

Decision No. 14533

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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East-West Refining Company, a corporation,  
Harbor Refining Company, a corporation,  
Hercules Gasoline Company, a corporation,  
J. W. Jameson Corporation, a corporation,  
Sierra Refining Company, a corporation,  
Wilshire Oil Company, a corporation,

Complainants,

vs.

The Atchison, Topeka & Santa Fe Railway  
Company, a corporation,

Defendant.

ORIGINAL

CASE NO. 2023

H. W. Glensor, B. H. Carmichael and F. W. Turcotte,  
for Complainants and Interveners Roseberg Oil  
Corporation, A. F. Gilmore Company, Gilmore  
Petroleum Company and Gilmore Oil Company.

Gwynn H. Baker, for Interveners Angeles Snowolene  
Refining Company, Associated Oil Company,  
Vernon Oil Refining Company and General  
Petroleum Corporation.

E. W. Camp and B. Levy, for Defendant.

B. W. Killick, for California Petroleum Exchange  
and Independent Marketers Association.

BY THE COMMISSION -

O P I N I O N

Complainants are corporations engaged in the oil busi-  
ness with their places of business at Los Angeles.

It is alleged by complaint filed July 16, 1924, that  
the rate of 5¢ per 100 pounds assessed and collected by the  
defendant prior to February 15, 1923, and 4¢ per 100 pounds  
during period February 15, 1923, to April 26, 1923, on various

tank car shipments of petroleum crude oil and fuel oil moving within two years prior to July 16, 1924, from Santa Fe Springs to Los Angeles were unjust, unreasonable, excessive, discriminatory and in violation of Sections 13 and 19 of the Public Utilities Act.

Reparation is sought to the basis of the subsequently established 3¢ rate. Rates will be stated in cents per 100 pounds, and rates stated as applying on crude oil also apply on fuel oil.

A public hearing was held before Examiner Geary and the case is now ready for our decision and order.

At the hearing held September 11, 1924, the Angeles Snowolene Refining Company, Associated Oil Company, Vernon Oil Refining Company and General Petroleum Corporation were permitted to appear as intervenors. In the petition for leave of intervention filed August 7, 1924, by the Roseberg Oil Corporation, A. F. Gilmore Company, Gilmore Petroleum Company and Gilmore Oil Company the question of the rates on gas oil from Santa Fe Springs to Los Angeles was raised which was not fully covered by the original complaint. It appears defendant was informally advised by complainants that the gas oil rates would be brought into issue at the hearing. The Commission, while not adhering to strict rules of pleading, is of the opinion that the issues raised in the original complaint cannot either informally or by petition for leave to intervene be enlarged to include matters which were not specifically covered in the complaint.

The Gilmore Oil Company, it appears, was only interested in the rates on gas oil and did not ship any crude or fuel oil from Santa Fe Springs to Los Angeles during period here involved, nor does it appear A. F. Gilmore Company, or Gilmore Petroleum Company made any such shipments. There will, therefore, be no findings as to those intervenors to cover gas oil or crude oil shipments.

The Angeles Snowolene Refining Company, Associated Oil Company, Vernon Oil Refining Company and General Petroleum Corporation filed formal complaint September 6, 1924, Case 2038, against The Atchison, Topeka & Santa Fe Railway Company involving crude and fuel oil rates from Santa Fe Springs to Los Angeles. The Commission's findings as to shipments made by those intervenors will be made in decision and order in Case No.2038.

Complainants operate refineries at points within switching limits of Los Angeles and secure their supply of crude oil from Santa Fe Springs and other producing points in Southern California. The crude oil is bought f.o.b. the producing wells by some of the complainants while others produce some crude oil and buy the balance f.o.b. the wells. The price paid for the crude oil at the wells is based upon the Standard Oil Company's bulletin.

The refineries' finished products consist principally of gasoline, absorption oil, engine distillate, kerosene, stove oil and fuel oil. The gasoline is marketed principally in the immediate vicinity of Los Angeles. The price of gasoline is fixed by competition with other refineries located in Los Angeles County. About 60% of the residuum from the refining process is shipped out in the form of fuel oil, 90% of which moves via rail carriers.

Petroleum crude oil was first produced at Santa Fe Springs in the early part of 1922. Below is a statement abstracted from exhibits submitted, setting forth chronological history of rates from Santa Fe Springs to Los Angeles since February 28, 1922, as compared with rates in effect from competing points together with distances between such points -

From	:El	: Long	:	:	:	:	:	:	:	: Santa Fe
	:Segundo	: Beach	:	:Whittier	: Los Nietos	: Springs				
	: AT & S Fe	: PE	: LA & SL	: SP	: LA & SP	: AT & SP	: AT & SP	: SF	:	: AT & S Fe
To Los Angeles	:	:	:	:	:	:	:	:	:	:
Miles	: 17	: 19	: 10	: 23	: 12	: 21	: 12	: 19	:	: 13
<u>RATES IN CENTS PER 100 POUNDS</u>										
Feb. 28, 1922	: 3	: 3	: 3	: 3	: 3	: 5	: 5	: 5	:	: 5
May 30, 1922	: 3	: 3	: 3	: 3	: 3	: 3	: 3	: 3	:	: 5
Feb. 15, 1923	: 3	: 3	: 3	: 3	: 3	: 3	: 3	: 3	:	: 4
Apr. 26, 1923	: 3	: 3	: 3	: 3	: 3	: 3	: 3	: 3	:	: 3

- (1) Established March 16, 1922.  
(2) Established June 4, 1922.  
(3) Rate from Placentia, a distance of 27 miles, held as maximum from Santa Fe Springs.

