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Decision No. 21693.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ASSOCIATED OIL COMPANY, SHELL OIL COMPANY, STANDARD OIL COMPANY OF CALIFORNIA, Complainants, vs. SOUTHERN PACIFIC COMPANY, PACIFIC ELECTRIC RAILWAY COMPANY, Defendants.	Case No. 2614.

Robert Hutcherson and D. E. Snodgrass, for complainant Associated Oil Company.
L. H. Richards for complainant Shell Oil Company.
H. L. Gunnison for complainant Standard Oil Company of California.
James E. Lyons for the defendants.
C. E. Ziegler for the General Petroleum Corporation of California, intervener.
T. J. Olliffe for the Texas Company.

BY THE COMMISSION:

O P I N I O N

Complainants are corporations engaged in producing, refining and marketing petroleum and petroleum products. By complaint filed October 5, 1928, it is alleged that the charges assessed and collected on numerous carloads of casinghead gasoline moving from Wadstrom to Los Angeles, Watson and El Segundo subsequent to October 31, 1925, were, are, and for the future will be unjust and unreasonable, unjustly discriminatory and unduly preferential and prejudicial in violation of Sections

13 and 19 of the Public Utilities Act, to the extent they exceeded, exceed or may exceed 9½ cents per 100 pounds from Wadstrom to Los Angeles and 11½ cents per 100 pounds from Wadstrom to Watson and El Segundo.

The shipments involved in this proceeding moving more than two years prior to the filing of the complaint, although registered with the Commission within the two-year statutory period for the purpose of tolling the Statute of Limitations, are barred from further consideration by reason of the decision of the California Supreme Court rendered April 26, 1929, in Los Angeles & Salt Lake Railroad vs. Railroad Commission of California et al., S.F. 13152, 77 Cal.Dec. 594.

We are asked to prescribe just, reasonable, nondiscriminatory, nonpreferential and nonprejudicial rates for the future and to award reparation. Rates will be stated in cents per 100 pounds.

The General Petroleum Corporation of California intervened on behalf of complainants and seeks reparation on shipments of casinghead gasoline transported from Wadstrom to Los Angeles subsequent to January 6, 1927.

Public hearings were held before Examiner Geary at San Francisco April 9 and 30, 1929, and the case having been submitted is now ready for an opinion and order.

Casinghead gasoline is a semi-refined product extracted from natural gas by the agency of an absorption oil. It is produced at the wells, and ordinarily must be transported to the refineries for further processing before it is commercially usable. Complainant's shipments were produced near Wadstrom and were subsequently moved in tank cars to Los Angeles, Watson and El Segundo for further processing. The movement to Los Angeles involved a local haul of 79 miles via the Southern

Pacific, while to Watson and El Segundo there was a joint haul of 95 and 96 miles respectively via the Southern Pacific and Pacific Electric.

Prior to February 2, 1928, defendants assessed a rate of 14 cents to Los Angeles and 16 cents to Watson and El Segundo. Effective February 2, 1928, at the request of the Associated Oil Company the Los Angeles rate was voluntarily reduced to 11 cents, and the Watson and El Segundo rate reduced to 13 cents to preserve the existing differential of 2 cents over the Los Angeles rate. The 11-cent rate from Wadstrom to Los Angeles was published, it is alleged, by defendants due to a misunderstanding of the extent of pipe line competition from the oil fields to Los Angeles.

Complainants rest their case upon a comparison of the existing rates on gasoline between selected points in Southern California, but particularly upon a rate of 8 cents from Fillmore and Santa Paula to Los Angeles for distances of 55 and 65 miles respectively. The rate of 8 cents now in effect from Santa Paula to Los Angeles produces a ton mile revenue of 24.6 mills, and this per ton mile earning projected from Wadstrom to Los Angeles for a distance of 79 miles would produce a rate of 9½ cents. Complainants asked that this rate of 9½ cents be used as a measure for a reasonable rate from Wadstrom to Los Angeles, and that the rate to Watson and El Segundo be maintained 2 cents higher to preserve the existing relationship between these two points and Los Angeles. The 8-cent rate also applies from Fillmore to Los Angeles, a distance of 55 miles, and the rate per ton per mile is 29.1 mills, which rate if applied to the distance from Wadstrom to Los Angeles, 79 miles, would make a rate of 11½ cents as against the 11-cent rate now in effect;

and if the average of the distances from Fillmore to Los Angeles, 55 miles, and Santa Paula to Los Angeles, 65 miles, or 60 miles, were used, the rate per ton per mile under the 8-cent rate would be 26.7 mills, and this applied to the distance of 79 miles from Wadstrom to Los Angeles would make a rate of 10½ cents.

The record indicates that the 8-cent rate from Fillmore and Santa Paula to Los Angeles is less than a maximum reasonable rate and does not afford a basis for the rates under attack; also that its publication was due to what defendants characterized as a mistake in judgment, predicated on a depressed rate from Wilmington to Los Angeles. This is borne out by the record in Ventura Refining Co. vs. S.P.Co. et al., 17 C.R.C. 328, where this Commission found as reasonable a rate of 7 cents on gasoline from Fillmore to Los Angeles, which, subject to the general war-time increases and reductions, would be 13 cents at the present time. The rates under attack are materially lower than those on gasoline between points in the San Joaquin Valley prescribed by this Commission in Richfield Oil Company vs. Sunset Railway, 24 C.R.C. 736 and 744, and they compare favorably with a rate from Los Angeles to Wadstrom of 10 cents on gas oil set by us in Decision No. 21221, Case 2635, General Petroleum Corporation vs. Southern Pacific Company. The commodity under review in the last named case was a low-grade derivative of petroleum oil containing none of the higher fractioned oils such as gasoline, kerosene and distillate, and is used as an absorption oil to extract the casinghead gasoline from the natural gas at the wells. The rate found reasonable for gas oil is only one cent lower than the present Wadstrom to Los Angeles rate on casinghead gasoline, a commodity admittedly of higher value and ordinarily subject to materially higher rates than those on gas oil.

Complainants allege that the present rate from Wadstrom

to Los Angeles, Watson and El Segundo is unduly prejudicial to them and that the 8-cent rate from Santa Paula and Fillmore to Los Angeles is preferential. The record fails to support this allegation. It cannot be presumed that a mere difference in rates creates unlawful prejudice and preference. (Nashville Machine and Supply Co. vs. L.& N.R.R.Co., 118 I.C.C. 517.)

After careful consideration of all the facts of record, we are of the opinion and so find that the assailed rates have not been shown to be either unjust, unreasonable, unjustly discriminatory, unduly preferential or prejudicial. The complaint will be dismissed.

O R D E R

This case having been duly heard and submitted, 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 the above entitled proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this 27th day of September, 1929.

Thos. S. Lovett

C. L. Seavey

Emmet Wilson

Leon O. Whitsell

W. J. Carr

Commissioners.