

Decision No. 25781.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

STANDARD GYPSUM COMPANY, INC.,  
a corporation,

Complainant,

vs.

SOUTHERN PACIFIC COMPANY,  
HOLTON INTER-URBAN RAILWAY COMPANY and  
SAN DIEGO AND ARIZONA RAILWAY COMPANY,

Defendants.

ORIGINAL

Case No. 3206.

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

R. G. Dilworth, James E. Lyons and A. L. Whittle, by  
A. L. Whittle, for defendants.

Sanborn & Roehl, by H. H. Sanborn, for Pacific Port-  
land Cement Company, and James A. Keller and L. E.  
Keller, interveners.

A. R. Sutton, for Blue Diamond Corporation, Ltd.,  
intervener.

E. W. Camp, G. E. Duffy, B. Levy and A. E. McGowan,  
by A. E. McGowan, for The Atchison, Topeka and  
Santa Fe Railway Company, intervener.

Charles A. Bland, for Board of Harbor Commissioners  
of the City of Long Beach, interveners.

BY THE COMMISSION:

O P I N I O N

Complainant, Standard Gypsum Company, Incorporated, has  
a plaster mill at Long Beach and ships plaster in carloads to des-  
tinations on lines of defendant carriers. It alleges by complaint  
filed February 23, 1932, and as amended, that the rates charged for

the transportation of plaster in carloads from Long Beach to all destinations in Southern California, Santa Barbara, Mojave and points south thereof, are in violation of Section 19 of the Public Utilities Act, unduly prejudicial to complainant and unduly preferential to complainant's competitors who operate mills at Los Angeles and Plaster City and ship plaster into the same general territory. Complainant asks that there be established from Long Beach to points east of Beaumont to Niland and south of Niland a rate on plaster of 11 cents per 100 pounds, this being the rate applicable from Los Angeles to the same territory and from Plaster City to Los Angeles, Glendale and Long Beach. There is likewise a demand for rates on plaster from Long Beach to the local points in Southern California, Santa Barbara, Mojave and south, which shall be non-discriminatory and fairly related to the rates from Los Angeles to the same destination points.

All allegations of unjust and unreasonable rates per se in violation of Section 13 of the Public Utilities Act were withdrawn at the hearing.

Petitions in intervention were accepted on behalf of the Atchison, Topeka and Santa Fe Railway Company, the Board of Harbor Commissioners of the City of Long Beach, the Pacific Portland Cement Company and the Blue Diamond Corporation.

Hearings were held at Los Angeles before Examiner Geary, and the proceeding having been submitted and briefed is now ready for our opinion and order.

Complainant's principal competitors are the Blue Diamond Corporation, with a plaster mill at Los Angeles, and the Pacific Portland Cement Company, with a plaster manufacturing plant at

Plaster City.

In our Decision No. 22181, Case 2413 et al., March 6, 1930 (34 C.R.C. 425), a proceeding involving plaster rates, the following was said at pages 427-428:

"There are four plaster mills situated in the southern part of the state, at Los Angeles on the Southern Pacific, Long Beach on the Pacific Electric Railway, Plaster City on the San Diego and Arizona Railway, and Midland on the Atchison, Topeka and Santa Fe Railway. Plaster City is 18 miles west of El Centro and 236 miles from Los Angeles; Midland is 305 miles east of Los Angeles. These plants have all been established since 1922, primarily to supply the southern California markets. There are also mills at Arden, Nevada, on the Los Angeles and Salt Lake Railroad, Gerlach, Nevada, on the Western Pacific Railroad, and Ludwig, Nevada, on the Nevada Copper Belt Railroad.

"The crude gypsum, from which plaster is manufactured, is obtained by the Los Angeles and Long Beach mills from Arden, Nevada, and San Marcos Island, Mexico, respectively. The Plaster City and Midland plants are situated near the source of the crude supply, although the one at Plaster City maintains an industrial railroad approximately 26 miles in length to transport the gypsum from the deposits to the mill.

"In 1924 the Pacific Portland Cement Company established its mill at Plaster City. At that time the Los Angeles and Salt Lake Railroad maintained a rate of 15½ cents from Arden to Los Angeles, for a distance of 321 miles, yielding a ton mile revenue of 3.41 mills. Using the Arden to Los Angeles rate as a guide, the San Diego and Arizona Railway and the Southern Pacific Company established from Plaster City to Los Angeles a rate of 11 cents, which produces a per ton mile revenue of 9.32 mills. They also established to Mojave a rate of 19 cents, the same as that in effect from Amboy, and to Fresno and San Francisco they published rates of 20 and 25 cents, respectively, which were the rates concurrently in effect to those points from Arden, Nevada."

