

Decision No. 25067.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

WILLIAM C. McDUFFIE, as Receiver of the  
RICHFIELD OIL COMPANY OF CALIFORNIA,  
a corporation,

Complainant,

vs.

PACIFIC ELECTRIC RAILWAY COMPANY,  
a corporation,  
SOUTHERN PACIFIC COMPANY,  
a corporation,

Defendants.

**ORIGINAL**

Case No. 3211.

B. E. Carmichael and F. W. Turcotte, for  
complainant.

R. E. Wedekind, for defendant Pacific Electric  
Railway Company.

James E. Lyons and A. L. Whittle, by A. L. Whit-  
tle, for defendant Southern Pacific Company.

BY THE COMMISSION:

O P I N I O N

Complainant William C. McDuffie, receiver for the Rich-  
field Oil Company of California, a corporation, filed this pro-  
ceeding February 29, 1932, alleging that the rate of 6 cents per  
100 pounds assessed and collected for the transportation of nu-  
merous carload shipments of petroleum fuel oil from Watson to  
Hewitt was during the two years immediately preceding the filing  
of the complaint, is now, and for the future will be unjust and  
unreasonable, in violation of Section 13 of the Public Utilities  
Act.

Reparation and a rate for the future are sought. Rates will be stated in cents per 100 pounds.

A public hearing was held before Examiner Geary at Los Angeles, and the case having been submitted is now ready for an opinion and order.

The shipments originated on the rails of the Pacific Electric Railway at Watson and moved by that company to Los Angeles, thence via the Southern Pacific to Hewitt, a total distance of 30 miles. Hewitt is on the main line of the Southern Pacific north of Burbank. An exhibit giving a history of the rate between the points involved shows that in August 1920 it was 14 cents and that it was reduced a number of times until September 1929, when it became 6 cents. This rate of 6 cents was published at the request of the Bureau of Power and Light of the City of Los Angeles to meet the truck competition then existing, and apparently met with the approval of the City. The rate was for a special job and there has been no tonnage to Hewitt via defendants' rails subsequent to the movement of the shipments involved in this proceeding.

Both the complainant and the defendants presented exhibits showing many of the existing petroleum rates, the distances of the hauls, and the per mile earnings. From this representation it is apparent the parties had no difficulty in finding rates to support their respective contentions, for complainant's exhibit would give the impression that the rate assailed was far too high, while defendants' exhibit would indicate that this 6-cent rate was far too low. In most instances however the circumstances surrounding the establishment of the compared rates are not disclosed, and without this information the exhibits have but slight value.

Reference was made to the spread between the petroleum

fuel oil rates and those applying to the other petroleum commodities, but it was disclosed that the oil rates by rail have been greatly disturbed and the relationships practically destroyed because of truck and pipe line competition. Trucks are charging the same for all grades of oil, and while the railroads have reduced their charges in an effort to retain tonnage they have not met with satisfactory results and in some territory have lost all of the oil traffic, being unable to make rates low enough to meet the competition. Therefore under present competitive conditions there is no recognized spread in rates for the different kinds of oil and the spread now existing does not establish proof of the unreasonableness of the fuel oil rate. The rate of 6 cents from Watson to Hewitt applies as a maximum at other points in a general territory, and a change in this rate would depress charges not shown to be unreasonable. It might also be stated that the Interstate Commerce Commission in the Southwestern territory prescribed (171 I.C.C. 381) 10 cents in common point territory and 12 cents in the differential territory for a 30-mile haul.

A witness for defendant testified that the Pacific Electric Railway Company had in the year 1930 a net loss of \$1,969,821.62, in 1931 it was \$2,254,486.92, and that the loss for the first quarter of the year 1932 was \$640,432.44. Figures introduced on behalf of the Southern Pacific Company showed much greater net income losses suffered since the year 1930.

Upon the evidence presented, including the comparison of rates, our conclusion is, and we find, that the 6-cent rate assailed covering shipments moved during the year 1930 and the month of January 1931, has not been shown to be either excessive or unreasonable per se, nor when all the factors of competition are considered, can it be said to be unreasonably discriminatory.

The proceeding will be dismissed.

O R D E R

A public hearing having been held upon the complaint as above entitled, the matter submitted upon briefs and now being ready for decision; and basing the order upon the findings and conclusions in the opinion above,

IT IS HEREBY ORDERED that said complaint be and it is hereby dismissed.

Dated at San Francisco, California, this 15<sup>th</sup>  
day of August, 1932.

C. J. Seaver  
Leon O'Connell  
W. A. Cunniff  
M. B. Harris  
Fred G. Cleveland  
Commissioners.