

Decision No. 24216.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

CAPITAL RICE MILLS, a partnership,
Complainant,
vs.
SACRAMENTO NORTHERN RAILWAY,
a corporation,
SOUTHERN PACIFIC COMPANY,
a corporation,
Defendants.

ORIGINAL

Case No. 2687.

CAPITAL RICE MILLS, a partnership,
Complainant,
vs.
SACRAMENTO NORTHERN RAILWAY,
a corporation,
SOUTHERN PACIFIC COMPANY,
a corporation,
Defendants.

Case No. 2796.

CALIFORNIA STATE RICE MILLING CO.,
a corporation, Complainant,
vs.
SACRAMENTO NORTHERN RAILWAY,
a corporation,
SOUTHERN PACIFIC COMPANY,
a corporation,
Defendants.

Case No. 2797.

C. R. Schulz and Edward P. Morton, for complainants.
L. N. Bradshaw, for Sacramento Northern Railway,
defendant.
James E. Lyons and A. L. Whittle, by A. L. Whittle,
for Southern Pacific Company, defendant.

BY THE COMMISSION:

OPINION ON REHEARING

These proceedings involve the legality of the rates on paddy rice, in carloads, from points in the Sacramento Valley to West Sacramento. The Commission by Decision 23204 of December 23, 1930, found that a rate of 12 cents per 100 pounds from Seymour and Subaco to West Sacramento was unreasonable in violation of

Section 13 of the Public Utilities Act to the extent it exceeded $11\frac{1}{2}$ cents, and that the charges assessed and collected on complainants' shipments from Oswald and Tudor to West Sacramento were in violation of the long and short haul provisions of Section 24(a) of the Act to the extent they exceeded the rates contemporaneously in effect from Yuba City to West Sacramento. The Commission also found that the charges on complainants' shipments from Logandale, Riz, Willows, Artois, Woodland, Coranco, Knights Landing and Williams to West Sacramento were not assessed and collected in violation of the long and short haul provisions of Section 24(a) of the Act. The proceedings were held open for further consideration of the issue of reparation.

Upon petitions filed by complainants and defendant Southern Pacific Company alleging certain errors in the decision the Commission reopened the proceedings for further hearing. The evidence and testimony presented at the rehearing held before Examiner Geary at San Francisco September 11, 1931, was directed to the issue of reparation and to our finding relating to the long and short haul violations.

As stated in the original decision, the determination of whether or not long and short haul violations existed rested upon an interpretation of Item 434-B of Sacramento Northern Railway Tariff 10-C, C.R.C. 31. The application of this Item is fully discussed in the original decision. Briefly it provides a proportional rate of $\frac{1}{2}$ cent per 100 pounds between Sacramento and West Sacramento, to be applied on traffic originating at or destined to points beyond Sacramento under certain conditions set forth in Notes 1 and 3(a) of the Item. Under the terms of the notes just referred to, the $\frac{1}{2}$ -cent proportional rate may be used only when no through rates are published from the point of origin to West Sacramento and only when the rate from the points of

origin to West Sacramento via the route of movement exceeds by more than $\frac{1}{2}$ cent per 100 pounds the local rate to Sacramento. This was the construction placed upon the Item in our original decision, and there is nothing in the record on rehearing to warrant a different conclusion. Under this interpretation there are no long and short haul violations created other than by the rate from Yuba City to West Sacramento, which, during the period covered by this complaint, was lower than the rate assessed on complainants' shipments from directly intermediate points.

At the time these shipments moved defendant Southern Pacific Company maintained from Yuba City to Sacramento a local rate of 9 cents and a proportional rate of $8\frac{1}{2}$ cents. The Sacramento Northern Railway had in effect from Sacramento to West Sacramento a local rate of $2\frac{1}{2}$ cents and the proportional rate of $\frac{1}{2}$ cent heretofore referred to, the latter to be used only under the conditions previously stated. There were no through rates via the route of movement from Yuba City to West Sacramento, and as the combination of the proportional rate from Yuba City to Sacramento plus the $2\frac{1}{2}$ -cent local rate of the Sacramento Northern Railway from Sacramento to West Sacramento exceeded by more than $\frac{1}{2}$ cent the local rate of the Southern Pacific of 9 cents from Yuba City to Sacramento, the tariff permitted the $\frac{1}{2}$ -cent proportional rate from Sacramento to West Sacramento to be combined with the proportional rate of $8\frac{1}{2}$ cents from Yuba City to Sacramento, making the through rate from point of origin to destination 9 cents. The Southern Pacific Company however contends that these two proportional rates cannot be combined, as it was never intended to allow two proportional rates to be so used. However there is nothing in the tariff which prohibits a combination of proportional rates to be used to make a through rate. The Commission in

