

Decision No. 22119.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ASSOCIATED OIL COMPANY,

Complainant.

vs.

SOUTHERN PACIFIC COMPANY,
SUNSET RAILWAY COMPANY,

Defendants.

Case No. 2800.

ORIGINAL

BY THE COMMISSION:

O P I N I O N

Complainant is a corporation with its principal place of business at San Francisco. By complaint filed December 13, 1929, and as amended, it is alleged that the rates assessed and charges collected on numerous carloads of petroleum products moving from Avon to Suplico during the period December 13, 1927, to December 13, 1928 inclusive, were unjustly discriminatory to complainant's shipments and unduly preferential of shipments destined to Taft in violation of Section 19 of the Public Utilities Act.

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

Avon is on the Southern Pacific Company 34 miles northeast of Oakland; Suplico, prior to June 1928, was a station on the Sunset Railway 53 miles west of Bakersfield. In June 1928 this station was abandoned and the switching limits of Fellows, a station .9 of a mile east thereof, extended so as to include Suplico. Both points will hereafter be collectively referred to as Fellows.

Complainant's shipments consisted of 12 carloads of petroleum lubricating oil and one mixed carload of petroleum lubricating oil and grease, and were routed Southern Pacific Company to Bakersfield, thence Sunset Railway Company. Charges were assessed on basis of the lawfully applicable rate of 47 cents made by use of a commodity rate of 36 cents from Avon to Bakersfield published in Southern Pacific Company's Tariff 333-G, C.R.C. 2496, plus a commodity rate of 11 cents from Bakersfield to destination published in Sunset Railway Company's Tariff 1-F, C.R.C. 57, holding the rate to Shale as maximum at Fellows.

During the period December 13, 1927 to February 4, 1928, defendants maintained a rate of 46 cents on petroleum lubricating oil and grease from San Francisco, Richmond and Avon to Taft, a station on the Sunset Railway 25 miles south of Suplico. This rate was made combination over Bakersfield using the 36-cent factor from Avon to Bakersfield plus a rate of 10 cents from Bakersfield to Taft. Effective February 5, 1928, the factor from Bakersfield to Taft was reduced to 7 cents, making a through rate of 43 cents in effect thereafter.

Complainant alleges that it is the practice of defendants when establishing rates on other commodities between points in the San Francisco Bay district and points located on the Sunset Railway to blanket such rates over the territory between San Francisco and Pittsburg on the one hand and Taft and Shale on the other. Effective December 27, 1928, this practice was followed in the case of the commodity here involved and a through rate of 43 cents from Avon to Shale, which applied as maximum at Fellows, was published in Pacific Freight Tariff Bureau Tariff 167-F, C.R.C. 425. It is on the basis of the lower rates concurrently maintained to Taft that complainant seeks reparation.

Defendants admit the allegations 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 are of the opinion and find that the assailed rate was unjustly discriminatory and preferential to the extent it exceeded the rate concurrently in effect from Avon to Taft; that complainant made the shipments as described, paid and bore the charges thereon, has been damaged to an amount representing the difference between the charges paid and those that would have accrued on basis of the rate concurrently in effect to Taft, and is entitled to reparation without interest. Complainant specifically waived the payment of interest.

The exact amount of reparation due is not of record. Complainant will submit to defendant for verification a statement of shipments made and upon payment of the reparation defendant will notify the Commission of the amount thereof. Should it not be possible to reach an agreement as to the reparation award 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 precedes this order,

IT IS HEREBY ORDERED that defendants, Southern Pacific Company and Sunset Railway Company, according as they participated in the transportation, be and they are hereby authorized and directed to refund without interest to complainant, Associated Oil Company, all charges collected in excess of 46 cents

per 100 pounds during the period December 13, 1927, to February 4, 1928, and in excess of 43 cents from February 5, 1928, to December 13, 1928, for the transportation from Avon to Suplico and Fellows of the shipments of petroleum products involved in this proceeding.

Dated at San Francisco, California, this 11th day of February, 1930.

Al Seaver
Ernest A. ...

W. S. ...

W. L. ...
Commissioners.