

ORIGINAL

Decision No. 5372

Decision No. _____

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

---oOo---

J. W. JAMESON,

Complainant,

vs.

Case No. 1188.

PRODUCERS TRANSPORTATION COMPANY,
STANDARD OIL COMPANY and GENERAL
PIPE LINE COMPANY OF CALIFORNIA,

Defendants.

Alfred L. Black for complainant.
L. W. Andrews for Producers Transportation
Company.
Oscar Sutro for Standard Oil Company.
A. L. Weil for General Pipe Line Company
of California.
D. M. Folsom and A. L. Chickering for Oil
Division of National Fuel Administration.

THELEN, Commissioner.

O P I N I O N

The complaint herein asks that the Railroad Commission establish just and reasonable rates, rules and regulations for the gathering, transportation, storage and delivery of crude oil and petroleum by defendant companies, each of whom owns and operates one or more oil pipe lines between points in California. The proceeding is brought in behalf of a number of producers and independent refiners and purchasers of crude oil and oil products in California.

For a statement of the oil pipe line situation in California at the time the decision was rendered,

reference is hereby made to Decision No. 2042 in Case No. 450, decided on December 31, 1914, being an investigation on the Railroad Commission's own motion into the matter of the compliance by oil pipe lines with the provisions of Chapter 327, Laws of 1912, declaring certain corporations, associations and individuals to be common carriers and public utilities subject to the provisions of the Public Utilities Act. (Vol. 5, Opinions and Orders of Railroad Commission of California, p. 990). For a more recent statement of the situation reference is made to Chapter VI of the Report of the Committee on Petroleum of the California State Council of Defense, dated July 7, 1917, and published by the California State Printing Office.

Producers Transportation Company, one of the defendants herein, Associated Oil Company and Associated Pipe Line Company secured from the Supreme Court of California writs of review to review said Decision No. 2042 of the Railroad Commission. By decision rendered on November 17, 1917, in Producers Transportation Company vs. Railroad Commission, 54 Cal. Dec. 583, the Supreme Court of California held that said company is a common carrier subject to the jurisdiction of the Railroad Commission and is required to file with the Commission its rates, rules and regulations for the transportation of crude oil and the products thereof. Thereafter, on February 14, 1918, Producers' Transportation Company sued out a writ of error to the Supreme Court of the United States to review said decision.

By decision of November 20, 1917, in the cases of Associated Oil Company v. Railroad Commission and Associated Pipe Line Company v. Railroad Commission, 54 Cal.

Dec. 528, the Supreme Court of California held that Associated Oil Company and Associated Pipe Line Company are not common carriers of oil and are not subject to the jurisdiction of the Railroad Commission.

Standard Oil Company and General Pipe Line Company of California did not seek a review of the Railroad Commission's said Decision No. 2042, in which decision said companies were declared to be, with reference to San Joaquin Valley pipe lines, common carriers subject to the jurisdiction of the Railroad Commission. On December 28, 1916, Standard Oil Company filed with this Commission rates, rules and regulations for the transportation of crude oil by means of its various San Joaquin Valley Pipe Lines. The Company also filed a protest against this Commission's jurisdiction.

On April 9, 1915, General Pipe Line Company of California filed rates, rules and regulations for the transportation of crude petroleum by its pipe line between San Joaquin Valley points and San Pedro.

On February 28, 1918, prior to the filing of answers herein, M. L. Regua, Director of Oil of the National Fuel Administration, sent a telegram to the Railroad Commission, as follows:

Washington, D.C. Feb. 28, 1918.

California State Railroad Commission,
San Francisco, California.

Am advised that case has been filed with commission asking for establishment of rates and regulations for shipments of oil in pipe lines. In view of plan of oil division of fuel administration to operate all pipe lines in

California as a unit during period of war for the common good. I respectfully request that this case be postponed if possible pending agreement with pipe line owners as to operations during war.

Requa.
Director Oil Division Fuel
Administration.

The Railroad Commission thereupon notified all the parties to appear before it in the office of the Commission in San Francisco on April 18, 1918, at which time and place argument and, if necessary, evidence might be presented on the question whether the Railroad Commission should now go forward with this proceeding.

The hearing was held at the time and place specified and this matter is now ready for decision on the question whether the Commission shall now go forward herein.

Mr. D. M. Folsom, Pacific Coast representative of the Oil Division of the National Fuel Administration, referred to the Act of August 10, 1917, providing for the national security and defense by encouraging the production, conserving the supply and controlling the distribution of food products and fuel and drew attention to the fact that under this Act the National Fuel Administration is charged with the responsibility of assuring an adequate supply, distributing equitably and facilitating the movement of all fuel including fuel oil. Under this Act, the National Fuel Administration has provided that all companies engaged in the manufacture or distribution of fuel oil at a capacity in excess of 100,000 barrels per annum must secure licenses and comply with the rules and regulations prescribed.

by the President or the National Fuel Administration.

Such licenses have been secured by Union Oil Company, owning practically all the capital stock of Producers' Transportation Company; by Standard Oil Company; and by General Petroleum Corporation, owning practically all the capital stock of General Pipe Line Company of California. Mr. Folsom took the position that the Federal regulation of the oil business cannot be effective unless it includes the oil pipe lines.

