

ORIGINAL

Decision No. 1358

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA
- - - - -

Richfield Oil Company, a Corporation,
Complainant.

vs.

CASE NO. 1914.

Sunset Railway Company, a Corporation,
Southern Pacific Company, a Corporation,
The Atchison, Topeka & Santa Fe Railway
Company, a Corporation,
Defendants.

Carmichael-Skidmore Corporation, B.H. Carmichael,
H.W. Glensor and F.W. Turcotte, for Complainant.
E.W. Camp, Elmer Westlake, A.A. Johnson and B. Levy,
for the Defendants.

BY THE COMMISSION:

O P I N I O N

Complainant is a corporation engaged in the oil business,
with headquarters in Los Angeles.

It is alleged, by complaint filed May 21, 1923 and amended
August 30, 1923, that the defendants' carload rates on petroleum
products, including gasoline and liquefied petroleum gas, from
Bakersfield, Kerto and Taft to Redding, Red Bluff, Willows, Colusa,
Chico, Marysville, Oroville, Woodland, Sacramento, Placerville,
Santa Rosa, San Jose, Lancaster, San Luis Obispo, Santa Barbara,
Ventura, Santa Ana, San Diego, San Bernardino, Redlands, Calexico,
Johannesburg, Visalia, Tulare, Hanford, Fresno, Merced, Modesto

and Stockton, points located on the Atchison, Topeka & Santa Fe Railway, hereinafter referred to as the Santa Fe, and on the lines of the Southern Pacific Company, hereinafter referred to as the Southern Pacific, are unjust, unreasonable, discriminatory and prejudicial to the complainant and in violation of the Public Utilities Act.

Rates for the future only are sought.

Rates will be stated in cents per 100 pounds.

Bakersfield is a point on the main line of the Santa Fe and Southern Pacific, 300 miles south of San Francisco.

Kerto and Taft are points on the Sunset Railway, a line owned jointly by the Santa Fe and Southern Pacific, extending in a westerly direction from Bakersfield; Kerto being 39.7 miles and Taft 46.2 miles from Bakersfield.

Complainant operates a refinery at Los Angeles and one at Bakersfield and contemplates the erection of a plant at Kerto. The capacity of the Bakersfield plant is 6500 barrels of crude oil per day and the capacity of the Los Angeles plant 3000 barrels per day. The Bakersfield plant is operating at 15 per cent of capacity and the Los Angeles plant at from 65 per cent to 75 per cent of capacity. The contemplated plant at Kerto is being planned to have a capacity of from 7500 to 10,000 barrels of crude oil per day which will, when refined, turn out about 2000 barrels per day of gasoline. The plant at Kerto is to be erected to eliminate the freight charges on the haul of the raw product from the fields to the refinery at Bakersfield, the oil being piped from the fields to Kerto for refining. Upon completion of the plant at Kerto the one at Bakersfield will be dismantled. This Kerto gasoline the complainant contemplates shipping to points here in question and to other points where rates will permit.

The Bakersfield Plant is in competition with refineries located at Seguro, Maltha and other plants in the Kern River district, as well as with refineries located in the San Francisco Bay and Los Angeles districts.

The issues involved in this proceeding embrace the same principles as those included in Cases Nos. 1913 and 1915, decided with this case. By stipulation, the testimony and exhibits in all three cases were to be used whenever relevant in any of the cases and, therefore, it will be unnecessary to repeat in this decision the details as to the claimed relationship between petroleum crude oil and gasoline, or the history of the origin of the crude oil rates.

Complainant refers to the fact that the loss and damage claims are relatively unimportant and that much of the tonnage is hauled in cars furnished by them.

Petroleum and its products, in carloads, are rated 5th class in the Western Classification but, generally, through commodity rates are published for long-haul traffic and the rates between the points in controversy are mostly commodity rates.

The principal rate comparisons submitted by the complainant are set forth below:

FROM	TO	MILES	RATE	PER TON PER MILE BASED ON ACTUAL MILEAGE CENTS
Seguro	Tulare	61	18½	6.06
"	Visalia	79	24½	6.08
San Pedro	Colton	81	22½	5.55
Fillmore	Jalama	94	24	5.10
San Francisco	Patterson	96	20	4.16
"	Newman	108	26½	3.98
"	Merced	139	29	4.17
Fillmore	Beaumont	136	39½	5.80
San Francisco	Berenda	165	34	4.12
"	Helm	188	36½	3.88
"	Sanger	208	40	3.84
"	Visalia	235	47	4.00
Richmond	Famoso	278	50	3.59
Seguro	Santa Rosa	347	65½	3.77
Coalinga	Red Bluff	384	71	3.69
Seguro	"	405	72	3.55
"	Redding	440	75½	3.43

The Johannesburg situation is illustrated by the following table:

			<u>Miles</u>	<u>Rate, Cents</u>
Fillmore	To	Johannesburg	258	.59
Los Angeles	"	"	203	.51
Bakersfield	"	"	137	.51
Kerto	"	"	177	.64

There was testimony to the effect that because of these rates from Bakersfield and Kerto more gasoline was moved to Johannesburg by complainant's own motor truck than was forwarded by rail.

