

Decision No. 20523.

## BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Suspension by  
 the Commission on its own motion of  
 rates on plaster and plaster products  
 from Plaster City on the San Diego  
 and Arizona Railway to destinations  
 in Southern California on the South-  
 ern Pacific Company.

*ORIGINAL*  
 Case No. 2568.

James E. Lyons, for Southern Pacific Company.  
 Platt Kent, Berne Levy and C. K. Adams, for  
 The Atchison, Topeka and Santa Fe Railway  
 Company.  
 O. T. Helpling, P. H. Campbell and A. R. Sutton,  
 for Blue Diamond Company.  
 A. M. Brown, for Schunacker Wallboard Company.  
 E. A. McCaffrey, for Standard Gypsum Company.  
 Sanborn, Roehl & Smith, by Harvey H. Sanborn,  
 James A. Keller and N. E. Keller, for Pacific  
 Portland Cement Company, intervener.  
 W. D. Lindsay, for United States Gypsum Company,  
 intervener.

BY THE COMMISSION:

O P I N I O N

By schedules filed to become effective June 26, 1928,  
 respondents proposed to reduce from 11 cents per 100 pounds to  
 9½ cents per 100 pounds the present commodity rates on plaster  
 and plaster products, in carloads, from Plaster City to Los  
 Angeles, Glendale, Long Beach, San Pedro, Whittier, Anaheim,  
 Santa Ana, Pasadena, Rivas, San Bernardino, Riverside, Green-  
 spot, Westmorland, Sandia, Holtville, Calexico and the interme-  
 diate points as shown in Item 790-B, Indices 1340, 1350, 1380  
 to 1415 inclusive, 1455, 1485, 1540 to 1805 inclusive, 1850,

1855 and 1865, page 38 of Southern Pacific Company Joint and Proportional Freight Tariff No. 976-D, C.R.C. 3215. Upon protest of the Blue Diamond Company that the proposed rate would be preferential to Plaster City and prejudicial to Los Angeles the Commission suspended the schedules until December 23, 1928.

A public hearing was held before Examiner Geary at Los Angeles September 20, 1928, and the case having been duly submitted is now ready for an opinion and order. Rates will be stated in cents per 100 pounds.

Plaster City is situated on the San Diego and Arizona Railway Company 18 miles west of El Centro, the interchange point with the Southern Pacific Company. The points of destination here involved are all on the Southern Pacific Company.

Competition for the plaster business in Southern California is particularly keen between the several plants located in California and the southern portions of Nevada and Utah marketing their products at the primary consuming center at Los Angeles and the adjacent territory. At Plaster City is located the mill of the Pacific Portland Cement Company, and protestant the Blue Diamond Company has its mill at Los Angeles, while other companies maintain plants at Long Beach and Midland, California, Arden, Nevada, and Nephi and Gypsum, Utah.

The Plaster City plant was established in 1924, and the rate on plaster at that time from Arden, Nevada, via the Los Angeles and Salt Lake Railroad to Los Angeles and contiguous points was 13½ cents. Respondents contend that in order to accord Plaster City the benefit of its geographical location and to assist this plant in reaching the consuming markets they established the Plaster City rate at 11 cents, 2½ cents lower than the Arden rate. The distance from Arden to Los Angeles is 321 miles and from Plaster City to the same destination 236 miles.

No attempt was made to change this adjustment until after the recent construction and the commencement of operation of a new mill at Midland, 305 miles east of Los Angeles on The Atchison, Topeka and Santa Fe Railway. With the advent of the Midland plant the Santa Fe, apparently proceeding on the theory that mills on its line were also entitled to advantageously reach the consuming markets, established the 11-cent rate to the Los Angeles territory, thus placing both Midland and Plaster City on the same basis. Following this action of the Santa Fe these respondents attempted to establish the 9½-cent rate here under suspension.

Respondents do not endeavor to defend the proposed rate on the grounds that it would be fully compensatory. In fact they admit the rate is depressed and lower than any they now have in effect for the transportation of plaster for corresponding distances, but they attempt its justification on the grounds that the 11-cent rate from Midland forced a lower rate from Plaster City. Undoubtedly if the proposed rate from Plaster City became effective and the Midland rate was reduced by the Santa Fe to the same basis, a further reduction would be necessary from Plaster City if respondents were to continue their efforts to accord Plaster City what they consider a proper differential under Midland. This would create a vicious cycle and finally result in unremunerative and ridiculous rates.