Upon the record as made in Case 2413 we found that the rates from Los Angeles to Banning and south were unduly prejudicial to Los Angeles and unduly preferential to Plaster City to the extent they exceeded the rate in effect from Plaster City to Los Angeles. The defendants in compliance with the order elected to publish the 11-cent rate, intermediate in application, from Los Angeles to Plaster City but made no corresponding adjustment from Long Beach.

The following table, giving the distances and rates to representative points, is illustrative of the present adjustment between the three shipping points.

TO	FROM Long Beach		FROM Los Angeles		FROM Plaster City	
	Distance	Rate	Distance	Rate	Distance	Rate
Los Angeles	22	4	-	-	235	11
Long Beach	-	-	22	4	257	11
Pasadena	32	8	11	5	234	11
Redlands	88	11	66	8	166	11
Beaumont	102	11	80	11	155	11
Banning	108	15	86	11	149	11
Niland	209	15	186	11	50	11
El Centro	239	15	218	11	18	8½
Calexico	248	15	227	11	28	10

It will be observed that from Long Beach the 15-cent rate extends from Banning 108 miles to Calexico 248 miles, a blanket of 140 miles; from Los Angeles the 11-cent rate extends from Beaumont 80 miles to Calexico 227 miles, a blanket of 147 miles, while from Plaster City the 11-cent rate extends north from Niland 50 miles to Long Beach 257 miles, a blanket of 207 miles. The tabulation further discloses that at Beaumont the 11-cent rate applies as common from all three producing mills, this station being 102 miles from Long Beach, 80 miles from Los Angeles and 155 miles from Plaster City. Complainant contends that the rate of 15 cents from Long Beach to Banning 108 miles and blanketed to and including Calexico 248 miles reflects an unlawful discrimination, giving a preference to Los Angeles which has an 11-cent rate to Beaumont 80 miles, extended to Calexico 227 miles, and also that the rate of 11 cents in the opposite direction from Plaster City to Long Beach 257 miles applicable at intermediate points creates a similar unlawful discrimination, giving a preference to Plaster City.

The City of Los Angeles and its metropolitan area represent the principal market into which these three competing plaster mills must feed the major part of their production in order to make possible the continuation of their manufacturing activities.

In Southern California, Mojave-Santa Barbara and south, there is a population of 2,049,765 (1930 census) and of this total 90.3% is in consuming territory where the plaster rates are in favor of Long Beach and Los Angeles; also in 97.5% of the territory the rates are the same as or lower than rates from Plaster City. It will thus be seen that if the transportation charges on the finished plaster were the only factors to be considered, the Long Beach and Los Angeles mills, located as they are at the points of heaviest consumption with but a small delivery charge, would hold a decided selling advantage over the more distant California mills at Plaster City and Midland, those in Nevada and the other competitors shipping into Southern California. The record however discloses in much detail the accessorial costs of getting the raw materials to the different plaster mills, the expenses of manufacture, etc., all of which items in connection with the transportation competition were alleged to have been given consideration by defendants in arriving at the rates.

The 11-cent rate, as heretofore stated, is in effect from Plaster City and Midland to Los Angeles and from Los Angeles to Calexico. A rate of 15 cents applies from Long Beach to Calexico. These rates are all applicable at the intermediate points.

It is complainant's contention that the rates from its Long Beach mill to points east of Beaumont and Niland and south of Niland should not exceed the rates contemporaneously applying from Los Angeles to the same points or from Plaster City to Long

Beach. The evidence does not indicate that the operating conditions are substantially different in one direction than in the other. Prior to April 25, 1930, the rates on plaster from Long Beach and Los Angeles were of the same volume. It is also obvious from the testimony and filed tariffs that it is the practice of defendants to publish for many heavy loading goods specific carload commodity rates of equal volume from Long Beach and Los Angeles when to points as distant as Banning, 108 miles from Long Beach and 86 miles from Los Angeles.

Defendants by their own action published in the first instance the 11-cent rate from Plaster City to Los Angeles-Long Beach, and later published the same rate from Los Angeles into the Beaumont-Calexico territory, thus putting the Plaster City and Los Angeles mills on a rate parity within each other's home districts.

We held, in Cases Nos. 2393 and 2396, decided June 28, 1929 (33 C.R.C. 301), to which all parties to this action have referred, that

"Defendants have elected to establish rates for the Merced mill to the territory naturally tributary to complainants' mills to enable Merced to compete, but they have failed to treat complainants in the same manner in reaching the markets adjacent to the Merced mill.

"Manifestly it is unjust to establish favorable rates to allow complainants' competitor to reach the territory tributary to their mills and not extend as favorable a basis of rates to enable complainants to reach the territory adjacent to their competitor's mill."

The principles thus expressed should be adhered to in the instant proceeding.

