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DECISION NO. 20399

ORIGINAL

BEFORE THE  
RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

HERCULES GASOLINE COMPANY, a corporation,  
EXPORT REFINING CORPORATION, a corporation,  
PAULEY OIL COMPANY, a corporation,  
VERNON OIL REFINING COMPANY, a corporation,  
EAST-WEST REFINING COMPANY, a corporation,  
MacMILLAN PETROLEUM PRODUCTS COMPANY, a corporation,  
GOREHAM-DURBROW OIL COMPANY, a corporation,  
ITALIO-AMERICAN PETROLEUM CORPORATION, a corporation,  
SEABOARD PETROLEUM CORPORATION, a corporation,  
SIERRA REFINING COMPANY, a corporation,  
MARINE REFINING CORPORATION, a corporation,  
TARR & McCOMB CORPORATION, a corporation,  
GILMORE OIL COMPANY, a corporation,  
J.W. JAMESON CORPORATION, a corporation,  
CALIFORNIA REFINING COMPANY, a corporation, and  
JOSEPH SCOTT and H.L. CARNAHAN, as receivers of the  
Julian Petroleum Corporation, a corporation,

Case  
No. 2496

Complainants,

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY,  
SOUTHERN PACIFIC COMPANY,  
LOS ANGELES AND SALT LAKE RAILROAD COMPANY, and  
PACIFIC ELECTRIC RAILWAY COMPANY,

Defendants.

BY THE COMMISSION:

OPINION AND ORDER ON PETITION FOR REHEARING

Defendants above named have filed a petition for rehearing of our Decision No. 20,128 in the above entitled proceeding, alleging as grounds for the granting of such rehearing; first, that the Commission erred in finding that in so far as transportation by rail carriers is involved the terms "refinery tops" and "gas oil" are synonymous, and second, that the Commission erred in holding that the filing of an informal

complaint is a sufficient compliance with the provisions of section 71 (b) of the Public Utilities Act to stay the statute of limitations therein set forth.

Upon further consideration of the record in the above entitled proceeding the Commission is of the opinion that no error was committed in holding that the terms "refinery tops" and "gas oil" are synonymous in so far as transportation by rail carriers is involved. As to the second allegation above mentioned, the question involved being now pending before the Supreme Court of the State of California in the case of Los Angeles and Salt Lake Railroad Co. vs. Railroad Commission, S. F. No. 13152, we are of the opinion that a rehearing should be granted solely for a reconsideration of the question raised by said allegation.

Therefore, the Commission having given careful consideration to the said petition for rehearing and to each and every allegation therein contained, and

GOOD CAUSE APPEARING,

IT IS HEREBY ORDERED that the said petition for rehearing be and the same is hereby granted, but only in so far as it relates to the sufficiency of the filing of an informal complaint to stay the statute of limitations, and

IT IS HEREBY FURTHER ORDERED that as to any and all other grounds for rehearing set forth in the said petition for rehearing, the same be and it is hereby denied, and

IT IS HEREBY FURTHER ORDERED that, in all other respects, Decision No. 20,128 remain in full force and effect.

Dated at San Francisco, California, this 29<sup>th</sup> day of October, 1928.

Leon Whitell

Clarence

Ernest

John D. Lott

M. J. C.  
COMMISSIONERS