

Decision No. 27869.

**ORIGINAL**

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

UNION OIL COMPANY OF CALIFORNIA,  
a Corporation,  
Complainant,

vs.

SOUTHERN PACIFIC COMPANY,  
a Corporation,  
THE WESTERN PACIFIC RAILROAD COMPANY,  
a Corporation,  
Defendants.

Case No. 3792.

BY THE COMMISSION:

O P I N I O N

By complaint filed February 28, 1934, as amended, it is alleged that the charges assessed and collected on seven carloads of petroleum road oil transported from Oleum to Bieber during the period September 22 to 30, 1932, were unjust and unreasonable in violation of Section 13 of the Public Utilities Act.

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

Oleum is on the line of the Southern Pacific Company 22 miles east of Oakland; Bieber is on the line of The Western Pacific Railroad Company 114 miles north of Keddie. The shipments moved over the Southern Pacific Company to Oakland, thence over The Western Pacific Railroad Company to destination. Charges were assessed at a combination rate of  $30\frac{1}{2}$  cents composed of a rate of  $2\frac{1}{2}$  cents from Oleum to Oakland, published in Southern Pacific Tariff 1010,

C.R.C. No. 2678, and a rate of 27 cents from Oakland to Bieber, published in Western Pacific Tariff 675, C.R.C. 337, plus one cent emergency charge. Complainant alleges that this rate was unreasonable to the extent it exceeded 27 cents plus one cent emergency charge, which is the volume of a rate subsequently established from Oleum to Bieber applying via the Southern Pacific Company to Marysville thence Western Pacific Railroad Company to destination. This latter rate became effective October 20, 1932, in Pacific Freight Tariff Bureau Tariff 167-I, C.R.C. No. 1069.

Defendants admit the allegations of the complaint and have signified their 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 assailed rate was unreasonable to the extent it exceeded 27 cents plus one cent emergency charge. We further find that complainant made the shipments as described, 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 defendants for verification a statement of the shipments made and upon the payment of reparation defendants 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 answers 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 defendants, Southern Pacific Company and The Western Pacific Railroad Company, according as they participated in the transportation, be and they are hereby authorized and directed to refund without interest to complainant Union Oil Company of California, all charges collected in excess of 27 cents per 100 pounds, plus one cent per 100 pounds emergency charge, for the transportation from Oleum to Bieber of the shipments of petroleum road oil involved in this proceeding.

Dated at San Francisco, California, this 21<sup>st</sup> day of May, 1934.

C. J. Dancy  
Leon A. ...  
M. J. ...  
M. B. ...  
W. H. ...  
Commissioners.