

Decision No. 22757.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

McCLOUD RIVER RAILROAD COMPANY,
Complainant,

vs.

THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY,
SOUTHERN PACIFIC COMPANY,
Defendants.

ORIGINAL

Case No. 2833.

BY THE COMMISSION:

O P I N I O N

In this proceeding it is alleged by complaint filed February 27, 1930, and amended June 18, 1930, that the rate assessed and collected on numerous carloads of petroleum crude oil transported from Mopeco and Shattuck Spur to McCloud during the period January 1, 1928, to March 14, 1929, both inclusive, was unjust and unreasonable, in violation of Section 13 of the Public Utilities Act.

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

Mopeco, formerly known as Shattuck Spur, is on the main line of the Atchison, Topeka and Santa Fe Railway Company, hereinafter called the Santa Fe, 108 miles south of Fresno and 3 miles north of Bakersfield. Charges were assessed and collected on complainant's shipments at the applicable combination of rates over Bakersfield of 39 cents, the separate factors being a fifth

class rate of 6 cents from Mopeco to Bakersfield and a joint commodity rate of 33 cents from Bakersfield to McCloud. Subsequent to the movement of the shipments involved, defendants established a through rate of 33½ cents from Mopeco to McCloud, applicable via the Santa Fe to Fresno or Stockton, Southern Pacific Company to Mt. Shasta, thence McCloud River Railroad Company to destination, and it is upon the basis of this subsequently established commodity rate 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 unjust and unreasonable to the extent it exceeded the subsequently established rate; that complainant made the shipments as described and paid and bore the charges thereon and is entitled to reparation without interest. Complainant specifically ~~received~~ ^{received} the payment of interest.

The exact amount of reparation due is not of record. Complainant will submit to defendants for verification a statement of the shipments made and upon the payment of reparation defendants 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, 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 to complainant, McCloud River Railroad Company, without interest, all charges collected for the transportation of the shipments of petroleum crude oil involved in this proceeding, in excess of those that would have accrued at a rate of $33\frac{1}{2}$ cents per 100 pounds from the point on The Atchison, Topeka and Santa Fe Railway Company now known and designated as Mopoco, to McCloud.

Dated at San Francisco, California, this 6th day of August, 1930.

C. L. Seaver
Ernest C. ...

Paul ...

Commissioners.