On brief, complainant contends that the rate adjustments are unduly preferential to the competing companies, but no such allegation is contained in the complaint.

Shown below are rates cited by the defendants:

FROM	TO	MILES	RATE	PER TON PER MILE BASED ON ACTUAL MILEAGE CENTS
Coalinga	Tulare	67	27½	8.21
Richmond	Manteca	82	16	3.90
Coalinga	Dinuba	96	27½	5.73
Richmond	Turlock	111	24½	4.41
Coalinga	Bakersfield	129	33½	5.19
Richmond	Madera	169	35½	4.2
Coalinga	Lodi	219	50	4.56
Richmond	Tulare	235	47	4.0
Richmond	Caliente	320.4	53½	3.34
Oleum	"	309	53½	3.46
Martinez	"	296.7	53½	3.61
Avon	"	297.3	53½	3.6
-Average		305.9	53½	3.5
Richmond	Montague	334.2	62½	3.74
Oleum	"	322.8	62½	3.87
Martinez	"	321.7	62½	3.89
Avon	"	325.1	62½	3.84
-Average		325.9	62½	3.84
Los Angeles)	Kingman, Ariz.	371	86	4.63
Bakersfield)	Phoenix, "	489	98½	4.40
Seguro	Tehama Cal.	393	72	3.66
Oleum	Ludlow	485.2	74½	3.07
Martinez	"	476.9	74½	3.12
Avon	"	473.5	74½	3.15
-Average		478.5	74½	3.11

It is carriers contention that the 5th class is the reasonable rate to apply on gasoline and any commodity rate less than 5th is less than reasonable. The reasonableness of commodity rates, however, cannot be guaged exclusively by the classification, for such rates are established for the express purpose of securing traffic which would not otherwise move.

"Throughout the proceeding the defendants have sought to impress upon us the idea that class rates are the 'normal' rates for practically all freight, and that ordinarily a commodity rate lower than the class rate which would otherwise apply is 'unreasonably low' or subnormal'. We cannot accept their views in this matter." 48,I.C.C.739-742.

The rates from San Francisco Bay, Fillmore and the Los Angeles producing territories are considerably lower than from Bakersfield-Kerto for equal distances, and while such rates cannot be the measure of the volume of the rates from the Bakersfield-Kerto territory, nevertheless they must be given consideration in determining the reasonable and nondiscriminatory rates to the competitive points. From the Los Angeles and San Francisco Bay producing territories the rates have generally been blanketed for distances of approximately twenty miles on both short and long haul traffic, while the rates from the Bakersfield-Kerto territories have not been so blanketed. The reason for this does not appear in the record.

Illustrative of this situation are the following:

From	To	Miles	Distance In Blanket	Rate	Difference In Rate
Kerto	Tulare	103		32	
Bakersfield		63	40	21½	10½
Kerto	Modesto	240		56	
Bakersfield		200	40	45½	10½
Kerto	Oroville	390		77½	
Bakersfield		350	40	69½	8
Richmond	Tracy	67		10½	
Avon		44	23	10½	-
Los Angeles		65		22½	
Wilmington	Riverside	86		22½	
El Segundo		82	21	22½	-
Richmond	Fresno	191		38½	
Avon		168	23	38½	-
Los Angeles		204		54	
Wilmington	Brawley	225		54	
El Segundo		* 221	21	* 54	-
Richmond	Dorris	371		65½	
Avon		361	10	65½	-

* Via Santa Fe and Southern Pacific.

The statement set forth below is representative of the exhibits and presents another illustration of the present rate adjustment:

TO	FROM							
	Bakersfield: Kerto				San Francisco Bay: Wilmington Territory: Los Angeles			
	Miles:	Rate:	Miles:	Rate:	Average Miles	Rate	Average Miles	Rate
Tulare	63	21½	103	32				
Tracy					55	10½		
Colton							68	22½
Newman					95	21½		
Merced	162	41	202	51½	126	29		
Helm					176	36½		
Fresno					178	38½		
Modesto	200	45½	240	56				
Goshen Jct.					216	44½		
Dunsmuir					273	58		
El Centro							228	60½
Woodland	300	61	340	68				
Caliente					306	53½		
Bakersfield:					290	52		
Redding	442	81½	482	84			*611	*75½
Elko, Nev.					527 468	70 70		

* From Los Angeles

Applies from Sacramento via Western Pacific RR.

