

Decision No. 23635.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

ASSOCIATED OIL COMPANY,	)
	)
Complainant,	)
	)
vs.	)
	)
SOUTHERN PACIFIC COMPANY,	)
	)
Defendant.	)

Case No. 3037.

BY THE COMMISSION:

O P I N I O N

Complainant is a corporation engaged in the business of purchasing, producing, refining and marketing of oils and other products of petroleum. By complaint filed March 23, 1931, it is alleged that the rate assessed and collected on three car-loads of ground clay transported from Los Angeles to Coalinga during the period March 24, 1929, to December 2, 1929, inclusive, was unjust and unreasonable in violation of Section 13 of the Public Utilities Act.

Reparation only is sought. Except as otherwise shown rates are stated in cents per 100 pounds.

Complainant's shipments originated on an industry track on the Atchison, Topeka and Santa Fe Railway at Los Angeles and were destined to Coalinga, a point on the Coalinga branch of the Southern Pacific Company 298 miles north of Los Angeles. Charges were assessed and collected on basis of the Class "C" rate of 32 cents named on page 270 of Southern Pacific Company Tariff 711-C,

C.R.C. 2843, plus a switching charge of \$2.70 per car. This latter charge however is not here in issue. Effective April 7, 1930, in its Tariff 825-E, C.R.C. 3271, Item 695-D, defendant published a commodity rate of 22 cents, minimum carload weight 80,000 pounds, on ground clay from Los Angeles to Coalinga and it is on the basis of this subsequently established rate that complainant seeks reparation.

Defendant admits the allegations of the complaint and has 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 22 cents; 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 defendant for verification a statement of the shipments made and upon the payment of the 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 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 defendant Southern Pacific Company be and it is hereby authorized and directed to refund without interest to complainant, Associated Oil Company, all charges collected (exclusive of switching charges) in excess of 22 cents per 100 pounds, minimum weight 80,000 pounds per car, for the transportation from Los Angeles to Coalinga of the shipments of ground clay involved in this proceeding.

Dated at San Francisco, California, this 27<sup>th</sup> day of April, 1931.

Clarence  
Leon Whitwell

W. J. Am  
M. B. Harris

Fred G. Stewart  
Commissioners.