

Decision No. 27878.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

MONOLITH PORTLAND CEMENT COMPANY,
a corporation,
Complainant,

vs.

SOUTHERN PACIFIC COMPANY,
a corporation,
Defendant.

Case No. 3917.

ORIGINAL

BY THE COMMISSION:

O P I N I O N

By complaint filed October 16, 1934, and as amended, it is alleged that the charges assessed and collected on 21 carloads of cement transported from Monolith to Hollister during the two-year period immediately preceding the filing of the complaint, 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.

Monolith is on the line of the Southern Pacific Company 52 miles south of Bakersfield; Hollister is on the same line 44 miles south of San Jose. Charges were assessed and collected on complainant's shipments on basis of a rate of 36 cents, named in Southern Pacific Company's Tariff No. 584-D, C.R.C. No. 2861. Effective June 18, 1934, on page 37 of the same tariff defendant published a rate of 31½ cents for the transportation of cement from Monolith to Hollister, and it is on the basis of this subsequently established rate that complainant seeks reparation.

Defendant admits that the assailed rate was unreasonable to the

extent it exceeded $31\frac{1}{2}$ cents 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 $31\frac{1}{2}$ cents. We further find that upon proper proof that complainant made the shipments as described, paid or bore the charges thereon, it is entitled to reparation without interest. Complainant specifically waived the payment of interest.

The exact amount of reparation due is not of record. Complainant will submit to defendant for verification a statement of the shipments made and upon the payment of reparation defendant will notify the Commission the amount thereof. Should it not be possible to reach an agreement as to the reparation award the matter may be referred to the Commission for further attention and the entry of a supplemental order should such be necessary.

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 upon proper proof that complainant paid or bore the charges on the shipments involved, defendant Southern Pacific Company be and it is hereby authorized and directed to refund without interest to complainant Monolith Portland Cement Company, all charges collected in excess of $31\frac{1}{2}$ cents per 100 pounds

for the transportation from Monolith to Hollister of the shipments
of cement involved in this proceeding.

Dated at San Francisco, California, this 14th day
of January, 1935.

Leon Whitney

W. A. Linn

W. S. Linn

W. S. Linn

Frank R. Linn

Commissioners.