

Decision No. 14437

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

Associated Oil Company.)
A Corporation,)
Complainant,)
vs.)
Southern Pacific Company.)
A Corporation,)
Defendant.)

CASE NO. 2066

BY THE COMMISSION:

O P I N I O N

The Associated Oil Company, a corporation, organized under the laws of the State of California, with its principal place of business at 79 New Montgomery Street, San Francisco, California, filed complaint November 13, 1924, alleging that the rates charged for the transportation of gasoline forwarded from Monterey to Watsonville Junction, Santa Cruz, Salinas and King City during the period April 18, 1923 to April 30, 1924 were unjust and unreasonable to the extent they exceeded the rates subsequently established, effective May 1, 1924. Reparation only is sought. Rates are stated in cents per 100 pounds.

The shipments, consisting of 227 carloads, aggregating 14,156,577 pounds, moved between April 18, 1923 and April 30, 1924. At the time the shipments were transported the rate, from Monterey to Watsonville Junction was 17 cents, to Santa Cruz 22½ cents, to Salinas 21 cents and to King City 36½ cents. These rates were

reduced May 1, 1924 as follows: To Watsonville Junction 14 cents, Santa Cruz 15 cents, Salinas 14 cents and King City 27 cents. The total reparation claimed, as set forth in Exhibit A attached to and made part of the complaint, totals \$8225.25, made up \$1751.73 to Watsonville Junction, \$2347.23 to Santa Cruz, \$2367.94 to Salinas and \$1758.35 to King City.

Under date July 28, 1924 defendant submitted an application on the informal docket under Rule 102 of our Tariff Circular No. 2, seeking authority to make this reparation adjustment, setting forth as justification that the rates in effect at the time of movement were admitted to be excessive and unreasonable; that as early as May 22, 1922 complainant presented a petition for an adjustment, but that it was not until April 17, 1924 complainant and defendant agreed upon the volume of the rates to be established, which rates were then published and became effective May 1, 1924, or almost two years after the application for reduced rates was presented.

Rule 102 of this Commission's Tariff Circular No. 2 provides that adjustments will be authorized informally only when the carrier admits the unreasonableness of the rates charged and has published, not exceeding six months after the shipments have moved, the rate or rates upon which the reparation adjustment is sought. In this situation defendant did not comply with the provisions of Rule 102 and, therefore, an informal authorization could not issue.

In its answer to the formal complaint defendant denied that the rates charged were either unjust or unreasonable and prayed that the action be dismissed. Under date December 31, 1924 defendant presented an amended answer, wherein it admitted all of the allegations of the complaint and signified its willingness to

make reparation adjustment.

Under the issues as they now stand a formal hearing is unnecessary. We find that the rates assailed, from Monterey to Watsonville Junction, Santa Cruz, Salinas and King City, are unreasonable and excessive to the extent they exceeded 14 cents to Watsonville Junction, 15 cents to Santa Cruz, 14 cents to Salinas and 27 cents to King City, which rates became effective May 1, 1924 in Southern Pacific Tariff 333-G, C.R.C. 2496; that complainant made shipments as described in Exhibit A, attached to the application, and paid and bore the charges thereon; that it has been damaged in the amount of the difference between the charges paid and those that would have accrued at the rates herein found reasonable and that it is entitled to reparation with interest. The amount alleged to be due is set forth in the complaint as \$8225.25, which amount cannot be verified in the absence of the original paid freight bills. The complainant should submit statements of shipments to the defendant for check.

If it is not 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 duly 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 Southern Pacific Company refund, with interest, to the Associated Oil Company, all charges they may have collected in excess of the rates from Monterey to Watsonville Junction of 14 cents, Santa Cruz 15 cents, Salinas 14 cents and King City 27 cents, rates found to be reasonable for the transportation of gasoline involved in this proceeding moving during the period of time April 18, 1923 to April 30, 1924.

Dated at San Francisco, California, this 8th day of January, 1925.

C. Seaver
H. B. ...
Egerton Shore
Commissioners.