

Decision No. 14357

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

Richfield Oil Company,
a corporation. Complainant.)
vs.)
Sunset Railway Company,
a corporation. Defendant.)

CASE NO. 1990

B.H.Carmichael, H.W.Glensor and F.W.Turcotte, for Complainant.
E.W.Camp and B.Levy, for Defendant.

BY THE COMMISSION:

O P I N I O N

Complainant is a corporation duly authorized under the laws of the State of California engaged in the oil business, with its principal place of business in Los Angeles.

It alleges, by complaint filed March 29, 1924 and as amended at the hearing, that the rates assessed by the defendant on various tank car shipments of petroleum gas oil and refining tops from Shale, Fellows and Pentland to Bakersfield during the period July 1, 1922 to January 15, 1924 were excessive, unjust, unreasonable, discriminatory and prejudicial to the complainant and in violation of Sections 13 and 19 of the Public Utilities Act; that, effective January 15, 1924, defendant established from Shale, Fellows and Pentland to Bakersfield

a rate of 5 cents per 100 pounds on distillate, untreated, viz., refining tops for further refining, and that the petroleum gas oil shipped by the defendant was the same commodity as referred to in the defendant's tariff as refining tops for further refining.

Reparation is sought only on shipments moving during the period from July 1, 1922 to January 15, 1924.

No evidence of undue prejudice or discrimination was submitted and there will be no findings upon these allegations.

Complainant operates a refinery at Bakersfield, and ships from Shale, Fellows and Pentland to Bakersfield a raw petroleum product, known as Tops, for further refining. Shale is 55 miles, Fellows 52 miles and Pentland 37 miles from Bakersfield, an average distance of 48 miles. Complainant does not own a pipe line serving these points and these oil fields are its most practicable source of supply.

In its operations a topping plant is conducted in the field, where the crude oil is partially refined. The first cut in the field refining process is shipped direct to Los Angeles; the third cut is sold as fuel oil, and neither of these products is involved in this proceeding. It is the second, or middle cut, with which we are concerned. This second cut is a lower grade commodity than the first and is shipped to Bakersfield where it is further refined and from which three products are obtained; first, a gas stock, used in the manufacture of commercial gasoline; second, kerosine, and third, an oil; this latter is reshipped to the fields for absorption purposes. All these commodities are again shipped out of Bakersfield.

Complainant's products are marketed principally in the vicinity of Bakersfield and in Southern California. The prices of its products are fixed by competition with plants located at Maltha, Seguro and the refineries in Southern California.

During the period from July 1, 1922 to January 15, 1924 the rates assessed on complainant's shipments were; to Bakersfield from Shale and Fellows \$1.58 per ton of 2000 pounds, and from Pentland \$1.47 per ton. The tariff item naming these rates provided a description on oils, petroleum or petroleum products, viz., Petroleum Gas Oil. The complainant described the shipments as Gas Oil and rates were assessed as above, but defendant now contends the shipments were misdescribed. A substantial portion of the record dealt with the technicalities as to what the term "gas oil" included, but it appears "gas oil" as generally known to the trade in this territory is a grade of raw material containing various commodities of commercial value, such as oil, kerosene and absorption gasoline, which may be obtained upon further refining. The shipments made by the complainant were raw material for further refining.

Effective January 15, 1924 the defendant established a rate of 5 cents per 100 pounds from Shale, Fellows and Pentland to Bakersfield on petroleum or petroleum products, viz., distillate, untreated; viz., refinery tops for further refining, and the complainant is in accord with such description and is agreeable to its continuation. Such description covered the shipments made by complainant during period July 1, 1922 to January 15, 1924.

In Application 817, Decision No. 1298, February 25, 1914, commonly known as the Tops Case, the Commission denied the carrier's authority to amend tariffs providing a higher rate on refinery tops than contemporaneously in effect on crude oil. The crude oil rate of 5 cents per 100 pounds now in effect from Shale, Fellows and Pentland to Bakersfield was prescribed as a just and reasonable rate by this Commission August 7, 1923 in Case No. 1793, Richfield Oil Company vs. Sunset Railway Company 23, CRC 772. at the same time reparation was awarded to basis of 5 cents per 100 pounds against all

shipments of crude oil moving subsequent to July 1, 1922 on which higher rates were assessed. The majority of the shipments covered by this proceeding moved during the same period as did the crude oil.

The defendant submitted exhibits intended to set forth the gas and crude oil rates in Kansas and Oklahoma for distances comparable with those here in question, but it does not appear the operating, traffic or general adjustment of rates in that territory are the same as prevail in this.

Defendant also submitted exhibits indicating instances in California where higher rates are maintained on gas oil than on crude oil, but where such conditions exist the movement of gas oil is practically nil and such adjustment has not been before the Commission for adjudication.

It is stated the Sunset Railway suffered a net operating loss of \$3266.55 for the month of July 1924, but it appears the Richfield Oil Company shipped very little oil during the month of July 1924 which, no doubt, accounts to some extent for such deficit.

The average weight of complainant's shipments was 74476 pounds and based on an average haul of 48 miles and a rate of 5 cents per 100 pounds, the applicable rate on crude oil from and to the points named, which was found just and reasonable by the Commission in Richfield Oil Company vs. Sunset Railway Company, supra, and in the Topping Case, Application 817, supra, would produce a car revenue of \$37.24, per car mile revenue of $77\frac{1}{2}$ cents and a per ton mile revenue of \$.0208.

After a consideration of all the facts of record, we are of the opinion and find that the rates assessed on complainant's shipments involved in this proceeding were unreasonable to the extent they exceeded 5 cents per 100 pounds, minimum weight full shell gallonage capacity of car used, which rate we find just and reasonable

to apply on distillate, untreated, viz., Refining tops for further refining; that the complainant made the shipments as described and paid and bore the charges thereon upon the basis herein found unreasonable; that it has been damaged to the amount of the difference between the charges paid and those that would have accrued on the basis herein found reasonable, and is entitled to reparation with interest.

Complainant should submit statement of shipments to the defendant for check. Should it not be possible to reach an agreement the matter may be referred to this Commission for further consideration and the entry of a Supplemental Order, should such be necessary.

O R D E R

This case being at issue upon complaint and answer on file, having been fully heard and submitted by the parties, 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 opinion, which said opinion is

hereby referred to and made a part hereof.

IT IS HEREBY ORDERED that the Sunset Railway Company be and it is hereby authorized and directed to refund, with interest, to the Richfield Oil Company all charges that may have been collected in excess of 5 cents per 100 pounds, the rate found to be just and reasonable for the transportation of distillate, untreated, viz., Refining tops for further refining, from Shale, Fellows and Pentland to Bakersfield, moving on and after July 1, 1922.

Dated at San Francisco, California, this 12th day of December, 1924.

CC Seavey

Irving Martin
Egerton Shore

Commissioners