

Decision No. 2620 .

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ROSENBERG BROS. & COMPANY,
GROWERS' RICE MILLING CORPORATION,
HELEN S. M. GROSJEAN, Administratrix
of the Estate of C. E. Grosjean,
Deceased,

Complainants,

vs.

SOUTHERN PACIFIC COMPANY,

Defendant.

ORIGINAL

Case No. 2620.

E. W. Hollingsworth, R. E. Boyd and Bishop &
Bahler, for complainants.

A. E. Whittle and J. L. Fielding, for defendant.

BY THE COMMISSION:

O P I N I O N

Complainants are corporations with their principal places of business at San Francisco. By complaint filed October 25, 1928, it is alleged that the rate maintained by defendant for the transportation of paddy rice from Corance and Knights Landing to San Francisco and South San Francisco was in the past, is now and for the future will be unjust, unreasonable and in violation of the Commission's order dated August 25, 1922, in Case 1744, Rosenberg Bros. & Company et al. vs. Atchison, Topeka and Santa Fe Railway Company, Southern Pacific Company et al. (22 C.R.C. 184 and 455; 23 C.R.C. 242 and 755), to the extent it exceeded, exceeds or may exceed 17 cents per 100 pounds.

Rates for the future and reparation on all shipments on

Which the cause of action accrued within two years prior to the filing of the complaint are sought. Rates are stated in cents per 100 pounds.

A public hearing was held before Examiner Geary on February 19, 1929, at San Francisco, and the case having been duly submitted is now ready for an opinion and order.

Coranco and Knights Landing are on the Knights Landing Branch of the Southern Pacific, 92 and 93 miles respectively northeast of San Francisco. Defendants assessed and collected on complainants' shipments, and now maintain, a specific commodity rate of $17\frac{1}{2}$ cents on paddy rice from these two points of origin to San Francisco and South San Francisco, as published in Southern Pacific Tariff 730-C, C.R.C. No. 2904. Complainants contend that the applicable rate should not exceed 17 cents, or 125% of the contemporaneously effective rate on whole grain, as this is the basis prescribed by the Commission in Case 1744, Rosenberg Bros. & Company et al. vs. Atchison, Topeka and Santa Fe Railway, Southern Pacific Company et al., 22 C.R.C. 194, as reasonable for paddy rice rates in California. They claim the rate on whole grain from Coranco and Knights Landing to San Francisco and South San Francisco was and is $13\frac{1}{2}$ cents made combination over Suisun by the use of the Class "C" rate of $3\frac{1}{2}$ cents from Coranco and Knights Landing to Suisun, plus a specific commodity rate of 5 cents beyond. The 125% basis applied to this combination rate on grain would make the paddy rice rate 17 cents.

Defendant however claims that complainants have misinterpreted the applicable tariffs and that the lawful rate on whole grain is the specific commodity rate of 14 cents as published in Southern Pacific Grain Tariff 793-B, C.R.C. No. 2487, making the paddy rice rate $17\frac{1}{2}$ cents in compliance with our order in Case 1744 supra. Defendants take the position that the Class "C" rate

of 8½ cents from Corancho and Knights Landing to Suisun cannot be used in combination with the commodity rate of 5 cents from Suisun to San Francisco and South San Francisco, as the former rate is governed by the provisions of Rule 30-G of Southern Pacific Class Rate Tariff 917-D, C.R.C. No. 2929, and a similar rule in Pacific Freight Tariff Bureau Exception Sheet No. 1-M, C.R.C. 437, which read in part:

"No rates shall be applied on any traffic moving under class rates lower than the amount in cents per 100 lbs. for the respective classes as shown below in the current Western Classification * * * *."

The minimum class rates referred to in the rule vary from 25 cents for first class to 5 cents for Class "E". Grain is rated in the current Exception Sheet as Class "C", but the current Western Classification rates it higher, as Class "B". The minimum Class "B" rate is 9 cents, and according to defendant's interpretation of the rule the 8½-cent Class "C" rate cannot be used, inasmuch as it is lower than the minimum Class "B" rate.

However, the second paragraph of Rule 30-G provides that:

"On continuous through movement of freight between points on this company's lines on which charges are obtained by use of combinations of separately established * * * * class and commodity rates, the minimum scale of class rates prescribed * * * * shall apply not in connection with the separately established class rate factor or factors but to the total of the combined rates applicable to the through continuous movement."

This provision, which was established in July, 1923, nullifies the portion of the rule relied upon by defendants as prohibiting the use of the Class "C" rate from Corancho and Knights Landing to Suisun by removing the application of the minimum class scale where the combined class and commodity are in excess of the minimum rate provided in the rule. It is admitted by defendant that

since July, 1923, the rule has been interpreted in the latter manner, and the further admission is made that if any grain is moving from Coranco and Knights Landing to San Francisco and South San Francisco the rate assessed would be the combination rate of $13\frac{1}{2}$ cents and not the specifically published commodity rate of 14 cents.

After careful consideration of all the facts of record we are of the opinion and so find that the lawfully applicable rate on grain from Coranco and Knights Landing to San Francisco and South San Francisco was and is $13\frac{1}{2}$ cents and that the rate of $17\frac{1}{2}$ cents assessed and collected on complainants' shipments of paddy rice were, are, and for the future will be, unjust and unreasonable to the extent it exceeded, exceeds or may exceed a rate of 17 cents per 100 pounds. We are of the further opinion and so find that complainants are entitled to reparation with interest on all shipments made on which the cause of action accrued within two years prior to the filing of the complaint, provided appropriate proof in the form of an affidavit is submitted showing that the shipments were made and the freight charges thereon paid and borne by complainants. Should it not be possible to reach an agreement as to the amount of reparation due, the matter may be referred to the Commission.

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 precedes this order,

IT IS HEREBY ORDERED that defendant, Southern Pacific Company, be and it is hereby directed to cease and desist on or

before thirty (30) days from the effective date of this order and thereafter to abstain from applying, collecting and receiving for the transportation of paddy rice in carloads from Corancho and Knights Landing to San Francisco and South San Francisco a rate in excess of 17 cents per 100 pounds herein found to be reasonable.

IT IS HEREBY FURTHER ORDERED that defendant, Southern Pacific Company, be and it is hereby directed to establish on or before thirty (30) days from the effective date of this order upon not less than five (5) days' notice to the Commission and to the public and thereafter to maintain for the transportation of paddy rice, in carloads, from Corancho and Knights Landing to San Francisco and South San Francisco a rate of 17 cents per 100 pounds herein found to be reasonable.

IT IS HEREBY FURTHER ORDERED that defendant, Southern Pacific Company, be and it is hereby authorized and directed to pay unto complainants, with interest at six (6) per cent per annum, according as their interests may appear, all charges collected in excess of 17 cents per 100 pounds for the transportation of paddy rice in carloads from Corancho and Knights Landing to San Francisco and South San Francisco on which the cause of action accrued within two years prior to the filing of the complaint, provided appropriate proof in the form of an affidavit is submitted showing that the shipments were made and the freight charges thereon paid and borne by complainants.

Dated at San Francisco, California, this 17th day of April, 1929.

Paul C. ...

Clarence ...

Ernest ...

W. A. ...
Commissioners.