

Decision No. 23514.**ORIGINAL**

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Suspension by the
Commission on its own motion of reduced
rate on potatoes between all landings
on the Rindge Tract on the one hand and
Stockton, Santa Fe Warehouse and West-
ern Pacific Terminus on the other hand.

Case No. 2622.

Sanborn, Roehl & Smith, by Harvey H. Sanborn,
for the Erikson Navigation Company, respondent.
Nutter, Hancock & Rutherford, for Wood & Seitz,
Higgins Transportation Company, Stockton Trans-
portation Company, and Empire Barge Company,
protestants.

J. C. Sommers, for Stockton Chamber of Commerce.
Gordon Lacy, for Lacy Brothers.
F. J. Larkin, for Larkin Transportation Company.
Benjamin Walters, in propria persona.
H. S. Van Vleer, for the San Joaquin Farm Bureau
Federation and California Farm Bureau Federa-
tion.

BY THE COMMISSION:

O P I N I O N

Respondent, Erikson Navigation Company, by the publi-
cation of Supplement No. 13 to Local Freight Tariff No. 1, C.R.
C. No. 1, issued October 17, 1928, and effective November 18,
1928, proposed to reduce from 10 cents per sack to 7½ cents
per sack, minimum 270 sacks, the rate on potatoes between all
landings on the Rindge Tract on the one hand, and on the other
Stockton, Santa Fe Warehouse and Western Pacific Terminus. Up-
on complaints from various shippers of potatoes and competing
common carriers by vessel in this territory, alleging that the

proposed rate was unduly preferential, discriminatory, prejudicial and non-compensatory, the Commission suspended until February 27, 1929, the effective date of the proposed rate.

Public hearings were held at Stockton November 7th and 8th, 1928, and the matters having been duly submitted are now ready for our decision.

The Rindge Tract is located approximately 15 miles northwest of Stockton on the San Joaquin River in the Delta region, which is described in respondent's tariff as that territory lying east and north of the confluence of the Sacramento and San Joaquin Rivers and west of Stockton and south of Sacramento.

The respondent contends that the Rindge Tract, which is an island of some 6,500 acres, is entitled to a lower rate than other points in the Delta region by reason of the fact that it has a more favorable geographical location and that the proposed rate of $7\frac{1}{2}$ cents will be fully compensatory to it because the tonnage may be handled with relatively little delay and in exceptionally large individual consignments, permitting the employment of the barge equipment to its full carrying capacity. It is estimated that the potatoes to be moved from this particular island will for the year 1928 amount to approximately 600,000 sacks, of which about 60 per cent. will be transported by water to Stockton for re-shipment from that point. The record shows that this $7\frac{1}{2}$ -cent rate was established by respondent following an agreement reached with the operators of the Rindge Tract, whereby the latter agreed to give the entire season's tonnage to respondent regardless of whether or not other competing boat lines in the Delta territory published the same rate.

The Delta territory is devoted very largely to the raising of potatoes, onions and green vegetables. For some number of years the common carriers operating in this territory

have accorded a blanket rate on potatoes to Stockton, Sacramento and San Francisco. From time to time the volume of the rate has varied, but whenever a reduction was made all points in this region have been given an equal opportunity to reach the consuming centers. The present rates from Delta points to Stockton and Sacramento are 10 cents and 12½ cents respectively, minimum 270 sacks, and to San Francisco 13 cents, minimum 300 sacks. Thus it may be seen that the proposed rate of 7½ cents will destroy a group adjustment that has been in effect for a number of years and will permit the shippers located on the Rindge Tract to reach the Stockton market at a rate 2½ cents per sack lower than shippers situated in the other Delta regions. It will also widen the differential as between Stockton and Sacramento from 2½ to 5 cents and as between Stockton and San Francisco from 3 to 5½ cents.

Protesting competing common carriers by vessel contend that the proposed rate of 7½ cents is entirely too low when consideration is given to the fact that the potatoes do not always move in large quantities, and that in order to respond to the necessary service demands of the shippers they must make special trips for small quantity lots. These protestants do not maintain that a rate of 7½ cents per sack would not be profitable for a service devoted exclusively between Rindge Tract and Stockton if the shippers were to provide lots of 4 carloads or more. When moved in lesser quantities the trips would in most instances not pay the out-of-pocket operating expense. They also contend that there are many large and small producers of potatoes in the Delta regions adjacent to the Rindge Tract where in much of the territory the service rendered would be less than that given to the Rindge Tract where these shippers would be compelled to pay

the 10-cent rate. They also contend that the 7½-cent rate if allowed to become effective will disrupt a blanket adjustment of long standing and place the potato growers and shippers, not only those located in the Rindge Tract but also those in the San Joaquin Delta region, at a decided disadvantage in reaching the Stockton market.

Many growers of potatoes, produce merchants and others shipping potatoes also protested the special rate from the Rindge Tract. These protestants had no objection to the rate being reduced from 10 cents to 7½ cents for the entire Delta region, but they clearly showed by their testimony that they would be more or less injured by the rate of 7½ cents, which they claim would result in preference to the Rindge Tract and prejudice and discrimination to all other shippers.

Section 32 paragraph (c) of the Public Utilities Act reads in part as follows:

"whenever two or more common carriers are furnishing service in competition with each other the commission shall have power, after hearing had upon complaint or upon its motion, when necessary for the preservation of adequate service and when public interest demands, to prescribe uniform rates."

The proposed adjustment would destroy a scheme of uniform rates now in effect, which apparently meets with the approval of practically every witness testifying at the hearing.

We find from the general testimony of the protestants, competing carriers, producers and shippers that the rate proposed would result in undue prejudice to these protestants and disturb a uniform rate adjustment for the advantage of one individual shipper. We are of the opinion and find that the respondent has failed to justify the suspended rate, and an order requiring its cancellation and discontinuing this proceeding will be entered.

O R D E R

It appearing that by order dated October 30, 1928, the Commission entered upon a hearing concerning the lawfulness of a rate of 7½ cents per sack, minimum 270 sacks, applicable for the transportation of potatoes between all landings on the Rindge Tract on the one hand, and on the other hand Stockton, Santa Fe Warehouse and Western Pacific Terminus, as published in Item No. 64-C, Supplement No. 13 to Erikson Navigation Company Local Freight Tariff No. 1, C.R.C. No. 1, and suspended the operation of the said rate until February 27, 1929;

It further appearing that a full investigation of the matters and things involved was had and the Commission on the date hereof made and filed its opinion concerning its findings of fact and conclusions therein, which said opinion is hereby referred to and made a part hereof,

IT IS HEREBY ORDERED that respondent, Erikson Navigation Company, be and it is hereby notified and required to cancel on or before December 1, 1928, the rate of 7½ cents per sack, minimum 270 sacks, applicable for the transportation of potatoes between all landings on the Rindge Tract on the one hand and on the other hand Stockton, Santa Fe Warehouse and Western Pacific Terminus, as published in Item 64-C of Supplement No. 13 to Erikson Navigation Company Local Freight Tariff No. 1, C.R.C. No. 1.

IT IS HEREBY FURTHER ORDERED that our order entered October 30, 1928, in this proceeding, suspending the operation of the said rate, be vacated and set aside as of December 1, 1928, and that this proceeding be discontinued.

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

O. Seavey
E. J. DeLoach
J. H. [unclear]
M. A. [unclear]
Commissioners.