

Decision No. 22443.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

SAN PEDRO LUMBER COMPANY,
 Complainant,
 vs.
 SOUTHERN PACIFIC COMPANY and
 PACIFIC ELECTRIC RAILWAY COMPANY,
 Defendants.

ORIGINAL

Case No. 2803.

BY THE COMMISSION:

OPINION

Complainant is a corporation with its principal place of business at Los Angeles. By complaint filed December 18, 1929, it is alleged that the rates assessed and charges collected on two carload shipments of forest products, viz., wooden guy wire covers shipped from Wilmington to Alhambra December 18, 1927, and June 7, 1928, were unjust and unreasonable in violation of Section 13 of the Public Utilities Act.

Reparation only is sought.

Wilmington is on the Pacific Electric Railway and on the San Pedro branch of the Southern Pacific Company 19 and 21 miles respectively south of Los Angeles; Alhambra is on the main line of the Southern Pacific Company 6 miles east of Los Angeles. Complainant's shipments originated at Wilmington on the Pacific Electric and were there switched to the Southern Pacific for movement to Alhambra. Charges were assessed on basis of \$2.70 per car, named in Pacific Electric Railway Tariff No. 2-G, C.R.C. No. 294,

plus the fifth class minimum rate of 11 cents per 100 pounds from Wilmington to Alhambra published in Southern Pacific Company Tariff 711-C, C.R.C. No. 2843. Effective July 20, 1928, in its Tariff 634-C, C.R.C. No. 2848, defendant Southern Pacific Company published a rate of 4 cents per 100 pounds applying on wooden guy wire covers when for movement between Wilmington and Los Angeles. This rate when used in conjunction with a proportional rate of \$7.20 per car on freight regardless of classification, from Los Angeles to Alhambra, produces a lower through charge than that applied to complainant's shipments. The switching charge of \$2.70 per car assessed by the Pacific Electric Railway at Wilmington is not in issue. It is on the basis of the combination rate over Los Angeles that complainant seeks reparation.

Defendants admit the allegations of the complaint and have 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 established; that complainant made the shipments as described, paid and bore the charges thereon and is entitled to reparation without interest. Complainant specifically waived the payment of interest.

The exact amount of reparation due is not of record. Complainant will submit to defendants for verification a statement of shipments made, and upon payment of the reparation defendants 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 defendants, Southern Pacific Company and Pacific Electric Railway Company, according as they participated in the transportation, be and they are hereby authorized and directed to refund to complainant, San Pedro Lumber Company, all charges, exclusive of switching charges, collected in excess of 4 cents per 100 pounds plus \$7.20 per car for the transportation from Wilmington to Alhambra of the shipments of wooden guy wire covers involved in this proceeding.

Dated at San Francisco, California, this 14th day of February, 1930.

W. A. Rouse
Wm. A. Rouse

Wm. A. Rouse

Commissioners.