Chamberlain Co. Inc. et al. vs. A.T. & S.F. Ry. Co. et al., 35 C.R.C. 63, and E. J. Stanton & Son vs. A.T. & S.F. Ry. Co. et al., 36 C.R.C. 390, held that proportional per car charges between Los Angeles and adjacent industrial districts could be combined to make through rates. Indeed defendant has for some years so construed the tariffs. (In the Matter of the Application of Southern Pacific Company, etc., 34 C.R.C. 167.)

The 9-cent rate from Yuba City to West Sacramento in effect at the time complainants' shipments moved was lower by $\frac{1}{2}$ cent than the rates assessed on its shipments from Oswald, Tudor, Knights Landing, Coranco and Woodland to West Sacramento, thus creating violations of the long and short haul provisions of Section 24(a) of the Act inasmuch as the points just named are directly intermediate to Yuba City in the movement to West Sacramento.

After consideration of all the facts of record in the light of the rehearing we are of the opinion and so find that the rates assessed and collected on complainants' shipments from Oswald, Tudor, Knights Landing, Coranco and Woodland to West Sacramento were in violation of the long and short haul provisions of Section 24(a) of the Act to the extent they exceeded the rate contemporaneously in effect from Yuba City to West Sacramento. We further find that as to the reasonableness of the rates from Seymour and Subaco to West Sacramento our order in Decision No. 23204 should be affirmed.

The record shows that complainant Capital Rice Mills in Cases 2687 and 2796 paid and bore the charges on the shipments from Seymour and Subaco to West Sacramento found to be unreasonable and from Oswald, Tudor, Knights Landing, Coranco and Woodland to West Sacramento found to be in violation of the long

and short haul provisions of Section 24(a) of the Act. Complainant is entitled to reparation on these shipments in the amount of the difference between the charges assessed and collected and those found lawful by the Commission, with interest at 6% per annum. By stipulation Case 2797 will be held open for further consideration of the amount of reparation, if any, due complainant in that proceeding.

The exact amount of reparation due complainant in Cases 2687 and 2796 is not of record. Complainant will submit to defendants for verification a statement of the shipments made and upon payment of the reparation defendants will notify the Commission of the amount thereof. Should it not be possible to reach an agreement as to the reparation award, 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

A further hearing in this proceeding having been had, full investigation of the matters and things involved having been made, and basing this order on the findings of fact and the conclusions contained in the preceding opinion,

IT IS HEREBY ORDERED that in Case 2687 defendants Sacramento Northern Railway and Southern Pacific Company, according as they participated in the transportation, be and they are hereby authorized and directed to refund with interest at six (6) per cent. per annum to complainant Capital Rice Mills, all charges collected in excess of 11½ cents per 100 pounds for the transportation from Seymour and Subaco to West Sacramento of the shipments of paddy rice involved in this proceeding.

IT IS HEREBY FURTHER ORDERED that in Case 2796 defendants

Sacramento Northern Railway and Southern Pacific Company, according as they participated in the transportation, be and they are hereby authorized and directed to refund with interest at six (6) per cent. per annum to complainant Capital Rice Mills, all charges collected in excess of 9 cents per 100 pounds for the transportation from Oswald, Tudor, Knights Landing, Corancho and Woodland to West Sacramento of the shipments of paddy rice involved in this proceeding.

IT IS HEREBY FURTHER ORDERED that Case 2797 be and it is hereby held open for a period of ninety (90) days from the effective date of this order to allow complainant to present proper proof that it paid and bore the charges on the shipments of paddy rice from Woodland, Knights Landing, Oswald and Tudor to West Sacramento.

IT IS HEREBY FURTHER ORDERED that in all other respects these proceedings be and they are hereby dismissed.

IT IS HEREBY FURTHER ORDERED that in so far as our findings herein are inconsistent with Decision No. 23204 that decision be and it is hereby annulled and set aside.

Dated at San Francisco, California, this 9th day of November, 1931.

OR Leaney
Leon Wheeler
M. J. Carr
W. B. Harris
Frederic G. Stewart
Commissioners.