

Decision No. 25488.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

PACIFIC CLAY PRODUCTS,  
Complainant,  
vs.  
SOUTHERN PACIFIC COMPANY,  
Defendant.

ORIGINAL

Case No. 3260.

R. S. Sawyer, for complainant.

J. E. Lyons and J. L. Fielding, for defendant.

BY THE COMMISSION:

O P I N I O N

By complaint filed May 18, 1932, and as amended complainant alleges that the rates assessed and collected on three carloads of fire brick shipped from Los Angeles to Paso Robles on or about March 25, 26 and 30, 1932, were unjust, unreasonable and unduly prejudicial, in violation of Sections 13 and 19 of the Public Utilities Act.

Reparation only is sought. Rates are stated in cents per 100 pounds.

A public hearing was held before Examiner Geary at Los Angeles August 8, 1932. No testimony was taken, as the parties requested additional time within which to endeavor to reach an amicable agreement. The matter was submitted upon stipulation filed September 27, 1932.

Paso Robles is on the Coast Division of the Southern Pacific Company 257 miles north of Los Angeles. Charges were assessed and collected on complainant's shipments on basis of a rate of 27 cents published in Southern Pacific Company's Tariff 825-E, C.R.C. 3271, plus an emergency charge of 1 cent. At the time these shipments moved there was in effect from San Francisco to Paso Robles, a distance of 211 miles, a rate of 14½ cents plus an emergency charge of 1 cent. From Los Angeles to Paso Robles defendant established in Special Joint Freight Tariff No. 3109, C.R.C. No. 3431, a commodity rate of 17 cents with no emergency charge, effective April 15, 1932. It is on the basis of a rate of 17 cents plus 1 cent emergency charge that complainant seeks reparation.

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 17 cents plus 1 cent emergency charge; 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 allegation of undue prejudice has been abandoned.

#### 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 complainant Pacific Clay Products all charges collected in excess of 17 cents per 100 pounds plus 1 cent per 100

pounds emergency charge, for the transportation from Los Angeles to Paso Robles of the shipments of fire brick involved in this proceeding.

IT IS HEREBY FURTHER ORDERED that in all other respects this proceeding be and it is hereby dismissed.

Dated at San Francisco, California, this 27<sup>th</sup> day of December, 1932.

O. L. Lenny  
L. M. Caldwell  
W. A. Carr  
W. B. Harris  
Fred G. Albrecht  
Commissioners.