

Decision No. 22089.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

J.A. BAUER POTTERY COMPANY, INCORPORATED,

Complainant,

vs.

SOUTHERN PACIFIC COMPANY,

Defendant.

Case No. 2801.

BY THE COMMISSION:

O P I N I O N

Complainant is a corporation with its principal place of business at Los Angeles. By complaint filed December 13, 1929, it is alleged that the rate assessed and charges collected on 4 carloads of crude clay shipped from Lignite to Los Angeles between December 7, 1927, and March 1, 1928, were excessive, unjust and unreasonable in violation of Section 13 of the Public Utilities Act.

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

Lignite is on the Ione branch of the Southern Pacific Company, 21 miles east of Galt. The lawfully applicable rate at the time the shipments moved was a commodity rate of $21\frac{1}{2}$ cents, minimum carload weight 60,000 pounds, published in Southern Pacific Company Tariff 825-D, C.R.C. No. 3168. A like rate was formerly in effect in the same tariff from Lincoln, a point on the Southern Pacific lines 28 miles northeast of Sacramento, to Los Angeles, but effective October 24, 1927, defendant established a

rate of 18 cents, minimum 80,000 pounds, on crude clay from Lincoln to Los Angeles. There was, however, no corresponding reduction made in the rate from Lignite to Los Angeles until May 9, 1928. Complainant contends that it has been the customary practice to maintain rates on clay from these points to Los Angeles on a parity, and that failing to do so in connection with shipments in question resulted in the collection of excessive, unjust and unreasonable charges to the extent that they exceeded those that would have accrued at a rate of 18 cents, minimum carload weight 80,000 pounds.

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 find that the assailed rate was unjust and unreasonable to the extent it exceeded the rate subsequently published; that complainant made the shipments as described, paid and bore the charges thereon and is entitled to reparation without interest. Complainant specifically waives the payment of interest.

The exact amount of reparation due is not of record. Complainant will submit to defendant for verification a statement of the shipments made and upon the payment of reparation defendant will notify the Commission the amount thereof. Should it not be possible to reach an agreement as to the reparation award 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 to complainant, J. A. Bauer Pottery Company, Incorporated, without interest, all charges collected in excess of those that would have accrued on basis of a rate of 18 cents per 100 pounds, minimum carload weight 80,000 pounds, for the transportation from Lignite to Los Angeles of the shipments of crude clay involved in this proceeding.

Dated at San Francisco, California, this 5th day of February, 1930.

[Handwritten Signature]
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Commissioners.