

Decision No. 27347.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

GRAHAM BROTHERS, INC.,
Complainant,
vs.
SOUTHERN PACIFIC COMPANY,
Defendant.

Case No. 3903.

BY THE COMMISSION:

ORIGINAL

O P I N I O N

By complaint filed September 19, 1934, it is alleged that the charges assessed and collected for the transportation of a stone crusher, set up, weighing approximately 79,640 pounds, from El Monte to Indio on February 25, 1933, 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.

El Monte and Indio are on the line of the Southern Pacific Company 13 and 129 miles respectively east of Los Angeles. Charges were assessed and collected on complainant's shipment on basis of the applicable Class "A" rate of 43 cents, named in defendant's Tariff 711-C, C.R.C. 2843, plus a charge of 2 cents published in Tariff of Emergency Charges 225, C.R.C. 496 of F. W. Gompf, Agent. At the time the shipment moved defendant maintained in Item 2445 of

its Tariff 730-D, C.R.C. 3353, a rate of 30 cents not subject to any emergency charge for the transportation of cranes and parts thereof from El Monte to Thermal, a point 7 miles beyond Indio. Moreover, effective December 15, 1933, in the same tariff, it established a rate of like volume for the transportation here involved. It is upon the basis of this subsequently established rate and that concurrently in effect on cranes and parts thereof, that complainant seeks reparation.

Defendant admits the allegations of the complaint and has signified its 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 assailed rate was unjust and unreasonable to the extent it exceeded 30 cents. We further find that complainant made the shipment as described, paid and bore the charges thereon and is entitled to reparation without interest. Complainant specifically waived the payment of interest.

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 to complainant, Graham Brothers, Inc., without interest, all

charges collected in excess of 30 cents per 100 pounds, for the transportation from El Monte to and of the stone crusher involved in this proceeding.

Dated at San Francisco, California, this 15th day of October, 1934.

Leon A. Murphy

W. B. Harris

W. B. Harris

W. B. Harris

W. B. Harris

Commissioners.