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ORIGINAL

Decision No. 83544

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

STANDARD OIL COMPANY OF
CALIFORNIA,
Complainant,

v.

SOUTHERN PACIFIC TRANSPORTATION
COMPANY,
Defendant.

Case No. 9694
(Filed April 2, 1974;
amended May 24, 1974)

O P I N I O N

This is a complaint by Standard Oil Company of California alleging that Southern Pacific Transportation Company has charged, assessed, and collected unjust and unreasonable demurrage charges on private cars held on complainant's private tracks within its Richmond and El Segundo refineries in violation of Section 451 of the Public Utilities Code. Defendant by its answer filed August 1, 1974 admits all of the factual allegations of the complaint.

Complainant is a petroleum company which owns private railroad tracks located within the areas of its refineries at Richmond and El Segundo, California. From time to time complainant holds private tank cars on its private tracks for loading and unloading. Pursuant to the provisions of defendant's tariff, denominated B. B. Maurer's Freight Tariff 4-Series, defendant has assessed demurrage to complainant on certain private tank cars while held by complainant on its private tracks. The provisions of that tariff pertinent to the issues here have heretofore been held by the Commission to be unjust and unreasonable to the extent that those

provisions provide for the assessment and collection of demurrage charges on leased private cars held on private tracks where the lessee of the cars is also the owner of the tracks. Bethlehem Pacific Coast Steel Corporation v Pacific Electric Railway Company, et al., (1952) 51 CPUC 722.

On January 4, 1974, Pacific Car Demurrage Bureau, on behalf of complainant, filed a special tariff docket request, No. STD-7933, concerning the same subject matter of this complaint. The request was dismissed without prejudice for the reason that the request was considered to be of a nature not suitable for processing on the special docket. During the period January 4, 1972 to March 1, 1974 the demurrage charges involved herein assessed by defendant and paid by complainant amounted to \$5,600.

Complainant prays that the Commission order defendant to refund to complainant all such unjust and unreasonable demurrage assessed by defendant and paid by complainant during the period January 4, 1972 to the date of the Commission's order herein and for such other relief as may be proper.

Findings

1. Defendant has assessed and has collected from complainant demurrage charges prescribed in its tariff on complainant's private tank cars held for loading and unloading on complainant's private tracks.

2. The charges assessed and collected are unjust and unreasonable.

3. By its special tariff docket request No. STD-7933, complainant on January 4, 1974 filed its complaint with the Commission concerning the causes of action involved herein.

4. The rates and rules in defendant's tariff governing the application of the demurrage charges assessed have not been found by the Commission to be reasonable, but in fact, heretofore have

been found to be unjust and unreasonable when applied to cars that are private in fact, and are owned or leased by and are standing on the private tracks of the shipper.

5. No discrimination will result from an award of reparation with interest in the amount of the charges assessed and collected from the date of collection.

Conclusions

1. Defendant, a railroad corporation as defined in Section 230 of the Public Utilities Code, received unjust and unreasonable charges from complainant in violation of Section 451 of the Public Utilities Code.

2. The special tariff docket request STD-7933 filed January 4, 1974 on behalf of complainant was a complaint for damages under Section 735 of the Public Utilities Code.

3. Complainant is entitled to recover, and defendant should be ordered to pay, reparations in the amount of the unjust and unreasonable charges for demurrage it collected from complainant during the period January 4, 1972 to the date of the order herein, both dates inclusive.

O R D E R

IT IS ORDERED that:

1. Defendant, Southern Pacific Transportation Company, a corporation, shall pay to complainant as reparations the sum of the amounts it has collected from complainant from and including January 4, 1972 to the date of this order for demurrage on private cars owned or leased by complainant and held on the private tracks of complainant at its refineries in Richmond and El Segundo, together with interest at seven (7) percent per annum.

2. Defendant shall notify the Commission in writing of the amount of reparation paid pursuant to this order and the date of payment to complainant.

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The Secretary of the Commission is directed to cause a copy of this decision to be served upon Southern Pacific Transportation Company, and the effective date of this order shall be twenty days after the date of such service.

Dated at San Francisco, California, this 5th
day of OCTOBER, 1974.

Vernon L. Stevenson
President
William H. Young, Jr.
J. H. H. H.
Commissioners