It will be noted since the early part of 1922 until April 26, 1923, complainants' competitors from points on the Santa Fe as well as from points on competing lines have enjoyed to Los Angeles a rate substantially lower than in effect from Santa Fe Springs

The rates on crude oil from Southern California producing points to Los Angeles are claimed by defendant to be depressed because of pipe line competition either actual or potential. The rate from El Segundo to Los Angeles on asphalt which is generally on a higher level than on crude oil is 2½¢. Asphalt does not move via pipe line but generally moves in tank cars which are required to be equipped with steam coils. The asphalt rate is claimed by defendant to be depressed because of truck competition but it was unable to state the volume of the truck rates which is claimed has the depressing effects.

Santa Fe Springs is 13 miles from Los Angeles, and Los Nietos 12 miles. The haul from those points is practically water level and involves no difficult operating conditions and compares favorably with haul from El Segundo to Los Angeles.

Los Nietos and Santa Fe Springs are in the same general producing territory and are competitive points. The Los Nietos to Los Angeles rate was reduced May 30, 1922, to 3¢ per 100 pounds or to the same level as in effect from other producing points while the rate from Santa Fe.

Springs remained 5¢. The 5¢ rate from Santa Fe Springs was the Placentia rate for a distance of 27 miles held as maximum from Santa Fe Springs.

Defendant cited instances in San Joaquin Valley and Northern California where the crude oil rates were the same or higher for comparable distances than were in effect from Santa Fe Springs to Los Angeles but such rates are not indicative of the level of the crude oil rates in Southern California, further, the Commission in *Richfield Oil Company vs. Sunset Railway Company*, 23 C.R.C.772, decided August 7, 1923, prescribed as just and reasonable a rate of 5¢ per 100 pounds on crude oil from points on the Sunset Railway to Bakersfield for an average haul of 44 miles. Defendant also submitted in evidence exhibits purporting to set forth mileage rates on crude oil between points in Kansas also between points in Texas but such rates are not convincing as to what the level of the oil rates from Santa Fe Springs to Los Angeles should be.

Defendant directs attention to the empty car haul involved between Santa Fe Springs and Los Angeles but practically the same amount of empty car haul would be involved from other Southern California producing points where the rates were lower than those in effect from Santa Fe Springs to Los Angeles.

A 3¢ rate from Santa Fe Springs to Los Angeles would yield a per ton mile revenue of \$.04615 and, based upon an average weight of complainants' shipments of 76,489½, would yield \$1.765 per car mile and \$22.95 per car.

After consideration of all the facts of record we find the rates assessed and collected by defendant on shipments of petroleum crude and fuel oil in tank cars, minimum weight Shell gallonage capacity of car from Santa Fe Springs to Los Angeles, involved in this proceeding, moving within two years prior to July 16, 1924, were excessive, unreasonable and discriminatory to the extent they exceeded 3¢ per 100 pounds; that the shipments were made as described and complainants and intervenor paid and bore the charges

thereon upon the basis hereinafter found unreasonable; that they have been damaged to the amount of the difference between charges paid and those that would have accrued on the basis herein found reasonable and they are entitled to reparation with interest. Complainants should submit statements 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 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 conclusions contained in the opinion which said opinion is hereby referred to and made a part hereof.

IT IS HEREBY ORDERED that The Atchison, Topeka & Santa Fe Railway Company refund with interest to the East West Refining Company, Harbor Refining Company, Hercules Gasoline Company, J. W. Jameson Corporation, Sierra Refining Company and Wilshire Oil Company all charges that may have been collected in excess of  $3\frac{1}{2}$  per 100 pounds, rate found to be reasonable and non-discriminatory for the transportation of petroleum crude or fuel oil in tank cars, minimum weight Shell gallonage capacity of car, moving from Santa Fe Springs to Los Angeles within two years prior to July 16, 1924.

IT IS FURTHER ORDERED, that The Atchison, Topeka & Santa Fe Railway Company refund with interest to the Roseberg Oil Corporation all charges that may have been collected in excess of 3¢ per 100 pounds, rate found to be reasonable and non-discriminatory for the transportation of petroleum, crude or fuel oil in tank cars, minimum weight Shell gallonage capacity of car, moving from Santa Fe Springs to Los Angeles within two years prior to August 7, 1924.

Dated at San Francisco, California, this 5<sup>th</sup> day of February, 1925.

H. B. ...  
O. ...

George D. Squires  
...  
COMMISSIONERS.