extent it exceeded 28½ cents; that complainant made the shipments as described, paid and bore the charges thereon and is entitled to reparation. Complainant specifically waived interest in this case.

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, Southern Pacific Company, be and it is hereby authorized and directed to refund

unto complainant, Pomona Tile Manufacturing Company, all charges it may have collected in the amount of the difference between the freight charges paid and those that would have accrued at 28½ cents per 100 pounds on the shipments involved in this proceeding and moved from Lincoln and Ione to Pomona during the period from February 16, 1926, to September 22, 1927.

Dated at San Francisco, California, this 5th day of June, 1928.

Leon Whitehall

Clarence

Ernest

John

M. J. Quinn
Commissioners.