

Decision No. ~~28860~~

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

PAN AMERICAN PETROLEUM COMPANY,
a corporation,
Complainant,

vs.

PACIFIC ELECTRIC RAILWAY COMPANY,
a corporation,
Defendant.

ORIGINAL

Case No. 2398.

BY THE COMMISSION:

O P I N I O N

Complainant, a corporation organized under the laws of the State of California, with its principal place of business at Los Angeles, is engaged in producing, refining and marketing petroleum oils and petroleum products. By complaint filed August 16, 1927, it is alleged that the rate charged on nine carloads of clay moved from Los Angeles to Watson during the period from February 18, 1927, to March 16, 1927 inclusive was unreasonable to the extent it exceeded the subsequently established rate of $3\frac{1}{2}$ ¢ per 100 pounds.

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

Charges were assessed and collected on the basis of 6 cents, the lawfully applicable rate, shown in Pacific Electric Railway Company's Tariff 120-C, C.R.C. 289. Effective April 21, 1927, defendant voluntarily established a rate of $3\frac{1}{2}$ ¢ cents from and to the points involved. Complainant bases its plea for reparation upon the lower rate subsequently established.

The rates and earnings shown in the following table and applicable on clay for distances comparable with that from Los Angeles to Watson are taken from a statement submitted by complainant.

From	To	Rate	Miles	Earnings Per ton mile cents
Los Angeles	Watson	\$.06 [#]	15.8	7.595
Los Angeles	Watson	.03 ^{1/2} *	15.8	4.430
Whittier Jct.	Los Angeles	.02 ^{1/2}	11.0	4.545
Gypsum	Riverside	.03 ^{1/2}	23.0	3.043
Gypsum	Colton	.03 ^{1/2}	30.0	2.333
Chester	Riverside	.02 ^{1/2}	19.0	2.632
Corona	Riverside	.02 ^{1/2}	14.0	3.571

[#] Rate charged.

* Rate sought.

The rate upon which reparation is sought compares favorably with rates on the same commodity for equidistant hauls from and to other points in Southern California.

Defendant admits the allegation of the complaint and has signified a willingness to make reparation adjustment, therefore under the issues as they now stand a formal hearing will not be necessary.

Upon consideration of all the facts of record we are of the opinion and find that the rate of 6 cents charged was unreasonable to the extent it exceeded the subsequently established rate of 3^{1/2} cents. We further find that complainant paid and bore the charges on the shipments involved and has been damaged to the extent of the difference between the freight charges paid and those that would have accrued at the rate herein found reasonable and

that it is entitled to reparation.

Complainant will submit statement to defendant 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 defendant, Pacific Electric Railway Company, be and it is hereby authorized and directed to refund to complainant, Pan American Petroleum Company of Los Angeles, California, all charges it may have collected in excess of $3\frac{1}{2}$ cents per 100 pounds on the shipments involved in this proceeding and forwarded during the period from February 18th to March 16th, 1927, inclusive, from Los Angeles to Watson, California.

Dated at San Francisco, California, this 30th day of September, 1927.

Frank J. ...
Charles ...
Leon ...
Thomas ...
M. J. ...
Commissioners.