© " " " " Southern Pacific.

In promulgating tariffs the carriers may, within proper limits, make rates lower for a longer than a shorter distance to meet water carrier and pipe line competition. But in meeting this competition there can be no justification in rates to the large common consuming markets which, in effect, prevents the producing territory at intermediate short-haul points from doing business at

the same controlling consuming points. All things being equal, the short-haul producing points are entitled to the benefits and advantages of their locations, but the carriers may establish reasonable compensatory rates to attract some of the long-haul traffic. This doctrine applies with particular force to petroleum oil and its products.

At the adjourned hearing, October 15, 1923, defendants presented, as their Exhibit No. 11, a statement showing reductions in the petroleum products rates from Kerto and Taft to the destination points involved in the instant proceeding. These rates were published in Pacific Freight Tariff Bureau Joint Freight Tariff 167-A, C.R.C. No. 309, issued October 10, 1923, and became effective November 25, 1923. The reductions therein voluntarily made approximate 10 per cent.

It is urged by the defendants that competition from pipe lines and water carriers is a material factor to which they gave consideration in establishing the rail rates on petroleum and its products to and from the Los Angeles and San Francisco territories. It is noted from a study of the gasoline rates that there is a lower rate per ton per mile runout of rates into the San Joaquin and Sacramento Valleys from the San Francisco Bay region refineries who receive their crude products by pipe line than are in effect from the refineries of the complainant located in the San Joaquin Valley to the same destination points. There is also the same adjustment of rates from the other Bakersfield territory plants located at Seguro and Maltha, which latter refineries are owned by the large oil companies operating refineries in the San Francisco Bay and Los Angeles territories, and which are in competition with this complainant.

The refineries at Seguro and Maltha have made no complaint against the rates but the complainant, in its brief, stresses the point that it is perfectly logical they should not desire the same adjustment of rates from the Bakersfield territory to points in the Sacramento Valley and the northern end of the San Joaquin Valley, because that territory can be served at the low rates in effect from the San Francisco Bay or Southern California points.

From the record it is clear that particular points in Northern and Southern California have depressed rail rates, due to their location upon or near the ports or to the transportation of oil in connection with pipe lines.

The Bakersfield oil fields are at a disadvantage in location, being 229 miles from the water competition at Stockton, 302 miles from San Francisco and 169 miles from Los Angeles, hence they have not the rate-compelling advantages of the port oil producing and refining points.

Rail carriers have in effect a non-intermediate rate on petroleum and petroleum products from Los Angeles to San Francisco of 36 cents, which rate is authorized by this Commission by reason of the water competition. The present rate, according to tariffs on file with this Commission, via water carriers between Los Angeles and San Francisco is $22\frac{1}{2}$ cents and the water carrier rate from San Francisco to Sacramento and Stockton is approximately $11\frac{1}{2}$ cents, which when added to the San Francisco-Los Angeles rate, plus incidental charges, makes a total to Sacramento or Stockton of about 36 cents. The non-intermediate rate has been blanketed over a large territory in the San Francisco Bay and river regions, where actual or potential water competition is claimed to exist. The record before us is not sufficient and we are not now passing upon the merits of this present adjustment.

Commercial conditions are one of the controlling factors

in the making of rates, but except under particular circumstances it may not be employed to place producers on an equality in the markets having natural geographical advantages. Transportation charges, under all conditions, must be reasonably compensatory and not unlawfully discriminatory or preferential. No effort was made to prove the rates either reasonable or unreasonable per se; the issues were tried entirely upon the principle of discrimination.

The Southern Pacific is the short line carrier between Bakersfield and many points in Southern California and, therefore, certain rates via the circuitous route of the Santa Fe will result in violations of Section 21, Article XII, of the Constitution of the State and Section 24 of the Public Utilities Act. Should the Santa Fe elect to establish the rates, ordered into effect in this decision, applying via the short line of the Southern Pacific and not to make such rates applicable at intermediate points, proper application may be filed for authority to publish the violations.

Upon consideration of all the facts of record, we are of the opinion and find that the rates on petroleum and petroleum products, including gasoline and liquefied petroleum gas, from Bakersfield to Hanford, Fresno, Sacramento, Marysville, Chico, San Jose and San Diego, and from Kerto and Taft to San Diego, are not unreasonable, discriminatory or prejudicial.

