

Decision No. 31883

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

MONOLITE PORTLAND CEMENT COMPANY,
a Corporation,
Complainant,

vs.

SOUTHERN PACIFIC COMPANY, a corporation;
THE ATCHISON, TOPEKA & SANTA FE RAILWAY
COMPANY, a corporation; VISALIA ELECTRIC
RAILROAD COMPANY, a corporation; SUNSET
RAILWAY COMPANY, a corporation; BAY
POINT AND CLAYTON RAILROAD COMPANY, a
corporation; CALIFORNIA CENTRAL RAILROAD
COMPANY, a corporation; YOSEMITE VALLEY
RAILROAD COMPANY, a corporation; AMADOR
CENTRAL RAILROAD COMPANY, a corporation;
THE ARCATA & MAD RIVER RAILROAD COMPANY,
a corporation; CALIFORNIA WESTERN RAIL-
ROAD & NAVIGATION COMPANY, a corporation;
CENTRAL CALIFORNIA TRACTION COMPANY, a
corporation; GREAT NORTHERN RAILWAY
COMPANY, a corporation; HOBART SOUTHERN
RAILROAD COMPANY, a corporation; McCLOUD
RIVER RAILROAD COMPANY, a corporation;
MODESTO & EMPIRE TRACTION COMPANY, a
corporation; NEVADA COUNTY NARROW GAUGE
RAILROAD COMPANY, a corporation;
NORTHWESTERN PACIFIC RAILROAD COMPANY,
a corporation; PENINSULAR RAILWAY COMPANY,
a corporation; PETALUMA & SANTA ROSA
RAILROAD COMPANY, a corporation;
SACRAMENTO NORTHERN RAILWAY COMPANY, a
corporation; SANTA MARIA VALLEY RAILROAD
COMPANY, a corporation; SIERRA RAILWAY
COMPANY OF CALIFORNIA, a corporation;
STOCKTON TERMINAL & EASTERN RAILROAD
COMPANY, a corporation; TIDEWATER
SOUTHERN RAILWAY COMPANY, a corporation;
WESTERN PACIFIC RAILROAD COMPANY, a cor-
poration; and YREKA RAILROAD COMPANY,
a corporation,

Defendants.

ORIGINAL

Case No. 3934

MONOLITH PORTLAND CEMENT COMPANY,
a Corporation,
Complainant,

vs.

SOUTHERN PACIFIC COMPANY, a Corporation;
THE ATCHISON, TOPEKA AND SANTA FE RAILWAY
COMPANY, a corporation; VISALIA ELECTRIC
RAILROAD COMPANY, a Corporation; SUNSET
RAILWAY COMPANY, a corporation; BAY POINT
AND CLAYTON RAILROAD COMPANY, a corpora-
tion; CALIFORNIA CENTRAL RAILROAD COM-
PANY, a corporation; YOSEMITE VALLEY
RAILROAD COMPANY, a corporation; AMADOR
CENTRAL RAILROAD COMPANY, a corporation;
THE ARCATA AND MAD RIVER RAILROAD COMPANY,
a corporation; CALIFORNIA WESTERN RAILROAD
AND NAVIGATION COMPANY, a corporation;
CENTRAL CALIFORNIA TRACTION COMPANY, a
corporation; GREAT NORTHERN RAILWAY COM-
PANY, a corporation; HOBART SOUTHERN
RAILROAD COMPANY, a corporation; McCLOUD
RIVER RAILROAD COMPANY, a corporation;
MODESTO AND EMPIRE TRACTION COMPANY, a
corporation; NEVADA COUNTY NARROW GAUGE
RAILROAD COMPANY, a corporation; NORTH-
WESTERN PACIFIC RAILROAD COMPANY, a
corporation; PENINSULAR RAILWAY COMPANY,
a corporation; PETALUMA AND SANTA ROSA
RAILROAD COMPANY, a corporation;
SACRAMENTO NORTHERN RAILWAY COMPANY, a
corporation; SANTA MARIA VALLEY RAIL-
ROAD COMPANY, a corporation; SIERRA
RAILWAY COMPANY OF CALIFORNIA, a corpora-
tion; STOCKTON TERMINAL AND EASTERN
RAILROAD COMPANY, a corporation; TIDE-
WATER SOUTHERN RAILWAY COMPANY, a cor-
poration; WESTERN PACIFIC RAILROAD
COMPANY, a corporation; and YREKA RAIL-
ROAD COMPANY, a corporation,

Defendants.

In the Matter of Cement Rates from
Northern and Central California
producing points to California
points, and from Southern California
producing points to Caliente, Santa
Barbara, and points north thereof.

