

Decision No. 18939.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

HERCULES GASOLINE COMPANY,
a corporation,
Complainant,

vs.

PACIFIC ELECTRIC RAILWAY COMPANY,
a corporation,
Defendant.

Case No. 2409.

BY THE COMMISSION:

ORIGINAL

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 September 10, 1927, it alleges that the rate charged on numerous carloads of petroleum crude oil shipped from Naples to Los Angeles during the period from April 1 to May 21, 1927, was unjust and unreasonable in violation of Section 13 of the Public Utilities Act of the State of California to the extent it exceeded $3\frac{1}{2}$ cents.

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

Charges were assessed and collected at the lawfully applicable rate of 5 cents, shown in Pacific Electric Railway Company's Tariff 120-C, C.R.C. 289. Effective May 21, 1927, defendant voluntarily established a rate of $3\frac{1}{2}$ cents on crude and fuel

oil from Naples to Los Angeles. Complainant bases its plea for reparation upon the lower rate subsequently established.

The rate assailed yields ton-mile earnings of 4.55 cents for a haul of 22 miles. Complainant instances contemporaneous rate of 3 cents on the same commodity from El Segundo, Signal Hill, East Long Beach and Norwalk to Los Angeles and yielding ton-mile earnings of 3.157 cents to 3.529 cents for distances of 17 to 19 miles. The rate upon which reparation is sought yields ton-mile earnings of 3.181 cents.

The ton-mile earnings under the subsequently established rate of $3\frac{1}{2}$ cents compare favorably with earnings received on crude oil from other producing points in Southern California to Los Angeles.

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 5 cents charged was unjust and unreasonable to the extent it exceeded the subsequently established rate of $3\frac{1}{2}$ 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, Hercules Gasoline 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 from Naples to Los Angeles during the period from April 1 to May 21, 1927.

Dated at San Francisco, California, this 19th day of October, 1927.

Emmanuel

Olson

Leon Whidell

Thos. S. Rottel

M. J. Carr

Commissioners.