We further find that the other rates assailed are unreasonable, discriminatory and unjustly prejudicial to Bakersfield, Kerto and Taft and unduly preferential to the San Francisco and Los Angeles points to the extent they exceed the rates set

forth in the following schedules, which rates are found to be reasonable, nondiscriminatory and nonpreferential:

		From			
		:Bakersfield::Kerto and Taft:			
TO	:	:	:	:	:
Tulare	:	18½	::	23½	:
Visalia	:	24½	::	29½	:
Hanford	:	-	::	29½	:
Fresno	:	-	::	33	:
Merced	:	36	::	39	:
Modesto	:	40	::	43	:
Stockton	:	45	::	47½	:
<hr/>					
Placerville	:	61	::	63	:
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Sacramento	:	-	::	54	:
Woodland	:	55½	::	55½	:
Colusa	:	64	::	64	:
Willows	:	67½	::	67½	:
<hr/>					
Marysville	:	-	::	61	:
Oroville	:	66	::	66	:
Chico	:	-	::	69½	:
Red Bluff	:	72	::	72	:
Redding	:	75½	::	75½	:
<hr/>					
Santa Rosa	:	65½	::	67½	:
<hr/>					
San Jose	:	-	::	54	:
<hr/>					
Johannesburg	:	38½	::	41½	:
<hr/>					
Lancaster	:	34	::	39	:
<hr/>					
Ventura	:	43	::	46	:
Santa Barbara	:	48½	::	51½	:
San Luis Obispo	:	67½	::	69½	:
<hr/>					
Santa Ana	:	45	::	48	:
<hr/>					
San Bernardino	:	50	::	52½	:
Redlands	:	51	::	53½	:
Calexico	:	80	::	80	:

O R D E R

This case being at issue upon complaint and answer filed, having been duly heard and submitted by the parties, a full investigation of the matter and things involved having been had, the Commission being fully advised in the premises and basing this order on the findings of fact contained in the opinion which precedes this order.

IT IS HEREBY ORDERED that the above named defendants, according as they participate in the transportation, be and they are hereby notified and required to cease and desist on or before thirty (30) days from the date of this order and thereafter abstain from applying to the transportation of petroleum and petroleum products, including gasoline and liquefied petroleum gas, in carloads, from the points named in the following paragraphs, any rates in excess of those therein prescribed.

IT IS HEREBY FURTHER ORDERED that said defendants, according as they participate in the transportation, be and they are hereby notified and required to establish, on or before thirty (30) days from the date of this order, upon notice to this Commission and the general public of not less than five (5) days filing and posting in the manner prescribed in Section 14 of the Public Utilities Act and thereafter to maintain and apply to the transportation of petroleum and petroleum products,

including gasoline and liquefied petroleum gas, in carloads, rates not in excess of the following, in cents per 100 pounds:

		From	
		:Bakersfield::Kerto and Taft:	
TO			
Tulare	: 18 $\frac{1}{2}$:: 23 $\frac{1}{2}$:
Visalia	: 24 $\frac{1}{2}$:: 29 $\frac{1}{2}$:
Hanford	: -	:: 29 $\frac{1}{2}$:
Fresno	: -	:: 33	:
Merced	: 36	:: 39	:
Modesto	: 40	:: 43	:
Stockton	: 45	:: 47 $\frac{1}{2}$:
Placerville	: 61	:: 63	:
Sacramento	: -	:: 54	:
Woodland	: 55 $\frac{1}{2}$:: 55 $\frac{1}{2}$:
Colusa	: 64	:: 64	:
Willows	: 67 $\frac{1}{2}$:: 67 $\frac{1}{2}$:
Marysville	: -	:: 61	:
Oroville	: 66	:: 66	:
Chico	: -	:: 69 $\frac{1}{2}$:
Red Bluff	: 72	:: 72	:
Redding	: 75 $\frac{1}{2}$:: 75 $\frac{1}{2}$:
Santa Rosa	: 65 $\frac{1}{2}$:: 67 $\frac{1}{2}$:
San Jose	: -	:: 54	:
Johannesburg	: 38 $\frac{1}{2}$:: 41 $\frac{1}{2}$:
Lancaster	: 34	:: 39	:
Ventura	: 43	:: 46	:
Santa Barbara	: 48 $\frac{1}{2}$:: 51 $\frac{1}{2}$:
San Luis Obispo	: 67 $\frac{1}{2}$:: 69 $\frac{1}{2}$:
Santa Ana	: 45	:: 48	:
San Bernardino	: 50	:: 52 $\frac{1}{2}$:
Redlands	: 51	:: 53 $\frac{1}{2}$:
Calxico	: 80	:: 80	:

Dated at San Francisco, California, this 2nd day of April, 1924.

C. Seavey
H. B. Burdick
Edgar W. Shore
J. P. Whittelsey
 Commissioners.