

Decision No. 22702.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

SUNSET PETROLEUM CORP., a corporation,
Complainant,

vs.

SOUTHERN PACIFIC COMPANY and
LOS ANGELES JUNCTION RAILWAY COMPANY,
Defendants.

ORIGINAL

Case No. 2862.

BY THE COMMISSION:

O P I N I O N

Complainant is a corporation engaged in buying and marketing petroleum and petroleum products. Its principal place of business is at Los Angeles. By complaint filed May 8, 1930, it is alleged that the rate assessed and collected on two tank cars of engine naphtha distillate moving from Chrisman to Los Angeles April 30, 1928, and May 1, 1928, was unjust and unreasonable in violation of Section 13 of the Public Utilities Act. The charges on both of these shipments were paid to defendants on May 16, 1928.

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

Chrisman is on the Ojai branch of the Southern Pacific Company 77 miles northwest of Los Angeles. The rate legally applicable to the transportation herein involved at the time the shipments moved was $26\frac{1}{2}$ cents, made by use of a fifth class mileage rate of $18\frac{1}{2}$ cents from Chrisman to Santa Paula, plus a

commodity rate of 8 cents from Santa Paula to Los Angeles. At the same time, however, defendants maintained a rate of 14 cents on gasoline from Chrisman to Los Angeles on the Los Angeles Junction Railway, as published in Southern Pacific Tariff 333-G, C.R.C. 2496, 25th revised page 114, and effective December 1, 1929, established in the same tariff on 15th revised page 28 a rate of the same volume on engine naphtha distillate. It is on the basis of the rate subsequently established that complainant seeks reparation.

Both cars were shipped by and consigned to Tarr & McComb Corporation at Los Angeles, but were purchased by complainant F.O.B. Chrisman and sold to the Davis Oil Company F.O.B. Los Angeles. A diversion charge of \$2.25 per car was assessed. This charge is not here in issue.

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 rate subsequently established; that complainant made the shipments as described, paid and bore the charges thereon, 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 defendants for verification a statement of the shipments made, and upon the payment of reparation defendant will notify the Commission 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 answers 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 Los Angeles Junction Railway Company, according as they participated in the transportation, be and they are hereby authorized and directed to refund to complainant, Sunset Petroleum Corporation, without interest, all charges collected in excess of 14 cents per 100 pounds for the transportation from Chrisman to Los Angeles of the shipments of engine naphtha distillate involved in this proceeding.

Dated at San Francisco, California, this 13th day of August, 1930.

Ch. Seaver
Edmund C. ...
Leon ...
Paul ...
M. P. ...
Commissioners.