

Decision No. 23842.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ASSOCIATED OIL COMPANY,

Complainant,

vs.

SACRAMENTO NORTHERN RAILWAY,

Defendant.

Case No. 3163.

BY THE COMMISSION:

ORIGINALO P I N I O N

By complaint filed December 22, 1931, and as amended March 15, 1932, complainant alleges that the charges assessed and collected on 8 tank carloads of gasoline transported from Sacramento to Westgate on and after March 9, 1931, 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 shipments originated on a Southern Pacific Company spur track at Sacramento. The only service performed by that carrier however was a switching service from the spur track to the interchange with the defendant, the charge for which is not here in issue. The shipments were transported from Sacramento to Westgate, a point 1.1 miles west of Sacramento. Charges

were assessed and collected on basis of a rate of 11 cents, which is the minimum 5th class rate published in defendant's Tariff 4-E, C.R.C. No. 50. Complainant contrasts this rate with a rate of 9 cents applying from Sacramento to Colusa, a distance of 71 miles, and 5 cents from Sacramento to Woodland, a distance of 17 miles, and contends that it is unjust and unreasonable to the extent it exceeds 5 cents.

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 public hearing will not be necessary.

Upon consideration of all the facts of record we are of the opinion and find that the charges assessed and collected on complainant's shipments were unjust and unreasonable; 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. Defendant should publish a rate of 5 cents from Sacramento to Westgate.

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 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 Sacramento Northern Railway be and it is hereby authorized and directed to refund without interest to complainant Associated Oil Company all charges collected in excess of 5 cents per 100 pounds for the transportation from Sacramento to Westgate of the shipments of gasoline involved in this proceeding.

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

C. J. Seaver
Leon Whitehall
W. J. Lee
M. B. Lewis
James G. Stewart
Commissioners.