

Decision No. 28748

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application)
of Southern Pacific Company and)
F. W. GOMPH, as Agent for and on)
behalf of The Atchison, Topeka &)
Santa Fe Railway Company, Visalia)
Electric Railroad Company, Sunset)
Railway Company, Bay Point and)
Clayton Railroad Company and)
Yosemite Valley Railroad Company)
for permission to increase certain)
freight rates on cement from Red-)
wood City, Cowell, Kentucky House)
and Davenport.)

ORIGINAL

Application No. 19046.

James E. Lyons, Gerald E. Duffy and Berne Levy,
for the Applicants.

Wm. Guthrie, for California Portland Cement Company,

McCutchen, Olney, Mannon & Greene, by F. W. Mielke,
for Yosemite Portland Cement Corporation,

W. D. Burnett, for Monolith Portland Cement Company,

Sanborn & Roehl, by E. H. Sanborn, and N. E. Keller,
for Pacific Portland Cement Company,

Ralph Mitchell, for Henry Cowell Lime & Cement Company.

BY THE COMMISSION:

ORDER OF DISMISSAL.

This is an application on behalf of the Southern Pacific Com-
pany and F. W. Gomph, as Agent for and on behalf of the Atchison,
Topeka & Santa Fe Railway Company, and the concurring short line
railroads for permission to increase certain freight rates on

cement in carload lots from Redwood City, Cowell, Kentucky House and Davenport, as set forth in Exhibits "A" and "B" attached to and made a part of the application.

The application originated by reason of our Decision No. 25968 in Case 3071, Monolith Portland Cement Company vs. Southern Pacific Company et al., dated May 29, 1933. The decision found that certain cement rates from Monolith were not unjust or unreasonable, but that they were unduly prejudicial. The defendants were ordered to remove the prejudice. This could be accomplished either by reducing the rates from Monolith, or increasing the rates from the Northern cement mills by amounts named to specified key points. This application recites that the order in Case No. 3071 from a literal and practical standpoint could not be satisfactorily complied with. At the request of the interested parties the effective date of Decision No. 25968 was extended to July 29th, then to September 29th and finally, by Decision No. 26423, was extended until the further order of the Commission.

The instant application was called for hearing before Examiner Geary at San Francisco January 4, 1934, and this entire day was consumed by the discussions among the representatives of the many cement mills without reaching an agreement. At the hearing on January 5th parties indicated that they could reach no agreement, whereupon applicant proceeded in the regular manner through its witnesses to attempt to justify the rates proposed by it and as set forth in Exhibits "A" and "B" attached to the application. An adjournment at the request of protestants was then taken until January 12th and the case called on that date. After some further discussion applicants stated that they had made earnest efforts to compromise the differences existing between the

competing cement mills, but could reach no satisfactory basis of rates.

Attorneys representing the railroads announced that they desired to withdraw the application and have the same dismissed, also that it was their intention as quickly as possible to comply with Decision No. 25968 in Case No. 3071, dated May 29, 1933, by reducing the rates from Monolith. This suggestion met with the approval of the Monolith Portland Cement Company, who requested that the original order in Case No. 3071 be immediately complied with.

The application will be dismissed.

O R D E R

Applicants in this proceeding having in open court moved that the same be withdrawn and dismissed, and good cause appearing therefor,

IT IS HEREBY ORDERED that the said application be and it is hereby dismissed.

Dated at San Francisco, California, this 9th day of January, 1934.

C. C. Severy
Leon C. White
W. B. Harris
W. B. Harris
Commissioners.