Decision No. 11228

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

Standard Oil Company, a corporation,
Complainant,

vs.

Sunset Railway Company,
The Atchison, Topeka & Santa Fe Railway Company,
Defendants.

CASE NO. 2076

W.O.Banks, Felix T. Smith of Pillsbury, Madison and Sutro, for Complainant,
A. M. Reinhardt, for Defendants.

BY THE COMMISSION:

O P I N I O N

Complainant is a corporation existing under and by virtue of the laws of the State of California and is engaged in the business of producing, refining and marketing oils and the other products of petroleum, with its principal place of business at San Francisco.

By complaint filed December 2,1924 it is alleged that the rates assessed by defendants for the transportation of various carloads of gasoline moving from Signa and Taft to Richmond during the period March 3,1922 to March 14, 1923 were excessive, unjust and unreasonable to the extent they exceeded 63 cents per 100 pounds prior to July 1,1922 and 56½ cents per 100 pounds subsequent thereto.

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The statute of limitation was stayed against these claims by informal action under Commission File I.C.29651, dated February 19,1924.

A public hearing was held before Examiner Geary May 27, 1925 at San Francisco, and the case having been duly submitted is now ready for our opinion and order.

Reparation only is sought. Rates will be stated in cents per 100 pounds.

Complainant's shipments consisted of 12 carloads of gasoline from Signa and 67 carloads from Taft to Richmond shipped prior to July 1,1922, and 22 carloads from Signa and 49 carloads from Taft to Richmond shipped subsequent to that date. On the shipments moving prior to July 1, 1922 defendants maintained and applied a rate of 72 cents and on those moving subsequent thereto a rate of 65 cents.

The claimed rate of 63 cents, the basis on which complainant seeks reparation on shipments made prior to July 1,1922 was not specifically published; it represents what the now published rate of 56½ cents would have been prior to the general 10 per cent reduction effective July 1,1922. The 56½ cent rate sought by complainant on shipments moving subsequent to July 1, 1922 was established by defendant effective March 27,1923.

From exhibits presented by complainant it was shown that prior to July 1, 1922 defendants concurrently maintained,from Bakersfield to Richmond, a rate on gasoline of 58 cents and subsequent to that date a rate of 52 cents. The assailed rates from Signa and Taft were based 14 cents prior to July 1,1922 and 13 cents July 1, 1922 to March 27, 1923 higher than the rates from Bakersfield. The distance to Bakersfield from Signa is 41.5 miles and from Taft 46.2 miles. Complainant contends that these differentials of 14 cents and 13 cents were entirely out of line when

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viewed in the light of the existing differential over Bakersfield reflected in contemporaneously effective rates from Pentland to Stockton of 55½ cents prior to July 1,1922 and 50 cents on and after that date.

Defendants admit that the assailed rates were unreasonable and have signified a willingness to make the reparation adjustments.

Complainant has taken the 56½ cent rate established subsequent to July 1, 1922 and by a mathematical computation claims a reasonable rate to be applied prior to July 1,1922 would be one which if reduced 10 per cent would be equal to 56½ cents. Unquestionably the 10 per cent reduction effective July 1, 1922 reflected at that time the average amount by which all rates should be reduced in this territory.

The establishment of the lower rate of 56½ cents on March 27,1923 on complainant's request cannot be taken as an admission that the rate of 72 cents prior to July 1,1922 was either excessive or unreasonable, and complainants claim that a 63 cent rate would be reasonable, because such a rate if reduced by 10 per cent would result in the rate of 56½ cents established March 27,1923, cannot be accepted as a reasonable rate under the conditions existing at time of movement.

