

Decision No. 24488.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

STANDARD FELT CORPORATION,
 Complainant,
 vs.
 PACIFIC ELECTRIC RAILWAY COMPANY,
 Defendant.

Case No. 2989.

ORIGINAL

BY THE COMMISSION:

O P I N I O N

Complainant is a corporation engaged in manufacturing felts. By complaint filed January 20, 1931, and as amended, it is alleged that the charges assessed and collected for the transportation of 89 carloads of petroleum fuel oil from Los Angeles to West Alhambra during the period January 12, 1929, to September 26, 1930, inclusive, were in violation of Sections 17 and 24 of the Public Utilities Act.

Reparation only is sought. Rates are stated in dollars and cents per car.

Complainant's shipments originated in Los Angeles on Violet Alley Spur. The spur is owned and operated jointly by the Southern Pacific Company and the Los Angeles & Salt Lake Railroad Company. The cars were switched by these carriers to their interchange with the Pacific Electric Railway and were from there line-hauled to West Alhambra by the Pacific Electric. Charges were

assessed and collected on basis of \$15.00 for the line haul service plus \$2.70 for the switching service performed by the Southern Pacific Company or the Los Angeles & Salt Lake Railroad.

At the time complainant's shipments moved there were in effect from Industrial to Los Angeles over the Southern Pacific Company a proportional all freight rate of \$4.50 and from Dotson Spur to Los Angeles over the Los Angeles & Salt Lake Railroad a like rate of the same volume. The Pacific Electric Railway concurrently maintained an all freight rate of \$7.20 from Los Angeles to West Alhambra. Under the applicable tariffs these proportional per car rates may be used in combination with each other, subject to minimum per car charge of \$15.00 (In Re Application of Southern Pacific Co., etc., 34 C.R.C. 167), and charges so made may not be exceeded on like shipments moving between intermediate points over the same route and in the same direction without creating violations of the long and short haul provisions of Section 24(a) of the Act (Chamberlain Company Inc. et al. vs. Atchison, Topeka and Santa Fe Railway Company et al., 35 C.R.C. 63).

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 charges on complainant's shipments were assessed and collected in violation of the long and short haul provisions of Section 24 of the Public Utilities Act. We further find that complainant made the shipments as described, paid and bore the charges thereon and is entitled to reparation without interest on those shipments on which the cause of action accrued within the two-year period immediately preceding the

filing of the complaint, in the amount of the difference between the charges paid and the charges concurrently in effect from and to the more distant points. (California Adjustment Co. vs. Atchison, Topeka and Santa Fe Railway, 179 Cal. 140; San Francisco Milling Co. vs. Southern Pacific Co., 34 C.R.C. 453.) The payment of interest is specifically waived.

In view of our finding it will not be necessary to determine whether or not the charges assessed were also in violation of Section 17 of the Act.

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 preceding opinion,

IT IS HEREBY ORDERED that defendant Pacific Electric Railway Company be and it is hereby authorized and directed to refund without interest to complainant Standard Felt Corporation all charges collected during the two-year period immediately preceding the filing of the complaint in excess of \$15.00

per car for the transportation from Violet Alley Spur, Los Angeles,
to West Alhambra of the shipments of petroleum fuel oil involved
in this proceeding.

Dated at San Francisco, California, this 15th day
of February, 1932.

C. L. Seaver
Lou Wheeler
W. J. Cur
W. B. Harris
Fred G. Alstead.
Commissioners.