Decision No. 14711

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

Associated Oil Company, a Corporation, Complainant, vs. Atchison, Topeka & Santa Fe Railway Company, a Corporation, Pacific Electric Railway Company, a Corporation, Defendants.	CASE NO. 2093

BY THE COMMISSION:

O P I N I O N

Complainant is a corporation organized under the laws of the State of California, with its principal place of business in San Francisco. By complaint filed January 30,1925 it alleges that during the period May 1,1923 to October 24,1923 it shipped and bore the freight charges on 76 carloads of gasoline from Wilmington to San Diego, via the rails of the Pacific Electric Railway Company to Los Angeles and the Atchison,Topeka & Santa Fe Railway Company from Los Angeles to San Diego. Charges were assessed at rate of 25 cents per 100 pounds, based on the combination of 4 cents from Wilmington to Los Angeles (Pacific Electric Tariff 120-B,C.R.C.254) plus rate 21½ cents per 100 pounds from Los Angeles to San Diego via the Atchison,Topeka & Santa Fe (Tariff 9777-G,C.R.C.462).

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Reparation is sought in amount $2492.82.

It is claimed that the charges via the routes over which the shipments moved should not have been in excess of 21½ cents per 100 pounds, which rate was in effect at the time of movement via the Los Angeles & Salt Lake Railroad or the Southern Pacific to Los Angeles, thence via the Atchison,Topeka & Santa Fe to San Diego.

It is further alleged that in the early part of 1923 carriers were requested to duplicate the rate via the Pacific Electric, but the tariff publication was not actually effective until February 12,1924, as per Pacific Freight Tariff Bureau Tariff No.167, C.R.C. No.309.

The claim was presented to the Commission informally, Reparation Docket No.31488, October 14,1924, but since the rate to the basis of the reparation sought was not published within six months subsequent to the date shipments moved, as required under Rule 102 of Tariff Circular No.2, the informal reparation authority could not be granted.

Defendants, by formal answer duly filed, admit all of the allegations of the complaint herein and, therefore, under the circumstances a public hearing will not be necessary.

After due consideration we find that complainant made the shipments as described in Exhibit A, attached to and made part of the complaint and paid and bore the charges thereon and that upon carriers' admission that the amount collected was excessive reparation should be awarded.

We are of the opinion that complainant has been damaged in amount of the difference between the charges paid and those that would have accrued at rate of 21½ cents per 100 pounds and is entitled to reparation in a sum not to exceed $2492.82. Complainant should submit statement of the shipments to 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 same be necessary.

O R D E R

This case being at issue upon complaint and answer on file, 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 above named defendants, according as they participated in the transportation, be and they are hereby authorized to pay to the complainant, Associated Oil Company, all of the charges they may have collected in excess of 21½ cents per 100 pounds against the 76 carload shipments of gasoline moving during the period May 5,1923 to October 24,1923 from Wilmington to San Diego, as per Exhibit A attached to and made part of the complaint as reparation account unreasonable rate.

Dated at San Francisco, California, this 27th day of March, 1925.

H. M. Rimmidge

Edgerton Shore

George D. Squire

Commissioners.