

Decision No. 25021.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

THE PETROL CORPORATION,

Complainant,

vs.

THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY,

Defendant.

Case No. 3268.

BY THE COMMISSION:

ORIGINALO P I N I O N

By complaint filed June 1, 1932, complainant alleges that the charges assessed and collected on 19 carloads of petroleum fuel oil shipped from Los Angeles to Wildasin during the period June 3 to September 19, 1930, inclusive, were in violation of the long and short haul provisions of Section 24 of the Public Utilities Act.

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

Wildasin is an industrial suburb of Los Angeles. Charges were assessed and collected on complainant's shipments at a rate of 3 cents named in Atchison, Topeka and Santa Fe Tariff No. 9777-L, C.R.C. No. 586. At the time the shipments moved defendant published and maintained in its Tariffs 12375-L, C.R.C. No. 622, and 12375-L, C.R.C. No. 645, Item 2530, a proportional rate on freight of \$4.50 per car from Los Angeles to Wildasin, which when

used in combination with a proportional rate of \$4.50 per car on freight from Industrial to Los Angeles published and maintained by Southern Pacific Company in its Tariffs 730-C, C.R.C. No. 2904, and 730-D, C.R.C. No. 3353, produced a combination through rate of \$9.00 per car, subject to a minimum charge of \$15.00 per car. The line haul rate of 3 cents assessed and collected by defendant created higher charges than would have accrued by the use of the proportional rates, making a higher charge for a shorter haul than for a longer haul over the same line or route, resulting in an unauthorized departure from the long and short haul provisions of Section 24(a) of the Public Utilities Act (Chamberlain Co., Incorporated vs. The Atchison, Topeka and Santa Fe Railway Co., 35 C.R. C. 63).

Defendant admits the allegations of the complaint and has signified a 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 so find that the charges on complainant's shipments were assessed and collected in violation of the long and short haul provisions of Section 24(a) of the Public Utilities Act; that complainant paid and bore the charges on the shipments in question and has been damaged to the extent of the difference between the charges paid and those in effect from more distant points. Complainant specifically waives 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 directed to refund without interest to complainant The Petrol Corporation, all charges for the transportation of the shipments involved in this proceeding in excess of the charges contemporaneously in effect on like traffic from Industrial to Wildasin.

Dated at San Francisco, California, this 1st day of August, 1932.

C. C. Lewis
Leon Whitney
M. A. Lewis
W. B. Lewis
Fred G. Stewart
Commissioners.