

Decision No. 26519.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

GRIFFITH COMPANY, a corporation,  
Complainant,

vs.

LOS ANGELES & SALT LAKE RAILROAD COMPANY,  
a corporation, and  
SOUTHERN PACIFIC COMPANY, a corporation,  
Defendants.

ORIGINAL

Case No. 3330.

BY THE COMMISSION:

O P I N I O N

By complaint filed September 6, 1932, it is alleged that the charges assessed on 13 carload shipments of cement transported from Colton to San Pedro during the period extending from August 31, 1927, to September 30, 1927, both dates inclusive, were unjust and unreasonable in violation of Section 13 of the Public Utilities Act. An order directing defendants to waive collection of outstanding undercharges is sought. Rates are stated in cents per 100 pounds.

Complainant's shipments were transported from Colton to Los Angeles by defendant Los Angeles & Salt Lake Railroad Company. At Los Angeles they were delivered to the Southern Pacific Company for transportation via its line to San Pedro. Charges were originally assessed and collected on basis of a rate of 9 cents. This rate however did not apply on shipments interchanged by the defendants

at Los Angeles. The rate lawfully applicable was 13½ cents, obtained by combining defendants' separately established factors to and from the point of interchange.

At the time these shipments moved both defendants maintained local rates of 9 cents for the transportation of cement from Colton to San Pedro via their respective lines. They also maintained a rate of the same volume for a joint movement via the Los Angeles & Salt Lake Railroad to Thenard, thence Southern Pacific Company.

Complainant contends that the applicable charges were unjust and unreasonable to the extent they exceeded those that would have accrued on basis of a rate of 9 cents. It also states that no other shipments moved or are likely to move over the route over which these shipments were transported, and that it is unnecessary to require the publication of the 9-cent rate for the future.

Defendants admit that the assailed rate was unjust and unreasonable to the extent it exceeded 9 cents and have signified their 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 charges applicable on complainant's shipments were unjust and unreasonable in that they exceeded charges based on a rate of 9 cents; that upon collection of these unreasonable charges complainant would be damaged to the extent of the difference between the charges paid and those herein found reasonable. Defendants will be authorized to waive collection of the outstanding undercharges (San Francisco Milling Co. Ltd. vs. Southern Pacific Co., 34 C.R.C. 453).

#### ORDER

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 Los Angeles & Salt Lake Railroad Company and Southern Pacific Company be and they are hereby ordered and directed to cease and desist from demanding from complainant Griffith Company charges for the transportation of the shipments of cement involved in this proceeding in excess of those herein found reasonable.

IT IS HEREBY FURTHER ORDERED that defendants Los Angeles & Salt Lake Railroad Company and Southern Pacific Company be and they are hereby authorized and directed to waive collection of the charges outstanding on complainant's shipments in excess of those herein found reasonable.

Dated at San Francisco, California, this 13<sup>th</sup> day of November, 1933.

W. C. Sullivan  
Leon A. Wiley  
M. A. Carr  
M. B. Brown  
M. H. ...  
Commissioners.