The Commission in deciding a case such as the one now before it must take into consideration two distinct periods of time, viz., the period from June 25,1918 until July 1,1922, and the period extending from the latter date until the present time. During the former period the freight rate structure of carriers in this territory was influenced and governed to a large extent

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The Commission in deciding a case such as the one now before it must take into consideration two distinct periods of time, viz., the period from June 25,1918 until July 1,1922, and the period extending from the latter date until the present time. During the former period the freight rate structure of carriers in this territory was influenced and governed to a large extent

by economic conditions attributable to the World War. By General Order No.28 of the Director General of Railroads, and by Ex Parte Order No.74 of the Interstate Commerce Commission (58,ICC.220), the latter followed by a similar order of this Commission (18,CRC.646), freight rates were twice increased to enable carriers to meet the increased costs of practically every item that entered into the operation of railroads. But as the economic conditions of the country returned to a more normal basis and the period of inflation subsided, it became apparent that a general readjustment of freight rates should be undertaken. This fact was recognized by both the Interstate Commerce Commission and by this Commission and, following hearings held throughout the country, July 1,1922 was set as the time when the so-called wartime rates would become unreasonable and a new schedule of freight rates, reflecting approximately a 10 per cent reduction of those rates in effect on August 26,1920,should become effective.(68,ICC.676).

We have heretofore tested the reasonableness of the rates on petroleum and petroleum products from points on the Sunset Railway to Bakersfield in Case No.1793, Richfield Oil Company vs. Sunset Railway (23 CRC.772,779) and in Case No.1913, Richfield Oil Company vs. Sunset Railway, et al., (24 CRC 729,736), where the rates from Bakersfield to Los Angeles and from Kerto and Taft to Los Angeles, both prior to July 1,1922 and on and after that date were in issue. In deciding those cases we found that the rates in effect on and after July 1 were unreasonable,

but that the rates in effect prior to that date were not unreasonable.

The Commission, in Case No.1793, supra, said:

> "The Commission, in all cases such as this, where reparation is demanded, must fix the time when the rates involved became unreasonable and must determine when the shippers were entitled and the carriers should have established the rates found to be reasonable. The evidence does not convince us that the rates prior to July 1,1922, when the general 10 per cent reduction in freight rates took effect, were unreasonable, but viewing the matter in the light of the numerous oil rate adjustments made voluntarily by the carriers, in most instances to a much lower level than the 10 per cent reduction would have accomplished, we believe that the reasonable rate effective on July 1, 1922, for petroleum crude oil from all points on the Sunset Railway to Bakersfield would be $1.00 per ton."

The evidence submitted in this case does not disclose a situation different from that before the Commission in the Sunset Railway oil cases cited above, in which proceedings defendants contested the payment of any and all reparation, both prior and subsequent to July 1,1922. In the instant case defendant carriers admit that the assailed oil rates from the same producing territory were unreasonable both before and after July 1, 1922, but that admission merely reflects defendants' present viewpoints and is not conclusive as to the reasonableness of the rates.

Upon consideration of all the facts of record, we find that the rate assessed for the transportation of gasoline from Signa and Taft to Richmond was not excessive, unjust or unreasonable prior to July 1,1922, but that on and after that date the rate was unreasonable to the extent it exceeded the

subsequently established rate of 56½ cents.

We further find that complainant made certain shipments during the period from July 1,1922 to March 14, 1923 and paid and bore the charges thereon; that it has been damaged to the amount of the difference between the charges paid and those that would have accrued at the rate herein found reasonable and that it is entitled to reparation on such shipments.

Complainant should submit statements to defendants for check. Should it not be possible to reach an agreement as to the amount of reparation the matter may be referred to the Commission for further attention 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, 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 defendants, Sunset Railway Company and The Atchison, Topeka & Santa Fe Railway Company, according as they participated in the transportation, be, and they are hereby, authorized and directed to refund to complainant, Standard Oil Company, all charges they may have collected in excess of 56½ cents per 100 pounds for the transportation of the shipments of gasoline involved in this proceeding moving on or after July 1,1922 to and including March 14,1923, from Sigma and Taft to Richmond.

Dated at San Francisco, California, this 12th day of August, 1925.

C. A. Seavey

George D. Squires

Leon O. Whitsell

Commissioners.