Case No. 4176

Application No. 22403

BY THE COMMISSION:

(Appearances)

- R. E. Wedekind, for Applicant Southern Pacific Company, Northwestern Pacific Railroad Company, Pacific Electric Railway Company and all applicants not specially represented by counsel in Application 22403, and for the same parties as defendants in all complaint cases and all defendants not specially represented by counsel.
- George Hurst and G. E. Duffy, for The Atchison, Topeka & Santa Fe Railway Company, applicant and defendant.
- L. N. Bradshaw and J. L. Amos, Jr., for Western Pacific Railroad Company, Sacramento Northern Railway and Tidewater Southern Railway, applicants and defendants in complaint cases.
- William Guthrie, for California Portland Cement Company.
- W. G. Higgins, for Santa Cruz Portland Cement Company.
- N. E. Keller, for Pacific Portland Cement Company.
- A. E. Van Slyke, for Yosemite Portland Cement Company.
- D. P. Evans, for Calaveras Cement Company.
- Black, Hammack & McWilliams, by Joseph T. Enright, R. L. Vance and Waldo A. Gillette, for Monolith Portland Cement Company.
- Ralph B. Mitchell, for Henry Cowell Lime & Cement Company.

O P I N I O N

Cases Nos. 3934 and 4176 are complaint proceedings filed by Monolith Portland Cement Company alleging that carload rail rates for the transportation of cement from Monolith to points in central and northern California are unjust, unreasonable and discriminatory, in violation of Sections 13 and 19 of the Public Utilities Act and unduly preferential to other cement shipping points. Complainant seeks the prescription of reasonable and non-discriminatory rates from Monolith, Cowell, Davenport, Kentucky House, Redwood City, San Juan and Merced to the territory involved. Application No. 22403 was filed by

the rail lines,¹ seeking authority to make certain adjustments in the rates involved in the aforementioned proceedings and to substitute, within specified territories, a flat increase of 1 cent per 100 pounds for the 10 per cent increase which, by Decision No. 30784 in Application No. 21603, In re Increases in Rates, Fares and Charges,² they were authorized to place in effect on rail cement rates. The matters were heard and submitted on a consolidated record made at a public hearing held in San Francisco on March 13, 1939, before Examiner P. W. Davis.³

The rail lines proposed (1) that the basic rail rates (those in effect prior to April 15, 1938, when the general increases

¹ The term "rail lines" as used herein refers to The Atchison, Topeka and Santa Fe Railway Company, Bay Point and Clayton Railroad Company, California Central Railroad Company, Central California Traction Company, Northwestern Pacific Railroad Company, Pacific Electric Railway Company, Sacramento Northern Railway, Southern Pacific Company (Pacific Lines), Tidewater Southern Railway Company, Union Pacific Railroad Company, The Western Pacific Railroad Company and Yosemite Valley Railway Company.

² The territories within which the 1 cent increase is sought to be substituted for the 10 per cent increase are as follows:

From	To
All northern and central California producing points from which local and joint commodity rates are now in effect, viz.: Cowell Merced Cement Plant Davenport Oakland Kentucky House Redwood City Merced Stockton	All points in California to which local and joint commodity rates are in effect.
All southern California producing points from which local and joint commodity rates are now in effect, viz.: Colton Los Angeles Harbor Crestmore Monolith Long Beach Oro Grande Los Angeles Riverside Victorville	Caliente, all points north thereof, and all points north of Santa Barbara, to which local and joint commodity rates are now in effect.

³ Case No. 3987, a complaint filed by California Portland Cement Company for the purpose of intervening in Case No. 3934 and obtaining a revision in rates from Colton, was set for concurrent hearing, but, at the request of complainants, the hearing therein was postponed until such time as a decision was rendered in Application No. 21172, and Cases Nos. 3981 and 4071, involving rail and truck rates for the transportation of cement within southern California, now pending before the Commission on petitions for rehearing.

authorized by Decision No. 30784, supra, were made effective) involved in Cases Nos. 3934 and 4176, be adjusted in accordance with an exhibit which they submitted, (2) that such adjusted rates be increased 1 cent per 100 pounds, (3) that other basic rail rates in the territory involved in Application No. 22403 be increased 1 cent per 100 pounds, (4) that authority be granted to make certain of the adjusted rates non-intermediate in application, and (5) that authority be granted to publish the revised rates on one day's notice.

In support of the first proposal it was stated that the adjusted basic rates were designed to create reasonable rates from the several shipping points and, at the same time, to provide non-discriminatory differentials under which the cement companies would be able to compete with each other on relatively equal terms, distance considered. It was asserted that, although the rates proposed were not based strictly on mileage, they were built on the theory that the increment in the rates and the differentials between shipping points should decrease as the lengths of haul increase. A detailed explanation of the proposal was given to show how this principle had been applied from each shipping point. In support of the proposal to substitute a flat 1 cent increase for the 10 per cent increase previously authorized, it was stated that the effect of the 10 per cent increase had been to disturb the rate differentials and competitive relationships between the several mills without any great compensating benefit accruing to the rails therefrom. It was pointed out that the flat increase of 1 cent would result in both increases and reductions and the opinion was expressed that, in the aggregate, approximately the same amount of additional revenue would be produced under either basis.

