

Decision No. 21388

## BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

Gladding, McBean & Co.,  
Complainant,

vs.

The Atchison, Topeka & Santa Fe  
Railway Co.,  
Pacific Electric Railway Company,  
Defendants.

**ORIGINAL**

Case No. 2661

BY THE COMMISSION:

O P I N I O N

Complainant is a corporation engaged in the manufacture of clay products. By complaint filed April 12, 1929 it is alleged that the rate assessed and collected on seven carloads of wire cut face brick shipped from Alberhill to Sawtelle during March 1928 was unjust and unreasonable in violation of Section 13 of the Public Utilities Act.

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

By stipulation complainant and defendants agreed to submit this case in writing under the shortened procedure plan without a formal hearing.

Alberhill is located on the Atchison, Topeka & Santa Fe Railway, 64 miles southwest of Los Angeles and Sawtelle is on the Pacific Electric Railway 14 miles west of Los Angeles. The applicable rate in effect on the date of movement, and which was assessed on complainant's shipments, was 15 cents as published in Supplement 22 to Pacific Freight Tariff Bureau Tariff C.R.C. No.

397. Effective March 23, 1928, eleven days after the cars commenced to move, defendants voluntarily reduced the 15-cent rate to 12½ cents. Complainant alleges that the latter is a maximum reasonable rate for the shipments here at issue and compares favorably with rates on wire-cut face brick from Alberhill to Santa Monica, San Pedro, Long Beach and other points in Southern California.

Subsequent to the submission of complainant's opening memorandum of facts, defendants admitted the allegations of the complaint and signified a willingness to make a reparation adjustment.

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 12½ cents; that complainant paid and bore the charges on the shipments 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.

Complainant will submit statement of shipments to defendants 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 defendants, The Atchison, Topeka & Santa Fe Railway Company and the Pacific Electric Railway Company according as they participated in the transportation, be and they

are hereby authorized and directed to refund to complainant,  
Cladding, McBean & Co., all charges collected in excess of 12½  
cents per 100 pounds for the transportation from Alberhill to  
Sawtelle of the shipments of wire cut face brick involved in this  
proceeding.

Dated at San Francisco, California, this 24<sup>th</sup> day of  
July 1929.

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*C. Deane*  
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*Leon ...*  
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*W. P. ...*  
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COMMISSIONERS.