Referring particularly to the situation in California, Mr. Folsom drew attention to the fact that the oil pipe lines cannot be operated during the war as heretofore. They must be operated during the war, said he, in so far as possible, as a unit, irrespective of the personal advantage of their respective owners or intending customers, with a view primarily to the most efficient operation to serve the nation's war needs. He drew attention to the fact that the requisitioning of oil tankers on the Pacific Coast by the Federal Government has compelled changes in the operations of the existing pipe lines; that in order to equalize the present increasing production of crude oil in the Los Angeles-Orange County Fields with the diminishing production in the Midway Field, the General Pipe Line Company's pipe line has discontinued operations between Lebec and Vernon; that it may become necessary in order to conserve oil tankers to cease operating the Producers Transportation Company's pipe line, diverting the oil to other pipe lines; and that other changes from the normal operation of the pipe lines may reasonably be expected.

Attention was also directed to the fact that the National Fuel Administration has issued rules and

regulations providing for priorities in the distribution of fuel oil as between designated classes of consumers. These rules and regulations thus far apply only east of the Rocky Mountains, but Mr. Folsom stated that he anticipated that similar priorities would shortly be established for the territory west of the Rocky Mountains.

Mr. Folsom was of the opinion that the establishment at this time of rates, rules and regulations for oil pipe lines by this Commission would not only be an idle act but also would prove embarrassing to the Federal Government in its control of the oil business during the war. He accordingly joined in Mr. Requa's request that further proceedings herein be deferred until the termination of the war.

Mr. L. W. Andrews, representing Producers Transportation Company, urged that in view of the action taken by the Supreme Court of California on the appeal of Producers Transportation Company to the Supreme Court of the United States, staying further proceedings pending the decision of the latter court, this Commission is precluded from taking any further action at this time affecting Producers Transportation Company.

Mr. Oscar Sutro, representing Standard Oil Company, and Mr. A. L. Weil, representing General Pipe Line Company of California, concurred in the view that further action in these proceedings should be deferred until the termination of the war. Mr. Sutro also indicated ^{that} at the proper time he will urge that this Commission does not have jurisdiction over the oil pipe lines of Standard Oil Company.

Mr. A. L. Black, representing the complainant herein, stated his position as follows:

"If this is a request, as I say, a well considered request of the government, I care not whether the government has a legal right or a constitutional right to do what is being requested by Mr. Tolson in asking this matter to lay over, I care not what the men that I represent lose by submitting to the conditions as they now exist. I say if it is a request from the government, well considered and a request for which any reason is given that is practical, then both myself and every company that I represent will withdraw any objection."

Unless such showing was made, however, Mr. Black said that he would insist on proceeding and on having this Commission establish rates, rules and regulations as requested in the complaint herein.

Mr. Black stated that his clients have made no request of Standard Oil Company or General Pipe Line Corporation to transport their oil. They did make such a request of Producers Transportation Company, he said, but no actual tender of oil for transportation was made.

This Commission has proceeded as promptly as possible with the performance of the duties specified by Chapter 327, Laws of 1912, referring to oil pipe lines. The delays which have ensued have been the result of litigation for which this Commission is not responsible. Bearing in mind the delays which have already occurred, we would have every desire to press these proceedings promptly to a final determination.

However, the requirements of the war in which this nation is now engaged have so changed the pipe line situation in this state as to render the establishment of rates, rules and regulations by this Commission at this time in part or in whole abortive, in addition to being embarrassing to the Federal Government. The situation is clearly

illustrated by the General Pipe Line Company's condition. That company has heretofore transported oil from the San Joaquin Valley over the Tehachapi to tidewater in Los Angeles County. Assuming that this Commission would now establish rates, rules and regulations for that service, we would immediately be confronted with the impossibility of enforcing our order, for the reason that the circumstances of the war have caused the suspension of operations of this line throughout a considerable portion of its extent. If it should hereafter become necessary, as has been intimated, to reverse the operation of this line and to transport oil through it north into the San Joaquin Valley instead of south out of the valley, as heretofore, the anomaly of the situation would be even more apparent.

Hardly less striking would be the situation if, as suggested by Mr. Folsom, it should become necessary, by reason of the oil tanker situation, to discontinue entirely the operations of the Producers Transportation Company's line during the war.

Furthermore the establishment by the Federal Government of priorities in the distribution of fuel oil would be inconsistent with the normal operation of rates, rules and regulations to be established by this Commission.

Finally, and to my mind most important, we have here a reasoned request from an important department of the Federal Government, charged with responsibilities of serious moment in the prosecution of the war, in a matter intimately connected with the war and growing out of the war as a war measure. I feel very strongly that it is the

patriotic duty and privilege of this Commission to grant that request and to proceed no further herein during the war or until the further order of this Commission, unless compelled so to do by order of a court of competent jurisdiction.

From the attitude of the complainant at the hearing herein, and in view of the fact that the reasons for the request of the Federal Government have now been fully presented, I am satisfied that complainant will take the same view.

The oil pipe lines of California are to be operated by the Federal Government during the war irrespective of the interests of any oil pipe line company and in part to transport the oil of corporations and persons other than the corporation owning or controlling any particular line. They are to be operated as a unified system for the common good. Under these circumstances, it might well be that the Federal Government, if it considers such procedure to be in the public interest, might itself make provision for the transportation by pipe lines of the oil of the independent producers under reasonable and practical rules and regulations. Under the order herein, however, this is a matter to be decided by the Federal Government on the facts as they appear to it.

I submit the following form of order.

O R D E R

A public hearing having been held herein on the question whether the Railroad Commission shall now go forward with the above entitled proceeding, good cause

appearing, and the order herein being based on the reasons set forth in the opinion which precedes this order,

IT IS HEREBY ORDERED that further proceedings in the above entitled case be deferred until the termination of the war in which the United States is now engaged or until the further order of this Commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of California.

Dated at San Francisco, California, this
30th day of April, 1918.

Max Thelen
H. H. Loveland
Geo. Gordon
Commissioners.