Within reasonable limits carriers are entitled to initiate rates not fully compensatory, but in so doing they may not establish rates so low that they will burden other traffic or engender undue and unlawful preference and prejudice.

Protestant's plant at Los Angeles was established in 1922 and its products are distributed throughout California, but the sale of the bulk of its finished tonnage is confined to South-

ern California, including a fairly substantial movement to points in the Imperial Valley. Protestant contends that in not being accorded an adjustment of rates to Southern California territory comparable with that proposed from Plaster City, it has been precluded from advantageously marketing its products at many points in Southern California. The following table compares the proposed adjustment from Plaster City with that now in effect from Protestant's Los Angeles plant to a few representative consuming points in Southern California where there was actual movement of plaster during 1927:

T O	From Plaster City		From Los Angeles	
	Distance	Rate	Distance	Rate
Santa Ana	271 miles	9½¢	35 miles	8¢
Ontario	197 "	9½¢	38 "	8¢
San Bernardino	182 "	9½¢	60 "	8¢
Banning	149 "	9½¢	86 "	16¢
Palm Springs	135 "	9½¢	101 "	19½¢
Coachella	103 "	9½¢	133 "	19½¢

From the above it is clearly apparent that respondents in their endeavors to maintain their declared rate relationship between Plaster City and Midland have utterly failed to accord to the Los Angeles manufacturers the same treatment, for if, as they contend, Plaster City is entitled by reason of its geographical advantage of 69 miles to a differential of 1½ cents under the Midland rate, Protestant is likewise entitled to similar consideration due to its geographical location. Here we have a situation where two plants served by respondents' lines are competing for the plaster business in Southern California. For Plaster City, respondents are willing to recognize whatever geographical advantages the mill located at that point may have over

a competitor located at Midland, and adjust its rates solely on this ground, but for the Los Angeles manufacturer this factor is disregarded. The record does show that the establishment of the 9½-cent rate would extend an undue preference to Plaster City and unduly prejudice protestant at Los Angeles.

There is now before the Commission for an early hearing Case No. 2413, in which protestant in this proceeding, the Blue Diamond Company, brings into issue the reasonableness and the relationship of the plaster rates now in effect from Plaster City and Los Angeles, and requests an entire rate readjustment from those two points to the Southern California territory. Our findings herein are without prejudice to any different conclusions that may be reached on a more comprehensive record in Case 2413.

After consideration of all the facts of record we are of the opinion and find that the proposed schedules are unduly preferential to Plaster City and prejudicial to Los Angeles, and have not been justified. An order will be entered requiring respondents to cancel the rate here involved.

#### O R D E R

It appearing that by order dated June 25, 1928, the Commission entered upon a hearing concerning the lawfulness of the rate of 9½ cents per 100 pounds for the transportation of plaster from Plaster City to points shown in Item 790-B, Indices 1340-1350-1380-1385-1390-1395-1415-1455-1485-1540-1565-1630-1650-1660-1685-1725-1735-1760-1790-1805-1850-1855-1865 of Southern Pacific Tariff 976-D, C.R.C. 3215;

It further appearing that full investigation of the matters and things involved having been had, and the Commission having on the date hereof made and filed its opinion containing its findings of fact and the conclusions therein, which said opinion is hereby referred to and made a part hereof,

IT IS HEREBY ORDERED that the respondents herein be and they are hereby notified and required to cancel on or before

December 23, 1928, the rate of 9½ cents per 100 pounds for the transportation of plaster and its products from Plaster City to points shown in Item 790-B, Indices 1340-1350-1380-1385-1390-1395-1415-1455-1485-1540-1565-1630-1650-1660-1685-1725-1735-1760-1790-1805-1850-1855-1865 of Southern Pacific Tariff 976-D, C.R.C. 3215.

IT IS HEREBY FURTHER ORDERED that the orders entered in this proceeding suspending the operation of the schedule referred to in the preceding paragraph be and they are hereby vacated and set aside as of December 23, 1928, and that this proceeding be and the same is hereby discontinued.

Dated at San Francisco, California, this 26<sup>th</sup> day of November, 1928.

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*C. C. Seaver*  
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*Frederick*  
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*John S. Loutin*  
\_\_\_\_\_  
*W. H. Carr*  
Commissioners.