We find that the rates on plaster from Long Beach to points east of Beaumont, to Niland and south of Niland, being higher than the rates from Los Angeles and higher than the rates from Plaster City to Long Beach, are prejudicial to Long Beach

and preferential to Los Angeles and Plaster City, and that they are in violation of Section 21 Article XII of the Constitution and Section 19 of the Public Utilities Act.

We turn now to complainant's allegation that the local rates from Long Beach to the territory bounded by Santa Barbara and Mojave on the north and Beaumont on the east, and south of Los Angeles to Whittier and Newport Beach are prejudicial to Long Beach and preferential to Los Angeles.

In the following statement are shown the rates within the three territories from Long Beach and Los Angeles to representative destinations for approximately equal distance hauls.

FROM LONG BEACH			FROM LOS ANGELES		
To	Miles	Rate	To	Miles	Rate
<u>(Points East)</u>			<u>(Points East)</u>		
Pasadena	32	8	Anaheim	28	8
Monrovia	38	11	Chino	38	8
San Dimas	49	11	Ailsa	50	8
Pomona	54	11	Colton	57	8
Guasti	64	11	Redlands	65	8
<u>(Points North)</u>			<u>(Points North)</u>		
North Hollywood	35	11	Santa Susana	36	11
Owensmouth	49	13	Moorpark	46	12
Santa Susana	57	14	Camarillo	56	12
Oxnard	87	15½	Rosamond	88	12½
Ventura	96	15½	Santa Barbara	102	12½
Santa Barbara	124	15½	Tehachapi	121	14½
<u>(Points North)</u>			<u>(Points North)</u>		
San Fernando	42	11	Moorpark	46	12
Fillmore	77	15	Ventura	75	12½
Mojave	123	15½	Tehachapi	121	14½

This comparison clearly shows that for equal mileage hauls eastward to Beaumont, Los Angeles has a rate advantage of three (3) cents per 100 pounds at almost all points. To points north the Los Angeles rate advantage is from one (1) to three (3) cents per 100 pounds.

The transportation and traffic conditions are sufficiently similar in the territory adjacent to Los Angeles to justify one basis of rates. There is no equity in a rate of 15½ cents from Long Beach to Ornard, 87 miles, and a rate of 12½ cents from Los Angeles to Rosamond, 88 miles, both destinations being in the same district. Upon this record we find that the rates from Long Beach to points on the Southern Pacific Company in the territory bounded by Santa Barbara and Mojave on the north and Beaumont on the east where the movement is through Los Angeles are unduly prejudicial to complainant and that those from Los Angeles to the same points are unduly preferential of complainant's competitor at Los Angeles to the extent the rates from Long Beach exceed by more than one cent per 100 pounds the rates concurrently maintained from Los Angeles. We further find that to the points on the Southern Pacific Company south of Los Angeles the rates from Long Beach are unduly prejudicial to complainant and those from Los Angeles to the same points unduly preferential of complainant's competitor to the extent the rates from Long Beach exceed those from Los Angeles.

#### O R D E R

This proceeding 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 defendants Southern Pacific Company and Holton Interurban Railway be and they are hereby ordered to cease and desist within thirty (30) days from the effective date of this order and thereafter to abstain from demanding or collecting rates for the transportation of plaster and its



products from Long Beach to points east of Beaumont to Niland and south of Niland which shall exceed the rates concurrently in effect from Los Angeles to the same destinations or from Plaster City to Long Beach.

IT IS HEREBY FURTHER ORDERED that defendant Southern Pacific Company be and it is hereby ordered to cease and desist within thirty (30) days from the effective date of this order, and thereafter to abstain from demanding or collecting rates for the transportation of plaster and its products from Long Beach to points north of Los Angeles to and including Santa Barbara and Mojave and east of Los Angeles to and including Beaumont which exceed by more than one cent per 100 pounds the rates concurrently in effect from Los Angeles to the same points.

IT IS HEREBY FURTHER ORDERED that defendant Southern Pacific Company be and it is hereby ordered and directed to cease and desist within thirty (30) days from the effective date of this order, and thereafter to abstain from demanding or collecting rates for the transportation of plaster and its products from Long Beach to points on the Southern Pacific Company south of Los Angeles in excess of those concurrently in effect from Los Angeles.

Dated at San Francisco, California, this \_\_\_\_\_ day of March, 1933.

C. L. Lewis  
Leon Whitney  
W. A. Cunn  
M. B. Hansen  
W. J. [unclear]  
Commissioners.

*CORRECTION*

# CORRECTION

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HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY

products from Long Beach to points east of Beaumont to Niland and south of Niland which shall exceed the rates concurrently in effect from Los Angeles to the same destinations or from Plaster City to Long Beach.

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Dated at San Francisco, California, this \_\_\_\_\_ day of March, 1933.

Al Jensen  
Leon Swadlow  
W. A. Kim  
W. B. Lamm  
W. H. [unclear]  
Commissioners.