

Decision No. 20766

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

CLARK CHEMICAL COMPANY,
a corporation,
Complainant,

vs.

SOUTHERN PACIFIC COMPANY,
a corporation,
Defendant.

Case No. 2612.

ORIGINAL

BY THE COMMISSION:

O P I N I O N

Complainant is a corporation engaged in the manufacture of caustic soda. By complaint filed September 23, 1928, it is alleged that the lawfully applicable rate of 9 cents per 100 pounds on 16 carloads of quick-lime and $7\frac{1}{2}$ cents per 100 pounds on 2 carloads of air-slaked lime moving from Cartago to Bartlett during the period extending from November 9, 1927, to May 5, 1928, were unjust and unreasonable, in violation of Section 13 of the Public Utilities Act.

The shipments here at issue moved a distance of 11 miles from Cartago to Bartlett. Defendant through error collected a commodity rate of $4\frac{1}{2}$ cents per 100 pounds applicable on fertilizer, viz., lime (air slaked) and lime refuse, as published in Southern Pacific Company's Tariff 730-C, C.R.C. 2904, resulting in an undercharge of $4\frac{1}{2}$ cents per 100 pounds on the shipments of quick-lime and 3 cents per 100 pounds on the shipments of air-slaked lime.

Subsequent to the date the shipments moved defendant lawfully established, effective June 20, 1928, the rate of $4\frac{1}{2}$ cents erroneously assessed and collected, and complainant is

here seeking a waiver of the existing undercharges upon the basis of the subsequently established rate.

Defendant admits that the lawfully applicable rates were unjust and unreasonable to the extent they exceeded $4\frac{1}{2}$ cents, and has signified a willingness to waive the undercharges, 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 so find that the lawfully applicable rates were unjust and unreasonable to the extent they exceeded $4\frac{1}{2}$ cents and that complainant should be relieved from paying the existing undercharges.

ORDER

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 this 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 waive the collection of all existing charges lawfully applicable in excess of $4\frac{1}{2}$ cents per 100 pounds, minimum carload weight 60,000 pounds, for the transportation from Cartago to Bartlett of complainant's shipments of air-slaked or quick-lime involved in this proceeding.

Dated at San Francisco, California, this 8th day of February, 1929.

Thomas L. ...

Al ...

...

Leon ...

M. J. ...
Commissioners.