

Decision No. 20615.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ALLUVIAL SILT COMPANY,
GENERAL PETROLEUM CORPORATION OF
CALIFORNIA,

Complainants,

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAIL-
WAY COMPANY,
SOUTHERN PACIFIC COMPANY,

Defendants.

ORIGINAL

Case No. 2538.

BY THE COMMISSION:

OPINION ON REOPENING

Complainant Alluvial Silt Company is a copartnership engaged in mining and selling alluvial silt and silicious silt. Complainant General Petroleum Corporation of California is a corporation engaged in manufacturing and selling petroleum oil and its products. By complaint filed May 11, 1928, and as amended, it is alleged that the rates assessed and collected for the transportation of numerous carloads of alluvial and silicious silt moved from Solon to Wadstrom and Ortonville during the period May 16 to August 16, 1926, both dates inclusive, were unjust and unreasonable to the extent they exceeded 15 cents per 100 pounds.

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

This proceeding was originally set for hearing at Los Angeles but upon request of complainants it was dismissed September 21, 1928, by Decision No. 20241, this upon the belief that the adjustment could be accomplished by informal action. The order of dismissal was vacated October 20, 1928.

Solon is on The Atchison, Topeka and Santa Fe Railway Company 25 miles south of Mojave. Wadstrom and Ortonville are on the Southern Pacific Company 53 and 54 miles respectively west

of Saugus.

The shipments involved in this proceeding moved via The Atchison, Topeka and Santa Fe Railway Company to Mojave, thence Southern Pacific Company to destinations. At the time of movement there were no specific commodity rates in effect from Solon to Wadstrom or Ortonville. The lawful rate was the full combination of locals over Mojave, the factors being a commodity rate of 7 cents from Solon to Mojave (holding Wasco as maximum) as published in Atchison, Topeka and Santa Fe Railway Company's Tariff 9783-J, C.R.C. 558, and the Class "E" rate of 18½ cents from Mojave to Wadstrom and Ortonville as published in Southern Pacific Company's Tariff 711-C, C.R.C. 2843.

Effective August 17, 1926, in Supplement 24 to Pacific Freight Tariff Bureau Tariff 30-H, C.R.C. 366, defendants established a specific commodity rate of 15 cents applicable to the transportation hereinbefore described and it is upon the basis of the subsequently established rate that complainants seek reparation.

Defendants admit the allegation of the complaint and have signified a willingness to make a 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 find that the rates assessed were unreasonable to the extent they exceeded 15 cents; that complainants made the shipments as described, paid and bore the charges thereon, that they have been damaged thereby in the amount of the difference between the charges paid and those that would have accrued at the rates herein found reasonable, and that they are entitled to reparation. Complainants specifically waived the payment of interest.

Complainants will submit a statement of shipments to the 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 answers 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 precedes this order,

IT IS HEREBY ORDERED that defendants, The Atchison, Topeka and Santa Fe Railway Company and Southern Pacific Company, according as they participated in the transportation, be and they are hereby authorized and directed to refund without interest to complainants, Alluvial Silt Company and General Petroleum Company of California, according as their interests may appear, all charges they may have collected in excess of 15 cents per 100 pounds for the transportation of the shipments of alluvial and silicious silt involved in this proceeding and forwarded during the period May 16 to August 16, 1926, inclusive, from Solon to Wadstrom and Ortonville, California.

Dated at San Francisco, California, this 20th day of December, 1928.

Leon White
Secretary

Paul D. Lott

M. J. Lee
Commissioners.