

Decision No. 23153

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

UNITED CONCRETE PIPE CORPORATION,
a corporation,

Complainant,

vs.

PACIFIC ELECTRIC RAILWAY COMPANY,
SOUTHERN PACIFIC COMPANY,

Defendants.

ORIGINAL

Case No. 2891.

BY THE COMMISSION:

O P I N I O N

Complainant is a corporation engaged in the manufacturing of concrete pipe. Its principal place of business is at Dolanco. By complaint filed July 15, 1930, and as amended October 28, 1930, it is alleged that the charges assessed and collected on numerous carloads of sand shipped from Hewitt to Dolanco during the period January 1, 1929, to February 2, 1930, inclusive, were 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.

Hewitt is on the Southern Pacific Company and Dolanco on the Pacific Electric Railway 15 miles northwest and 15 miles south of Los Angeles, respectively. Subsequent to November 10, 1929, charges were assessed and collected on complainant's shipments on basis of a combination rate of 5 cents, and prior to that time on the basis of 5½ cents. In both cases they were made

by combining the local rates of the defendant carriers over Los Angeles.

Complainant contends that the charges assessed and collected were unreasonable to the extent they exceeded charges based on the so-called Southern California rock scale, an unpublished scale followed generally throughout the southern part of the state. The joint line rate under this scale for a distance of 30 miles is $4\frac{1}{2}$ cents. It is on the basis of this rate 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. Defendants should publish specifically a joint commodity rate of $4\frac{1}{2}$ cents from Hewitt to Dolanco.

Upon consideration of all the facts of record we are of the opinion and find that the assailed rates were unjust and unreasonable to the extent they exceeded $4\frac{1}{2}$ cents; 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 the shipments made and upon the 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 answers 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, Pacific Electric Railway Company and Southern Pacific Company, according as they participated in the transportation, be and they are hereby authorized and directed to refund without interest to complainant, United Concrete Pipe Corporation, all charges collected in excess of $4\frac{1}{2}$ cents per 100 pounds for the transportation from Hewitt to Dolanco of the shipments of sand involved in this proceeding.

Dated at San Francisco, California, this 10th day of December, 1930.

Chas. J. ...
Emmanuel ...

Thos. B. Lattin

Commissioners.