

Decision No. 22208.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

POMONA TILE MANUFACTURING COMPANY,
a corporation,
Complainant,

vs.

THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY,
SOUTHERN PACIFIC COMPANY,
LOS ANGELES & SALT LAKE RAILROAD
COMPANY,
Defendants.

ORIGINAL

Case No. 2779.

B. H. Carmichael and F. W. Turcotte, for complainant.

E. W. Camp, Gerald B. Duffy, B. Levy and C. K. Adams,
for defendant The Atchison, Topeka and Santa Fe
Railway Company.

E. E. Bennett and J. L. Ronnow, for defendant Los An-
geles & Salt Lake Railroad Company.

A. Burton Mason, for defendant Southern Pacific Company.

BY THE COMMISSION:

OPINION

Complainant is a corporation with its principal place of business at Los Angeles. By complaint filed October 31, 1929, it is alleged that the rate assessed and charges collected on numerous carload shipments of crude clay moving from Alberhill to Pomona were during the two-year period immediately preceding the filing of this complaint, are now and for the future will be unjust and unreasonable, in violation of Section 13 of the Public Utilities Act.

Complainant seeks reparation and a rate for the future.

Rates are stated in cents per 100 pounds.

A public hearing was held before Examiner Geary at Los Angeles January 29, 1930, and the case having been submitted is now ready for an opinion and order.

Alberhill is on the Atchison, Topeka and Santa Fe Railway 36 miles southwest of Colton, and Pomona is on the Los Angeles & Salt Lake Railroad 35 miles west of San Bernardino and on the Southern Pacific 25 miles west of Colton. Complainant's shipments consisted of 17 cars of crude clay, routed Atchison, Topeka and Santa Fe Railway to Colton, thence Southern Pacific Company. Charges were assessed on basis of the lawfully applicable rate of 8 cents, minimum carload weight 60,000 pounds, named in Pacific Freight Tariff Bureau Tariff 30-J, C.R.C. 436. It is complainant's contention that it has been and is now subject to the payment of rates and charges which were when exacted and still are unjust and unreasonable, in violation of Section 13 of the Public Utilities Act, and that it is being damaged to the extent the charges collected exceeded a just and reasonable rate.

At the hearing complainant presented the testimony of two witnesses and introduced four exhibits. This testimony and the exhibits dealt mainly with proof of the payment of freight charges and an analysis and comparison of the rate situation.

After complainant had closed its case defendants requested a recess. Upon reconvening the interested parties advised they had agreed upon a rate of $7\frac{1}{2}$ cents for the transportation of crude clay Alberhill to Pomona and that defendants would pay reparation to this basis with interest. The carriers defendant published on March 5th the promised rate of $7\frac{1}{2}$ cents in Pacific Freight Tariff Bureau Tariff 30-J, C.R.C. 436, effective April 15, 1930.

Upon this record we are of the opinion and find that this complainant is entitled to an award of reparation to the basis of the $7\frac{1}{2}$ cents effective April 15, 1930, with interest at 6% per annum.

The exact amount of reparation due is not of record. Complainant will submit to defendants for verification a statement of the shipments made and upon the payment of 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 having been duly heard and submitted, 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 preceding opinion,

IT IS HEREBY ORDERED that The Atchison, Topeka and Santa Fe Railway Company and the Southern Pacific Company, according as they participated in the transportation, be and they are hereby authorized and directed to refund to complainant, Pomona Tile Manufacturing Company, with interest at six (6) per cent. per annum, all charges that they may have collected in excess of $7\frac{1}{2}$ cents per 100 pounds for the transportation of the 17 cars of crude clay from Alberhill to Pomona, involved in this proceeding.

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

C. S. [Signature]

Thomas B. [Signature]

M. J. [Signature]
Commissioners.