

Decision No. 24181.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ASSOCIATED OIL COMPANY,

Complainant,

vs.

SOUTHERN PACIFIC COMPANY,

Defendant.

ORIGINAL

Case No. 3120.

BY THE COMMISSION:

O P I N I O N

Complainant is a corporation with its principal place of business in San Francisco. By complaint filed September 15, 1931, it is alleged that the charges assessed and collected on numerous tank carloads of petroleum fuel oil shipped from Sacramento to Swanston on and subsequent to September 17, 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.

Swanston is on the Southern Pacific Company 5 miles east of Sacramento. Charges were assessed on complainant's shipments during the period September 17, 1929, to July 19, 1931, on a basis of a rate of $9\frac{1}{2}$ cents. From July 19, 1931, to October 12, 1931, a rate of 7 cents was applied. These

rates are published in Southern Pacific Company Tariff 333-G, C.R.C. 2496, and apply on petroleum refined oils from Sacramento to Roseville, the latter a point 13 miles beyond Swanston. Effective October 12, 1931, defendant published in the same tariff a rate of $3\frac{1}{2}$ cents applying specifically on petroleum fuel oil in tank cars from Sacramento to Swanston, 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 rates were unjust and unreasonable to the extent they exceeded $3\frac{1}{2}$ cents. We further find 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 in excess of $3\frac{1}{2}$ cents per 100 pounds for the transportation from Sacramento to Swanston of the shipments of petroleum fuel oil involved in this proceeding.

Dated at San Francisco, California, this 26th day of October, 1931.

Leon A. Murray

M. J. Carr

W. B. Harris

Fred G. Stewart

Commissioners.