

Decision No. 21328

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

INYO CHEMICAL COMPANY,
DAVID B. SCOTT,

Complainants,

vs.

SOUTHERN PACIFIC COMPANY,

Defendant.

ORIGINAL

Case No. 2561

CLARK CHEMICAL COMPANY, INC.,

Complainant,

vs.

SOUTHERN PACIFIC COMPANY,
SUNSET RAILWAY COMPANY,

Defendants.

Case No. 2567

B. E. Carmichael, F. W. Turcotte and G. A. Olson, for
Complainants.

A. B. Mason and C. N. Bell, for Defendants.

P. L. Hollingsworth, for American Potash & Chemical
Corporation, Intervenor.C. A. Bland, for City of Long Beach and Long Beach
Chamber of Commerce, Interested party.

BY THE COMMISSION:

O P I N I O NComplainants are engaged in the manufacture and sale
of sodium products.

In Case 2561 it is alleged that the rates on complainants' shipments of petroleum fuel oil, in carloads, from Mojave to Cartago and Keeler, moving during the period May 3, 1925, to the present time, were, are and for the future will be excessive, unjust and unreasonable in violation of Section 13 of the Public Utilities Act. The same allegations are made in Case 2567 with respect to shipments of petroleum fuel oil from Mojave, Los Angeles, Seguro, Bakersfield and Pentland to Bartlett and Skinner, moving during the two-year period immediately preceding the filing of this complaint.

Reparation and just and reasonable rates for the future are sought.

The shipments involved in Case 2561 on which the cause of action accrued more than two years prior to the filing of the complaint, although registered with the Commission within the statutory period under our files I.C. 37053, 37070, 37268, 36960 and 36969 are barred from further consideration by reason of the decision rendered April 26, 1929, by the California Supreme Court in Los Angeles & Salt Lake Railroad vs. Railroad Commission et al., S.F. 13152, 77 Cal. Dec. 594.

The General Petroleum Corporation and the Kuhnert Syndicate intervened on behalf of complaints.

Public hearings were held before Examiner Geary at Los Angeles February 26 and 27, 1929, and the proceedings having been submitted and briefs filed are now ready for an opinion and order.

By stipulation these cases were heard upon a common record and will be disposed of in one decision. Rates will be stated in cents per 100 pounds.

Complainants maintain plants at Cartago, Bartlett,

Skinner and Keeler for the manufacture of sodium products. Fuel oil, the commodity here at issue is used to generate the steam necessary in the manufacture of these products. The shipments not barred from further consideration consisted of a total of approximately 981 cars, 969 originating at Mojave, 10 at Seguro and 2 at Los Angeles. There have been no shipments from Bakersfield and Pentland, the other two points of origin here involved. In fact, aside from Mojave the record shows that only in rare instances are shipments of fuel oil obtained by complainants from any other source. The cars were destined to Cartago, Bartlett, Skinner and Keeler. The three first-named points are located on the Owenyo branch of the Southern Pacific Company 117 miles, 129 miles and 130 miles respectively northeast of Mojave. Keeler is 158 miles from Mojave on a narrow gauge line of the Southern Pacific 17 miles south of Owenyo, the junction point with the broad gauge line. The entire movement was in tank cars on which it is conceded by complainants there is an empty car haul of approximately 100%.

The rates assessed from Mojave to Cartago were 20½ cents prior to January 20, 1928, and 19 cents subsequent thereto; from Mojave to Bartlett and Skinner 23 cents prior to January 20, 1928, and 20 cents subsequent thereto; from Mojave to Keeler 25 cents; from Seguro to Bartlett 27½ cents; and from Los Angeles to Bartlett 29 cents. The present rate from Bakersfield and Pentland to Bartlett is 27½ cents.

Complainants are here seeking from Mojave to Cartago, Bartlett and Skinner a rate of 13½ cents and to Keeler a rate of 17½ cents. From Los Angeles, Bakersfield, Seguro and Pentland to Bartlett they ask for a rate of 20 cents. The proposed rates from Mojave to Cartago, Bartlett, Skinner and Keeler, which are those primarily involved, are based upon,

or with relation to, a joint rate of 13½ cents maintained by the Southern Pacific Company and Trona Railway from Mojave to Trona, for a distance of 78 miles. The 13½ cent joint rate from Mojave to Trona produces a per ton per mile earning of 34.62 mills while the present rates from Mojave to Cartago, Bartlett, Skinner and Keeler produce comparable per ton per mile earnings of 32.48 mills, 31.01 mills, 30.77 mills and 31.65 mills, respectively. Nevertheless complainants contend that they are entitled to use the Mojave to Trona rate as a basis for their rates inasmuch as defendants now maintain the rates on the outbound sodium products from complainant's plants on the same basis as those from Trona. At the latter point is situated the plant of the American Potash and Chemical Company, likewise producing sodium products which are marketed in competition with complainant's commodities. The record, however, does not show that the adjustment on the outbound commodities is a proper gauge to test the reasonableness of the rates on the inbound fuel oil.

In addition to comparing the rates assailed with the 13½ cent rate from Mojave to Trona, complainants also refer to rates on fuel oil between various points in California for distances varying from 78 to 454 miles. For the most part these rates produce lower per ton mile and per car mile earnings than the rates here under attack, but they apply in territories not shown to be comparable with that served by the Owenyo branch and the narrow gauge line from Owenyo to Keeler. This branch, as well as the narrow gauge line traverses a territory of exceptionally light density of traffic. In 1928 the gross ton miles per mile of road on the Owenyo branch was 604,386 and on the

narrow gauge line 105,279 as compared with the Southern Pacific system average during the same year of 4,096,265 gross ton miles per mile of road. In addition the grades and curvatures on the Owenyo branch require helper service from Mojave to Haiwee, a distance of approximately 105 miles. On shipments destined to Keeler the lading must be transferred at Owenyo from broad gauge to narrow gauge cars.

The rates from Mojave to Bartlett and Skinner prior to January 20, 1928, were based upon rates established by this Commission in Associated Jobbers vs. S.P.Co., 2 C.R.C. 659, from Mojave to Terese, modified by the general wartime increases and reductions. Similarly the rate from Mojave to Cartago was based upon a rate established by us in the same proceeding, from Bakersfield to Searles. Effective January 20, 1928, following negotiations with complainant the Clark Chemical Company, the rate from Mojave to Bartlett and Skinner was voluntarily reduced from 23 to 20 cents. In line with this adjustment defendants also voluntarily reduced the Mojave to Cartago rate from 20½ cents to 19 cents. The Mojave-Keeler rate has been reduced three times since August 31, 1920, first from 33 cents to 30 cents on September 14, 1921, followed by a reduction to 27 cents on July 1, 1922, and to 25 cents, the present rate, on July 10, 1923.

The present rates on this record have not been shown to be unjust or unreasonable, and we so find. Nor does the record show that the rates in effect prior to the voluntary reductions were unreasonable. A reduction in rates cannot be construed as an admission that the former rates were unreasonable. Walsh Fire Clay Products vs. Director General, 73 I.C.C. 410. Dubois Mill Co. vs. S.P.& S. Ry., 80 I.C.C. 31. Sprague Tire and Rubber Co. vs. Director General, 80 I.C.C. 288. The

proceeding will be dismissed.

O R D E R

These cases 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 contained in the preceding opinion,

IT IS HEREBY ORDERED that the above entitled proceedings be and they are hereby dismissed.

Dated at San Francisco, California, this 7th day
of July, 1929.

Thos. L. Lunt

C. J. Deane
Simon D. ...

M. J. ...
COMMISSIONERS.