None of the interested shippers represented at the hearings expressed dissatisfaction with the rails' proposals or presented any evidence. Counsel for Monolith Portland Cement Company stated that if

the rails' proposals were adopted his company no longer desired to prosecute Cases Nos. 3934 and 4176 and those complaints should be dismissed.

The basic rail rates here involved, adjusted as proposed by the rails and uniformly increased 1 cent, appear to provide rates which are reasonably related to the service to be performed and to provide differentials which will be equitable and non-discriminatory as between the several cement shipping points. Under these circumstances, we are of the opinion and find that the proposed adjustments are justified. Application No. 22403 will therefore be granted and Cases Nos. 3934 and 4176 dismissed.

Applicants' proposal does not contemplate restricting the application of any of the readjusted rates from and to intermediate points, except those rates which are already maintained on a non-intermediate basis under authority from the Commission and which are proposed to be changed by substituting the 1 cent increase for the 10 per cent increase. Extension of the 24th Section relief to cover the readjusted rates appears proper therefore. In view of the fact that the proposed rate adjustment has been found justified after public hearing, publication thereof on full statutory notice would not appear to serve any useful purpose and, accordingly, authority to make the tariff publication on not less than five (5) days' notice will be given.

O R D E R

A public hearing having been held in the above entitled proceedings, full consideration of the matters and things involved having been had and the Commission being fully advised,

IT IS HEREBY ORDERED that The Atchison, Topeka and Santa Fe Railway Company, Bay Point and Clayton Railroad Company, California Central Railroad Company, Central California Traction Company, Northwestern Pacific Railroad Company, Pacific Electric Railway

Company, Sacramento Northern Railway, Southern Pacific Company (Pacific Lines), Tidewater Southern Railway Company, Union Pacific Railroad Company, The Western Pacific Railroad Company, and Yosemite Valley Railway Company be and they are hereby authorized to substitute, on not less than five (5) days' notice to the Commission and to the public, the rates shown in Appendix "A" attached hereto and by this reference made a part hereof, for those presently in effect for the transportation of cement in carloads, between the points shown, and to establish and maintain related rates from and to unnamed points in the same territories.

IT IS HEREBY FURTHER ORDERED that the carriers named in the preceding ordering paragraph hereof be and they are hereby authorized to substitute, on not less than five (5) days' notice to the Commission and to the public, an increase of 1 cent per 100 pounds for the increase of 10 per cent heretofore authorized by Decision No. 30784 in Application No. 21603, in connection with all rates (other than those established pursuant to the authority granted in the preceding ordering paragraph hereof) for the transportation of cement within and between the territories described in footnote 2 of the preceding opinion.

IT IS HEREBY FURTHER ORDERED that the carriers named in the first ordering paragraph hereof be and they are hereby authorized to depart from the requirements of Section 24(a) of the Public Utilities Act, to the extent necessary to establish the basis of rates authorized in this order.

IT IS HEREBY FURTHER ORDERED that outstanding orders in other proceedings be and they are hereby canceled and superseded to the extent they may conflict with the authority herein granted.

IT IS HEREBY FURTHER ORDERED that Cases Nos. 3934 and

4176 be and they are hereby dismissed.

This order shall become effective twenty (20) days from the date hereof.

Dated at San Francisco, California, this 4th day of April, 1939.

Robert W. ...
Francis ...

[Signature]
Justice J. ...
Commissioners

APPENDIX "A"

(Rates are in Cents per 100 Pounds)

TO \ FROM	Kentucky House	Merced Merced Cement Plant	Redwood City	San Juan Davenport	Monolith
Sacramento	-	11½	11½	14	22
Roseville	-	14½	14½	17	24½
Colfax	-	-	-	-	25
Marysville	-	14½	14½	17	24½
Oroville	-	19½	19½	21½	29
Chico	-	19½	19½	21½	29
Tehama	-	20½	19½	21½	29
Red Bluff	-	21	20	22	29½
Redding	-	24	23½	25	32
Dunsmuir	-	28	27½	29	36
Dorris	-	28	27½	29	36
Cole	-	28	27½	29	36
Davis	10½	13	-	14	23
Woodland	10½	13	11½	14	23
Willows	16	18½	17	19	27
Corning	18	20½	19½	21½	29
Colusa	18	20½	19½	21½	29
Napa	-	-	-	-	24½
Schellville	-	-	-	-	24½
San Francisco	-	-	-	-	22
San Jose	-	-	-	-	22
Gilroy	-	-	-	-	23
Hollister	-	-	-	-	23
Watsonville	-	-	-	-	24
Santa Cruz	-	-	-	-	(1) 23½
Salinas	-	-	-	-	25½
Monterey	-	-	-	-	25½
San Rafael	-	-	-	-	24½
Petaluma	-	-	-	-	25½
Santa Rosa	-	-	-	-	27½
Healdsburg	-	-	-	-	28½
Ukiah	-	-	-	-	31
Willits	-	-	-	-	32
Scotia	-	-	-	-	36

(1) Applicable via Glenwood only.