

Decision No. 22995.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

WESTERN HARVESTER CO.,
CATERPILLAR TRACTOR CO.,

Complainants,

vs.

SOUTHERN PACIFIC COMPANY,

Defendant.

ORIGINAL

Case No. 2798.

BY THE COMMISSION:

OPINION

Complainants are corporations with their principal places of business at San Leandro. By complaint filed December 12, 1929, and as amended October 2, 1930, it is alleged that the rate assessed and collected on numerous carloads of sand shipped from Benali to Stockton on and after August 21, 1928, was 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.

Benali and Stockton are on the main line of the Southern Pacific Company six miles east and 48 miles south of Sacramento respectively. Charges were assessed on complainants' shipments on basis of a commodity rate of 6 cents applicable on moulding sand as named in Southern Pacific Tariff 730-C, C.R.C. 2904. Effective January 24, 1930, defendant reduced the 6-cent rate to 4 cents, and it is on the basis of this subsequently established rate that complainants seek reparation.

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 4 cents; that complainants made the shipments as described, paid and bore the charges thereon and are entitled to reparation without interest. Complainants specifically waived the payment of interest.

The exact amount of reparation due is not of record. Complainants will submit to defendant for verification a statement of the shipments made and upon the payment of the 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 without interest to complainants, Western Harvester Company and Caterpillar Tractor Company, all charges collected in excess of 4 cents per 100 pounds for the transportation from Benali to Stockton of the shipments of sand involved in this proceeding.

Dated at San Francisco, California, this 24th day of October, 1930.

P. L. Sewell

Leon O. Whisely
John B. Lott