

eak

ORIGINAL

Decision No. 83545

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

STANDARD OIL COMPANY OF
CALIFORNIA,

Complainant,

v.

THE ATCHISON, TOPEKA AND
SANTA FE RAILWAY COMPANY,

Defendant.

Case No. 9695
(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 The Atchison Topeka and Santa Fe Railway 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 July 26, 1974 admits the allegations of the complaint and agrees that it should be required to refund such sums as may have been previously assessed by and paid to defendant as demurrage on private cars held on complainant's private tracks from January 4, 1972. This is a companion case to Case No. 9694 decided today.

Findings

1. Defendant has assessed and 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 herein.

4. The rates and rules in defendant's tariff governing the application of the charges assessed have not been found by the Commission to be reasonable, but in fact, heretofore in Bethlehem Pacific Coast Steel Corporation v Pacific Electric Railway Company, et al., (1952) 51 CPUC 722, were 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 No. 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 this order, both dates inclusive.

O R D E R

IT IS ORDERED that:

1. Defendant, The Atchison Topeka and Santa Fe Railway Company, 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.

The Secretary of the Commission is directed to cause a copy of this decision to be served upon The Atchison, Topeka and Santa Fe Railway Company, and the effective date of this order shall be twenty days after the date of such service.

Dated at San Francisco, California, this 8th day of OCTOBER, 1974.

Vernon L. Stevenson
President
William J. ...
...
...
Commissioners