

Decision No. 29527

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

SANTA CRUZ PORTLAND CEMENT COMPANY,)
a Corporation,)
Complainant,)

vs.

Case No. 4171

SOUTHERN PACIFIC COMPANY,)
Defendant.)

ORIGINAL

BY THE COMMISSION:

O P I N I O N

Complainant alleges that the charges assessed and collected on 35 carloads of cement shipped from Alameda to Rocktram during the period March 20, 1935 to August 5, 1936, both dates inclusive, 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.

Alameda is within defendant's Oakland switching limits. Rocktram is situated on the Napa Branch of the Southern Pacific Company about 3 miles south of Napa.

Charges on the shipments made prior to October 9, 1935 were assessed on basis of a rate of 10½ cents which is the rate from Redwood City to Imola to which points Alameda and Rocktram are intermediate. Effective October 9, 1935 defendant published in its Tariff No. 584-D, C.R.C. No. 2861, a rate of 9½ cents from Alameda to Rocktram which rate was applied on the shipments here involved moving on and after that date.

During the period covered by the complaint, there has been in effect and published in Southern Pacific Company's Tariff No. 917-D, C.R.C. No. 2929 a Class "C" rate of 8½ cents applicable from Alameda

to Suscol and Imola, which points are located on either side of Rocktram. This rate, however, was non-intermediate in application. Effective August 6, 1936, defendant published in its Tariff No. 584-D, C.R.C. No. 2861, a rate of 9 cents applicable from Alameda to Rocktram and it is on the basis of this subsequently established rate that complainant seeks reparation.

Defendant admits the allegation 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 rates were unreasonable to the extent they exceeded a rate of 9 cents. We further find that complainant made the shipments as described, paid and bore the charges thereon, and is entitled to reparation without interest. Complainant specifically waived the payment of interest.

ORDER

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 preceding opinion,

IT IS HEREBY ORDERED that defendant, Southern Pacific Company be and it is hereby authorized and directed to refund, without interest, to complainant, Santa Cruz Portland Cement Company, all charges collected for the transportation from Alameda to Rocktram of the shipments of cement involved in this proceeding in excess of

those that would have accrued at a rate of 9 cents per 100 pounds.

Dated at San Francisco, California, this 8th day of
~~February~~
January, 1937.



Walter H. Hays
Leon A. Sullivan
Frank C. Sullivan
Raymond J. Kelly
Commissioners