

ORIGINAL

Decision No. 49229

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

CALIFORNIA PORTLAND CEMENT COMPANY, a corporation,

Complainant,

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY,
a corporation, and UNION PACIFIC RAILROAD COMPANY,
a corporation,

Defendants.

)
)
) Case No.
) 5348
)
)

CALIFORNIA PORTLAND CEMENT COMPANY, a corporation,

Complainant,

vs.

SOUTHERN PACIFIC COMPANY, a corporation,

Defendant.

)
)
) Case No.
) 5349
)
)

In the Matter of the Investigation into the rates,
rules, regulations, charges, allowances and
practices of all common carriers, highway carriers
and city carriers, relating to the transportation
of cement and related items in Southern California.

)
)
) Case No.
) 5352
)
)

In the Matter of the Investigation into the rates,
rules, regulations, charges, allowances and
practices of all common carriers, highway carriers
and city carriers, relating to the transportation
of cement and related products (commodities for
which rates are provided in City Carriers' Tariff
No. 8 - Highway Carriers' Tariff No. 10).

)
)
) Case No. 5440
)
)

Appearances (see Appendix "A")

OPINION AND ORDER ON MOTIONS

The four proceedings as entitled above were called for hearing before Examiner Bryant at Los Angeles on September 30, 1953. The complainant in Cases Nos. 5348 and 5349 was not prepared immediately to offer evidence, whereupon the defendants The Atchison, Topeka and Santa Fe Railway Company and Southern Pacific Company joined in motions to dismiss the complaints. The examiner took the motions under submission and continued the two complaint cases to a date to be set. These motions have been considered by the Commission. It is concluded that no good reason appears for the granting thereof. The motions to dismiss the complaints will be denied.

Following the receipt of some evidence in Cases Nos. 5352 and 5440, motions were made to separate these two proceedings for the purpose of receiving further evidence. The concurrent hearing in these two proceedings was directed by the Commission on petition of Permanente Cement Company. (See Petition for Modification No. 2 in Case No. 5440, filed on May 8, 1953, and Decision No. 48697 in Cases Nos. 5352 and 5440, dated June 9, 1953). Permanente Cement Company is now agreeable that the proceedings be separated for the purpose of further hearing. The motions for separation were generally supported by all of the other parties and opposed only by California Portland Cement Company. The arguments in support of and in opposition to the motions have been carefully considered. It is concluded that the interests of orderly procedure and the preservation of the rights of the parties will be served by permitting the requested separation.

C. 5348, 5349, 5352; 5440 - AF*

It is to be understood, however, that Case No. 5440 is statewide in scope and that the separation of this case and Case No. 5352 does not preclude consideration of southern California rates, rules and regulations in either of these proceedings to the extent that circumstances may require.

Therefore, good cause appearing, IT IS HEREBY ORDERED:

(1) That the motions to dismiss complaint Cases Nos. 5348 and 5349 be and they are hereby denied.

(2) That the motions to separate Cases Nos. 5352 and 5440 for the purpose of further hearing be and they are hereby granted, subject to the condition that these cases may be reconsolidated for hearing to the extent that future circumstances may require.

Dated at San Francisco, California, this 20th day of October, 1953.

P. J. [Signature]
 President

[Signature]
 Commissioner

[Signature]
 Commissioner

[Signature]
 Commissioner

[Signature]
 Commissioner

APPENDIX "A"

A P P E A R A N C E S

Case No. 5348

Wallace K. Downey and J. Richard Townsend, for California Portland Cement Company, complainant.

Frederick G. Pfrommer for The Atchison, Topeka and Santa Fe Railway Company, defendant.

Edward C. Renwick for Union Pacific Railroad Company, defendant.

Case No. 5349

Wallace K. Downey and J. Richard Townsend, for California Portland Cement Company, complainant.

Charles W. Burkett, Jr. for Southern Pacific Company, defendant.

Cases Nos. 5352 and 5440

Charles W. Burkett, Jr. for Southern Pacific Company, respondent.

Edward C. Renwick for Union Pacific Railroad Company, respondent.

Frederick G. Pfrommer for The Atchison, Topeka and Santa Fe Railway Company, respondent.

E. L. H. Bissinger for Pacific Electric Railway Company, respondent.

Joseph T. Enright, Waldo A. Gillette and Norman Elliott, for Monolith Portland Cement Company, interested party.

Wallace K. Downey and J. Richard Townsend for California Portland Cement Company, interested party.

Lauren M. Wright for Riverside Cement Company, interested party.

C. R. Boyer and Wayne E. Knight for Southwestern Portland Cement Company, interested party.

APPENDIX "A" (Continued)

Cases Nos. 5352 and 5440

S. A. Moore and Kenneth M. Robinson for
Permanente Cement Company, interested party.

William G. Higgins for Santa Cruz Cement Company,
interested party (in Case No. 5440 only).

Edward M. Berol for Truck Owners Association of
California, interested party.

John E. Doane for Calaveras Cement Company,
interested party.

John T. Phelps, H. F. Wiggins, Grant Malquist,
J. H. Morrison and T. A. Hopkins for the staff of the
Public Utilities Commission.