

Decision No. 23277.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

WESTERN OIL & REFINING COMPANY,

Complainant,

vs.

THE WESTERN PACIFIC RAILROAD COMPANY,
SOUTHERN PACIFIC COMPANY,

Defendants.

ORIGINAL

Case No. 2897.

BY THE COMMISSION:

O P I N I O N

Complainant is a corporation with its principal place of business at Oakland. By complaint filed August 2, 1930, it is alleged that the charges assessed and collected on one car of gasoline shipped from Ozol to Marysville on or about September 21, 1929, were 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.

Complainant's shipment consisted of one tank car of gasoline originating at Ozol, a point on the main line of the Southern Pacific Company 29 miles east of Oakland, and destined to Marysville on the Western Pacific Railroad Company. It was routed Southern Pacific Company to Sacramento, thence Western Pacific Railroad to destination. Charges were assessed and collected on basis of a rate of 23 cents made by use of a combination of commodity rates to and from Sacramento. At the time

of shipment there was in effect between the same points a rate of 16 cents applying on shipments moving locally via the Southern Pacific Company, jointly via the Southern Pacific to Sacramento thence Sacramento Northern Railway, or jointly via Southern Pacific to Stockton thence Western Pacific Railroad. Effective April 15, 1930, in Item 16430-A, Supplement 14 to F. W. Gomph's 167-G, C.R.C. No. 451, a rate of the same volume was established via the route this shipment moved. It is on the basis of this subsequently established rate that complainant seeks reparation.

Defendants admit that the rate assessed on complainant's shipment was unreasonable to the extent it exceeded the subsequently established rate of 16 cents, and have signified their 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 16 cents; that complainant made the shipment 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 shipment made and upon the payment of the reparation defendants 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.

ORDER

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, The Western Pacific Railroad Company and Southern Pacific Company, according as they participated in the transportation, be and they are hereby authorized and directed to refund without interest to complainant, Western Oil & Refining Company, all charges collected in excess of 16 cents per 100 pounds for the transportation from Orol to Marysville of the shipment of gasoline involved in this proceeding.

Dated at San Francisco, California, this 12th day of January, 1931.

Cl. Harvey
Leon Whitney
Fred G. Stewart

W.B. Harris
Commissioners.