

Decision No. 23883.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

U.S. INDUSTRIAL ALCOHOL CO.,
 a corporation,
 Complainant,

vs.

THE ATCHISON, TOPEKA AND SANTA FE
 RAILWAY COMPANY, a corporation,
 Defendant.

ORIGINAL

Case No. 3073.

BY THE COMMISSION:

O P I N I O N

Complainant is a corporation engaged in producing, marketing and selling industrial alcohol, molasses char and carbon dioxide. Its principal place of business is at Los Angeles. By complaint filed June 8, 1931, it is alleged that the rate assessed and collected during the period June 4, 1929, to August 21, 1930, both dates inclusive, for the transportation from El Segundo to Anaheim of nine tank carload shipments of sulphuric acid was unjust and unreasonable in violation of Section 13 of the Public Utilities Act. All of the charges were paid during the two-year period immediately preceding the filing of the complaint.

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

El Segundo is on the Redondo Branch of the Atchison, Topeka and Santa Fe Railway 17 miles north of Los Angeles; Anaheim is on the main line 27 miles southeast of Los Angeles. Charges were assessed and collected on complainant's shipments on basis

of the legally applicable rate of 14 cents named in defendant's Local, Joint and Proportional Commodity Tariff 12375-K, C.R.C. No. 622. These charges, it is contended, are higher than those contemporaneously assessed by defendant for the transportation of like shipments for comparable distances. Effective November 20, 1930, in Supplement No. 9 to its Tariff 12375-L, C.R.C. No. 645, defendant established a rate of 10 cents for the transportation of sulphuric acid from El Segundo to Anaheim 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 its 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 10 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, The Atchison, Topeka and Santa Fe Railway Company, be and it is hereby authorized and directed to refund without interest to complainant, U.S. Industrial Alcohol Company, all charges collected in excess of 10 cents per 100 pounds for the transportation from El Segundo to Anaheim of the shipments of sulphuric acid involved in this proceeding.

Dated at San Francisco, California, this 10th day of July, 1931.

O. J. Kearney
Leon Anderson

M. J. Lee

Fred G. Stewart
Commissioners.