

Decision No. 22733.

## BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

H. E. DILLON and HARRY W. BOLES  
and DILLON AND BOLES, a copart-  
nership,

Complainants,

vs.

THE ATCHISON, TOPEKA AND SANTA FE  
RAILWAY COMPANY,

Defendant.

ORIGINAL

Case No. 2872.

BY THE COMMISSION:

O P I N I O N

Complainants are individuals and a co-partnership engaged in the contracting business in and about Los Angeles. By complaint filed June 5, 1930, it is alleged that the rate assessed on numerous carloads of crushed rock shipped from Kincaid to Newberry during June and July, 1929, was unjust and unreasonable in violation of Section 13 of the Public Utilities Act and unduly discriminatory in violation of Section 19 of the Act.

Relief from the payment of undercharges is sought. Rates are stated in cents per 100 pounds.

Complainants' shipments consisting of about 35 carloads of crushed rock were forwarded from Kincaid, a point on the line of the Atchison, Topeka and Santa Fe Railway 23 miles east of Los Angeles, and were destined to Newberry, a point on the same line 21 miles east of Barstow. At the time shipments moved charges were erroneously assessed and collected on basis of a rate of 7 cents. About six months later, however, additional bills aggregating \$1,537.60 were presented by the defendant based on the legally applicable rate of 12 cents, which rate complainants contend

is unjust, unreasonable and unduly discriminatory to the extent it exceeds a rate of 7 cents.

Defendant admits the allegations of the complaint and has signified its willingness to waive the collection of the undercharges; 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 upon the collection of charges on basis of the 12-cent rate complainants will be damaged to the extent of the difference between the charges then paid and those that would have accrued on basis of 7 cents. Defendant should specifically publish this rate.

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, The Atchison, Topeka and Santa Fe Railway Company, be and it is hereby authorized and directed to waive the existing undercharges on complainants' shipments of crushed rock described in this proceeding.

Dated at San Francisco, California, this 11th day of August, 1930.

P. P. Sawyer  
James E. Smith  
Leon C. Whiteley  
Wm. S. Latta

Commissioners.