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Decision No. 22305.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

THE TEXAS COMPANY, Complainant, vs. SOUTHERN PACIFIC COMPANY and PACIFIC ELECTRIC RAILWAY COMPANY, Defendants.	Case No. 2795.

J. A. McNair and B. W. Max, for complainant.

James E. Lyons, for Southern Pacific Company, defendant.

Frank Karr and R. E. Wedekind, for Pacific Electric Railway Company, defendant.

BY THE COMMISSION:

O P I N I O N

Complainant is a corporation organized and existing under the laws of the State of California with its principal place of business at Los Angeles. By complaint filed December 3, 1929, it is alleged that the rate assessed and collected on 92 carloads of gasoline shipped by the California Petroleum Corporation from Fillmore to Palms during the period November 29, 1927, to March 5, 1928, was unjust, unreasonable, unduly prejudicial and discriminatory, in violation of Sections 13 and 19 of the Public Utilities Act. The name of the California Petroleum Corporation was changed to The Texas Company by decree of the Superior Court of Los Angeles County entered May 18, 1928.

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

A public hearing was held before Examiner Geary at Los Angeles January 17, 1930, and the case having been submitted is now ready for an opinion and order.

Fillmore is on the Southern Pacific Company 56 miles northwest of Los Angeles. Palms is on the Pacific Electric Railway Company 11 miles west of Los Angeles. The shipments moved over the Southern Pacific Company to Los Angeles, thence over the Pacific Electric Railway Company to Palms. Charges were collected at a combination rate of 15 cents, composed of a commodity rate of 8 cents from Fillmore to Los Angeles and a commodity rate of 7 cents from Los Angeles to Palms. On March 6, 1928, a through joint commodity rate of 12 cents was established over the route of movement. It is on the basis of this subsequently established rate that complainant seeks reparation.

Complainant's attempt to show that the assailed rate of 15 cents was unreasonable rests upon three grounds: first, that the factor from Los Angeles to Palms of 7 cents, used in combination with the 8-cent rate from Fillmore to Los Angeles, was too high; second, it was unreasonable to assess rates on a full combination of locals; and third, the rates from Fillmore to points beyond Los Angeles and between other points in the same general territory for equidistant hauls were higher than from Fillmore to Palms.

While the 7-cent rate from Los Angeles to Palms is somewhat higher than other rates in the immediate vicinity, this local rate is not here in issue. Although through rates based upon combination of locals may sometimes be unreasonable (Associated Jobbers vs. Southern Pacific Co., 2 C.R.C. 659), we cannot condemn a through charge simply because it is upon this basis. (Consumers' Feed & Fuel Co. vs. A.T.& S.F.Ry., 32 C.R.C.

503.) The Interstate Commerce Commission has held to the same effect in Virginia Chamber of Commerce vs. A.R.R.R.Co., 118 I.C.C. 199. In the instant case it has been shown that the 7-cent rate from Los Angeles to Palms was used in combination with an 8-cent factor from Fillmore to Los Angeles, which latter rate has been found by this Commission to be lower than a maximum reasonable rate. (Associated Oil Co. vs. S.P.Co., 33 C.R.C. 551.) The assailed rate of 15 cents has not been shown to be unreasonable when compared with rates established by this Commission in Richfield Oil Co. vs. Sunset Railway, 24 C.R.C. 744, from Bakersfield, Kerto and Taft to points in the San Joaquin Valley, a territory which the record shows to be considerably more favorable from an operating standpoint than the territory from Fillmore to Palms. The following is illustrative:

From	To	Miles	Rate (cents)	Ton-Mile Earnings (mills)
		Assailed Rate		
Fillmore	Palms	67	15	44.7
		Rate Sought		
Fillmore	Palms	67	12	35.8
		Comparisons		
Bakersfield	Tulare	63	18½	58.7
"	Visalia	82	24½	59.8
"	Merced	162	36	44.4
Kerto	Tulare	103	23½	45.6
"	Visalia	121	29½	48.8
"	Hanford	126	29½	46.8
"	Fresno	147	33	44.9

Complainant was able to show only in a few instances rates which were lower than the rate under attack for comparable distances. These rates, some of which apply from Fillmore to

points beyond Los Angeles, have largely been depressed by motor truck and pipe line competition and do not afford a proper measure for maximum reasonable rates.

Complainant made no attempt to sustain the allegation of undue prejudice. Whatever prejudice may have existed by reason of the lower rates in Southern California has been removed by the establishment of the 12-cent rate from Fillmore to Palms.

After careful consideration of all the facts of record we are of the opinion and so find that the assailed rate has not been shown to be either unjust, unreasonable, unduly 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 contained in the preceding opinion,

IT IS HEREBY ORDERED that the above proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this 8th day of April, 1930.

C. L. Seavey

Leon O. Whitsell

Thos. E. Campbell

M. J. Carr