

Decision No. 25019.

## BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

UNION OIL COMPANY OF CALIFORNIA,  
a corporation,  
Complainant,

vs.

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

Case No. 3256

**ORIGINAL**

BY THE COMMISSION:

O P I N I O N

By complaint filed May 6, 1932, it is alleged that the charges on 5 carloads of gasoline shipped from Los Angeles to Wildasin during the period September 4, 1930 to September 23, 1930, inclusive were assessed and collected in violation of the long and short haul provisions of Section 24 of the Public Utilities Act and Section 21 Article XII of the State Constitution.

Reparation only is sought.

Charges were assessed and collected on complainant's shipments at a rate of 4 cents per 100 pounds as published in Supplement 13 to defendant's Tariff 9777-L, CRC 596, and at an estimated weight of 6.6 pounds per gallon, computed upon the capacity of the tank car in accordance with the provision of Agent E.D. Boyd's Circular 6-U, CRC No. 36.

Complainant contends that these charges were collected in violation of the long and short haul provisions heretofore referred to in that they exceeded \$15.00 per car, obtained by combining with a proportional rate of \$4.50 per car applying between Los Angeles and Wildasin a like rate applicable either between Industrial and Los Angeles, or Forest Lawn and Los Angeles, and observing the \$15.00 per car minimum charge provided for in Rule 13 of Western Classification No. 61, C.R.C. 465 of F.W. Gomph, Agent.

The \$4.50 rates are published in defendant's Tariff 12375-L, C.R.C. 645, Southern Pacific Company Tariff 730-D, C.R.C. 3353, and Los Angeles and Salt Lake Railroad Co., Tariff 133-E, C.R.C. 327 respectively and are restricted so as to apply only "when incidental to line haul from or to Los Angeles."

In Chamberlain Co. vs. AT&SF Ry. Co. 35 CRC 63 we held that under the applicable tariffs the proportional rates referred to above could be used in combination with each other, subject to a minimum per car charge of \$15.00, and that higher charges could not be assessed on shipments moving between intermediate points without contravening the long and short haul provisions.<sup>1</sup>

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 and of Section 21 Article XII of the State Constitution. 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 payment of the reparation defendant will notify the Commission of 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.

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<sup>1</sup> See also E.J. Stanton & Son vs. AT&SF Ry. 36 CRC 390.

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 The Atchison, Topeka and Santa Fe Railway Company be and it is hereby authorized and directed to refund without interest to complainant Union Oil Company of California all charges collected in excess of \$15.00 per car for the transportation from Los Angeles to Wildasin of the shipments of gasoline involved in this proceeding.

Dated at San Francisco, California, this 1<sup>st</sup> day of

August 1932.

C. J. Sweeney

Leon Sweeney

M. A. Lee

M. B. Harris

James G. Stewart

COMMISSIONERS.