

Decision No. 20905 .

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

GLADDING, McBEAN & CO.,
Complainant,
vs.
SOUTHERN PACIFIC COMPANY,
Defendant.

ORIGINAL

Case No. 2657.

BY THE COMMISSION:

O P I N I O N

Complainant is a corporation engaged in the manufacture and shipment of clay products, with its principal place of business at San Francisco. By complaint filed February 14, 1929, it is alleged that the rates assessed and collected on one mixed car of enameled and pressed brick moving from Los Angeles to Fresno, California, May 1, 1928, were unjust and unreasonable in violation of Section 13 of the Public Utilities Act to the extent that they exceeded 32 cents per 100 pounds.

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

Complainant's shipment, consisting of one mixed carload of enameled and pressed brick weighing 50,640 pounds, was assessed a commodity rate of 32 cents on the enameled brick and the 3rd class rate of 73½ cents on the pressed brick, resulting in a total revenue of \$184.88. At the time this shipment moved, defendant maintained a rate of 32 cents applying on mixed carloads of

enameled and wire-cut face brick, and this rate was subsequently established, effective November 30, 1928, to apply on complainant's shipment. It is upon the basis of this subsequently established rate that complainant seeks reparation.

Defendant admits the allegations of the complaint and has signified a willingness to make a 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 so find that the assailed rate was unjust and unreasonable to the extent it exceeded the subsequently established rate of 32 cents; that complainant paid and bore the charges on the shipment in question and has been damaged to the extent of the difference between the charges paid and those that would have accrued at the rate herein found reasonable, and is entitled to reparation without interest. Complainant specifically waived the payment of interest.

Complainant will submit statement of shipment 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 precedes this order,

IT IS HEREBY ORDERED that defendant, Southern Pacific Company, be and it is hereby authorized and directed to refund,

without interest, to complainant Gladding, McBean & Co., all charges collected in excess of 32 cents per 100 pounds for the transportation from Los Angeles to Fresno of the shipment of enameled and pressed brick involved in this proceeding.

Dated at San Francisco, California, this 22nd day of March, 1929.

Thos D. Smith

C. J. Seaman
Edward K. O'Connell

W. J. Conroy
Commissioners.