

Decision No. 19768.

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

PACIFIC COTTONSEED PRODUCTS CORPORATION,
SAN DIEGO OIL PRODUCTS CORPORATION
(PACIFIC COTTONSEED PRODUCTS CORPORATION, Successor),

Complainants,

vs.

THE ARCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY,
SAN DIEGO AND ARIZONA RAILWAY COMPANY,

Defendants.

ORIGINAL

Case No.
2470.

L. H. Stewart, for the Complainants.
E. W. Camp and William E. Richards, for the Defendants.
Edgar V. Byers, for the San Diego Chamber of Commerce,
Intervener in behalf of the Complainants.

BY THE COMMISSION:

O P I N I O N

Complainants are corporations organized under the laws of the State of California with their principal place of business at Potash, California, and are engaged in the manufacture and distribution of cottonseed by-products, the feeding of live stock and the selling and shipping of animal manure fertilizer. By complaint filed December 29, 1927, and as amended January 21, 1928, it is alleged that the rates on animal manure fertilizer from Potash to Los Angeles, Prenda, Riverside, Highgrove and other points on the Santa Fe east and south of Los Angeles are unjust and unreasonable, in violation of Section 13 of the Public Utilities Act; also that the rates from Los Angeles and other Southern California shipping points to the same destination territory are unduly preferential to such shipping points and unduly discriminatory and prejudicial

to Potash, in violation of Section 19 of the Public Utilities Act.

We are asked to prescribe rates removing the alleged violations of the law and to award reparation.

Except as noted rates will be stated in cents per 100 pounds.

A public hearing was held at Los Angeles March 28, 1928, before Examiner Geary, and the case having been duly heard and submitted is now ready for our opinion and order.

Potash is an industrial suburb of San Diego, on the San Diego and Arizona Railway 1.1 miles from National City. Complainants operate yards at this point for the feeding and fattening of cattle, and ship animal manure fertilizer to various Southern California destinations, representative of which are Brea, Riverside and Highgrove. Complainants' principal competition is from shippers located at Los Angeles, Alhambra, Burbank, West Glendale, Forest Lawn and Industrial; these latter points being industrial suburbs of Los Angeles hereinafter will be so referred to. There is also competition to a less degree from other points, the foremost being in the Palo Verde and Imperial Valleys. This fertilizer is of low value, is sold f.o.b. destination according to its chemical and organic content, and moves in open top cars. Switch engines perform the transportation service from Potash to National City, at which latter point the traffic is interchanged with The Atchison, Topeka and Santa Fe Railway, hereinafter referred to as the Santa Fe. The through rates from Potash are combinations based on National City, representative of which are 15½ cents to Brea and Riverside for 134 and 139 miles respectively, and 16 cents to Highgrove for 142 miles, made up of 2½ cents per 100 pounds or 50 cents a ton over the single line rates of the Santa Fe from National City to destination. The rates yield a per car mile revenue of 64.4 cents to 67.2 cents based on an average car

loading of 58,173 pounds and 2.2 cents to 2.3 cents per ton per mile, and included in the revenue is a charge of approximately \$14.54 per car for the switching service of 1.1 miles, Potash to National City.

Complainants compare the rates assailed with the single and joint line rates on animal manure from Los Angeles and its industrial suburbs and from San Pedro and other producing points, as well as the joint rates on fertilizer from exclusive Pacific Electric points. These rates yield 66.7 cents to 88.5 cents per car per mile and 2.2 cents to 3 cents per ton mile, but are for distances substantially less than those from Potash. The rates from the industrial suburbs beyond the Los Angeles switching limits are made by the use of a per car charge of \$4.50 to \$10, plus the local rates from Los Angeles to destinations. These proportional per car charges are for distances varying from 4 miles to 9 miles and apply only when incidental to a line haul of rail carriers beyond Los Angeles as compared with the charge of \$14.54 per car Potash to National City, 1.1 miles. Complainants do not contend, however, that a per car switching charge should be established between Potash and National City, but they are contending for through joint rates from Potash.

Defendants compare the assailed rates with those on fertilizer prescribed by the Interstate Commerce Commission in Consolidated Southwest Cases, 123 I.C.C. 203, for application in the southwest territory. They also compare the present distance scale rates with 80% of Class E, the applicable class rates on fertilizer, as well as with 2½ cents to 3 cents per 100 pounds differential observed by rail carriers in constructing joint rates on fertilizer from Imperial Valley points on the Southern Pacific Company to destinations on the Santa Fe. It is also of record that a differential of 1 cent per 100 pounds over the single line scale

is observed in constructing joint rates on crushed rock in Southern California, and the joint rates on cottonseed cake and meal from Potash to certain California points reflect 2 cents per 100 pounds over the single line scale.

After consideration of all the facts of record and the matters and things involved, we are of the opinion and so find that the rates assessed and collected by defendants were, are and will be for the future unjust, unreasonable and unduly prejudicial and discriminatory to Potash to the extent that such rates exceed or may exceed joint rates of 14 cents to Prenda and Riverside and 14½ cents to Highgrove, minimum carload weight 50,000 pounds. We have not prescribed rates to all points covered by complaint, and the defendants will be expected to establish rates comparable with those herein prescribed, distance considered. We further find that complainants made the shipments as described, paid and bore the charges thereon and have been damaged to the extent of the difference between the charges paid and those that would have accrued at the rates herein found reasonable and are entitled to reparation, with interest at the rate of six (6) per cent per annum. Complainants should submit statement of shipments 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 this Commission for further consideration and the entry of a supplemental order should the same be necessary. Shipments made subsequent to the hearing may be included in the reparation statement filed hereunder, if accompanied by appropriate proof in the form of an affidavit that the freight charges thereon were paid and borne by complainants.

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 by reference made a part hereof,

IT IS HEREBY ORDERED that the defendants, The Atchison, Topeka and Santa Fe Railway Company and San Diego and Arizona Railway Company, be and they are hereby notified and required to cease and desist on or before forty-five (45) days from the date of this order and thereafter to abstain from publishing, demanding or collecting the present rates for the transportation of animal manure fertilizer from Potash to points involved in this proceeding.

IT IS HEREBY FURTHER ORDERED that said defendants, The Atchison, Topeka and Santa Fe Railway Company and San Diego and Arizona Railway Company, be and they are hereby required to establish on or before forty-five (45) days from the date of this order upon notice to this Commission and the general public by not less than five (5) days' filing and posting in the manner prescribed by law and thereafter to maintain and apply, until otherwise ordered by the Commission, for the transportation of animal manure fertilizer from Potash, joint rates which will not exceed those set forth in the opinion immediately preceding this order, which is hereby made a part hereof.

IT IS HEREBY FURTHER ORDERED that defendants, The Atchison, Topeka and Santa Fe Railway Company and San Diego and Arizona Railway Company according as they participated in the traffic, be and they are hereby authorized and directed to refund to complainants, Pacific Cottonseed Products Corporation and San Diego Oil Products Corporation (Pacific Cottonseed Products Corporation, successor), with interest at the rate of six (6) per cent. per annum

all charges they may have collected in excess of the rates here-
in found just and reasonable for the transportation of animal
manure fertilizer from Potash to destinations involved in this
proceeding.

Dated at San Francisco, California, this 15th day
of May, 1928.

Leon White
Ol Seamy
Ernest Scott
Paul D. Lewis
W. J. Cline
Commissioners.