

Decision No. 35783.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

Rohl-Connolly Company, Incorporated,)
)
 Complainant,)
)
 vs.)
)
 Union Pacific Railroad Company and)
 Southern Pacific Company,)
)
 Defendants.)

Case No. 4644

ORIGINAL

BY THE COMMISSION:

O P I N I O N

Complainant alleges that a rate of 11.1 cents, assessed and collected by defendants for the transportation of 13 carloads of waste rock and granite spalls from Ormand to Arguello during the period from January 10, 1939 to February 1, 1939, both dates inclusive, was unjust and unreasonable in violation of Section 13 of the Public Utilities Act.¹ Reparation is sought to the basis of 10 cents. Complainant and defendants have agreed to submit this matter upon the record made in Cases Nos. 4377 and 4504.²

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Rates are stated in cents per 100 pounds.
 Ormand is located on the Crestmore Branch of the Union Pacific Railroad Company, 52 miles east of Los Angeles. Arguello is located on the coast line of the Southern Pacific Company, 161 miles northwest of Los Angeles.

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Case No. 4377, Shannahan Bros. Inc. v. U.P.R.R. et al., involved the reasonableness of rates maintained by defendants for the transportation of riprap, waste rock and granite spalls in carloads from Bly Quarry to Arguello; and Case No. 4504, Rohl-Connolly Co. Inc. v. U.P. R.R. et al., involved a similar question with respect to carload rates on riprap from Ormand to Arguello.

The evidence adduced in Cases Nos. 4377 and 4504 is summarized in Decision No. 34857 of December 16, 1941 in this proceedings. The shipments here involved were among those listed as riprap in Case No. 4504 supra, but were found to be outside the scope of that proceeding when it developed that they consisted of granite spalls and waste rock, rather than riprap. A rate of 10 cents was originally assessed on these shipments, as well as on those actually consisting of riprap. Complainant sought a rate of 9 cents. The Commission, in Decision No. 34857, supra, found that a 10-cent rate had not been shown to be unreasonable for the transportation of riprap from Ormand to Arguello; that a rate of the same volume was reasonable for the transportation of riprap, waste rock and granite spalls from Bly Quarry, a point one mile closer than Ormand, to Arguello; and that the applicable rate on the shipments here involved had not been collected. Subsequently, a rate of 10 cents has been voluntarily established for the transportation of waste rock and granite spalls between Ormand and Arguello.

Upon consideration of all the facts of record, we are of the opinion and find that the rate assessed for the transportation of shipments of rock waste and granite spalls involved in this proceeding from Ormand to Arguello was unjust and unreasonable in violation of Section 13 of the Public Utilities Act to the extent that it exceeded a rate of 10 cents per 100 pounds.

The exact amount of reparation due is not of record. Complainant will submit to defendants for verification a statement of the shipments made and upon payment of the reparation defendants 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 answers on file, full investigation of the matters and things involved having been had, and the Commission being fully advised,

IT IS HEREBY ORDERED that defendants Southern Pacific Company and Union Pacific Railroad Company, according as they participated in the transportation, be and they are hereby ordered and directed to refund the complainant, Rohl-Connolly Company, Incorporated, all charges collected in excess of those found reasonable in the preceding opinion, together with the interest of six (6) per cent per annum.

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

Dated at San Francisco, California, this 27th day of September, 1942.

Justin D. Coe
W. H. H. H.
Francis D. Haver
Arthur C. Haver
 Commissioners.