

ORIGINAL

Decision No. ~~10828~~.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

UNION OIL COMPANY OF CALIFORNIA,
a corporation,
Complainant,

vs.

Case No. 2535.

SOUTHERN PACIFIC COMPANY, a corporation,
NORTHWESTERN PACIFIC RAILROAD COMPANY,
a corporation,
Defendants.

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 oil and products thereof.

By complaint filed May 10, 1928, it alleges that the rates charged on seven carloads of asphalt shipped during the period February 15, 1927, to January 21, 1928, inclusive, from Oleum to Petaluma and one carload of petroleum road oil shipped from and to the same points on June 23, 1927, were unduly prejudicial to the extent they exceeded 7 cents, the contemporaneous Class "D" rate applicable on like traffic from Richmond to the same destination.

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

Oleum is on the Southern Pacific Company 11 miles east of Richmond; Petaluma is on the Northwestern Pacific Railroad 65 miles from Oleum and 54 miles from Richmond. At the time the

shipments involved herein moved there were no through joint rates in effect on these commodities from Oleum to Petaluma and charges were assessed at the lawfully applicable rates of $9\frac{1}{2}$ cents on road oil and 10 cents on asphalt, said rates being composed of commodity rates of $2\frac{1}{2}$ cents on road oil and 3 cents on asphalt to Richmond and the Class "D" rate of 7 cents beyond.

The request for reparation is predicated upon the contemporaneous rate of 7 cents applicable on asphalt and road oil, carloads, from the competing refineries at Richmond to Petaluma. It has been the practice of defendants to maintain a parity of rates as between Oleum, Richmond and other refinery shipping points on the San Francisco Bay, which adjustment was disrupted in October, 1926, when the rate was reduced from Richmond but not from other points. Rates of the same volume were established on road oil August 27, 1927, and on asphalt March 1, 1928, applicable from and to the points involved, thereby removing the alleged prejudice. Defendants admit the allegations of the complaint and have 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 rates assailed were unjust and unreasonable to the extent they exceeded 7 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 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, Southern Pacific Company and Northwestern Pacific Railroad Company, according as they participated in the transportation, be and they are hereby authorized and directed to refund to complainant, Union Oil Company of California, all charges they may have collected in the amount of the difference between the freight charges paid and those that would have accrued at 7 cents per 100 pounds on the shipments involved in this proceeding and moved from Oleum to Petaluma during the period from February 15, 1927, to January 21, 1928, inclusive.

Dated at San Francisco, California, this 29th day of May, 1928.

Leon Whidell

A. C. Seaver

Ernest C. ...

John S. ...

M. J. ...

Commissioners.