

DECISION No. 19280.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ROSENBERG BROS. & CO.,
CALIFORNIA STATE RICE MILLING CO.,
CAPITAL RICE MILLS,
THE NATIONAL RICE MILLS,

Complainants,

Case No. 2432.

vs.

SOUTHERN PACIFIC COMPANY,

Defendant.

ORIGINAL

BY THE COMMISSION:

O P I N I O N

Complainants are corporations and copartners engaged in buying and selling rice at West Sacramento and San Francisco. By complaint filed October 13 and amended December 8, 1927, they allege that the rates charged for the transportation of approximately 336 carloads of paddy rice shipped from Mackert, Robbins, Seymour, Subaco, Pelger and Everglade to Sacramento and San Francisco during the period from October 13, 1925, to the date of filing of this complaint, and 56 carloads shipped from Mackert, Seymour and Subaco and delivered at Sacramento during November and December, 1924, were unjust and unreasonable to the extent they exceeded and now exceed 125 per cent. of the contemporaneous rates applicable on whole grain from and to the same points.

We are asked to prescribe just and reasonable rates for the future and to award reparation. Rates are stated in cents per 100 pounds.

The 56 carloads shipped from Mackert, Seymour and Subaco and delivered at Sacramento during November and December, 1924, were registered with this Commission informally October 11, 1926, thereby staying the running of the statutes on those shipments.

The points of origin are on the Sutter Basin branch of defendant's line south of Hinsdale, and the rates charged were 13 cents to Sacramento and 22½ cents to San Francisco. Said rates were specifically named from Hinsdale and held as maximum from the points of origin involved, such points being directly intermediate to Hinsdale.

The concurrent rates on whole grain to Sacramento were 9 cents from Mackert, Robbins, Seymour and Subaco and 10½ cents from Pelger and Everglade. To San Francisco the rates were 16 cents from Mackert, Robbins and Seymour and 17 cents from Subaco, Pelger and Everglade. The rates sought range from 11½ cents to 13 cents at Sacramento and 20 cents to 21½ cents at San Francisco and are 125 per cent. of the rates applicable on whole grain from and to the same points.

Complainants rely upon our Decision No. 10895, Rosenberg Bros. and Company et al. vs. Southern Pacific Company et al., 22 C.R.C. 184, to support their allegation of unreasonableness. In that decision, dated August 23, 1922, we found that the rates on paddy rice, carload, between points on defendant's lines in California were unreasonable subsequent to January 7, 1922, and for the future. The decision reads in part as follows:

"Taking all factors into consideration, we found the then existing rates on rice unreasonable to the extent that they exceeded rates based on 125 per cent. of the rates established August 26, 1920, on whole grain. Reparation was not asked in either proceeding, but the question of reasonableness of rates for the future was involved in both cases. In determining that issue, we refused either to prescribe a mileage scale or to establish the same rates on rice as were applicable to whole

grains, as prayed for in the two complaints. On the contrary we but continued a policy adopted by the principal defendant in initiating rice rates, that is, making such rates with relation to the grain rates. The relationship fixed by us, however, differed in degree from that used by the defendant and was clearly intended as a basis for future application. Were this not the case, our finding would have been futile. As a matter of fact, the relationship fixed by our order did continue until January 7, 1922, when the rates on grain were reduced without a corresponding reduction in the rates on rice, thereby again producing a situation similar to that condemned in our Decision No. 8517. It appears, therefore, that during the period of federal control up to and including February 28, 1920, the federal commission has recognized as reasonable rice rates based on 125 per cent. of the grain rates; that this basis prevailed between February 5, 1921, and January 7, 1922, and was restored with but few deviations on July 1, 1922. In the light of all the circumstances, no other conclusion can be reached than that basis should also have prevailed during the period January 7, 1922, to July 1, 1922, and should now be in effect. To the extent, therefore, that the rates on paddy rice during the period last named exceeded, and to the extent that they now exceed, 125 per cent. of the rates contemporaneously applicable on whole grains between the same points, they were, are, and for the future will be to that extent unreasonable."

The rates named from Kinsdale, applied on the shipments in question, were established on the basis prescribed by the Commission from that point, but such rates exceeded by more than 25 per cent. the rates applicable on whole grain from and to the specific intermediate points involved in this proceeding. Effective December 26, 1927, defendant established rates on paddy rice from all points on the Sutter Basin branch to Sacramento and San Francisco on the basis prescribed by the Commission in Decision No. 10895.

Defendant admits the allegation of the complaint and has signified a willingness to make 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 rates assailed were unjust and unreasonable to the extent they exceeded the subsequently established rates which are 125 per cent. of the contemporaneous rates on whole grain; that complainants made the shipments as described, paid and bore the charges thereon and are entitled to reparation.

Complainants will submit statements of shipments to defendant for check. Should it not be possible to reach an agreement as to the amount of reparation 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 answer 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 said opinion is hereby referred to and made a part hereof,

IT IS HEREBY ORDERED that defendant, Southern Pacific Company, be and it is hereby authorized and directed to refund to complainants, Rosenberg Bros. & Co., California State Rice Milling Co., Capital Rice Mills and The National Rice Mills, all charges it may have collected in the amount of the difference between the freight charges paid and those that would have accrued at the rates herein found reasonable on the shipments of paddy rice involved in this proceeding and moved from Mackert, Robbins, Seymour, Subaco, Pelger and Everglade to Sacramento and San Francisco.

Dated at San Francisco, California, this 23rd day of January, 1928.

Leon Whipple

Chas. W. ...

Wm. W. ...

Thos. D. ...

M. J. ...
Commissioners.