

Decision No. 19532.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

CALIFORNIA PETROLEUM CORPORATION,

Complainant,

vs.

SOUTHERN PACIFIC COMPANY,

Defendant.

ORIGINAL

Case No. 2503.

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 refining gasoline and other petroleum products. It alleges by complaint seasonably filed that the rate charged on 17 carloads of gasoline shipped from Thenard to Oakland and San Francisco during the period January 30 to March 30, 1926, inclusive, was unduly prejudicial to the extent it exceeded the contemporaneously applicable rate on like traffic moved from San Pedro and Wilmington to the same destinations.

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

An informal complaint was filed with the Commission August 3, 1927, covering the shipments involved herein, thereby staying the running of the statutes.

Thenard is on a branch of defendant's system between Los Angeles and San Pedro, 20 miles south of the former point and four

miles north of the latter point. No specific rate was published on gasoline from and to the points involved and charges were collected on the basis of the fifth-class rate of 38½ cents. Contemporaneously there was a commodity rate of 36 cents on gasoline shown in Item 730 of defendant's Tariff 333-C, C.R.C. No. 2496, applicable from San Pedro, Wilmington and Long Beach, only to San Francisco and Oakland and it is upon this basis that reparation is sought. Thenard is directly intermediate to San Pedro and Wilmington but the rate from these points was published non-intermediate in application under appropriate authority of this Commission.

Effective July 6, 1927, defendant amended Item 730 of its Tariff 333-G, by adding Thenard to the San Pedro, Wilmington and Long Beach group from which the 36-cent rate was applicable, thereby removing the alleged prejudice and placing the complainant on a parity with its competitors.

Complainant bases its plea for reparation upon the subsequently established rate. 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 assailed was prejudicial to the extent it exceeded 36 cents; that complainant made the shipments as described, paid and bore the charges thereon and is entitled to reparation. Complainant specifically waived interest in this case.

Complainant will submit statement of shipments 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 conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof,

IT IS HEREBY ORDERED that defendant, Southern Pacific Company, be and it is hereby authorized and directed to refund to complainant, California Petroleum Corporation, all charges it may have collected in the amount of the difference between the freight charges paid and those that would have accrued at 36 cents per 100 pounds on the shipments involved in this proceeding and moved from Thehard to Oakland and San Francisco during the period from January 30 to March 30, 1926, inclusive.

Dated at San Francisco, California, this 30th day of March, 1928.

C. Seamy

Thos. D. Powell

M. A. Cox
Commissioners.