

Decision No. 24230.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ROSENBERG BROS. & CO.,  
C. E. GROSJEAN RICE MILLING CO.,

Complainants,

vs.

SIERRA RAILWAY COMPANY OF CALIFORNIA,  
SOUTHERN PACIFIC COMPANY,

Defendants.

**ORIGINAL**

Case No. 3097.

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

A. L. Whittle, James E. Lyons and F. C. Nelson, for defendant Southern Pacific Company.

E. A. Butchart, for defendant Sierra Railway Company of California.

BY THE COMMISSION:

O P I N I O N

In this proceeding complainants allege that the rates collected within the two-year period immediately preceding the filing of this complaint, on shipments of paddy rice, in carloads, transported from Paulsell to San Francisco were unjust and unreasonable because the local rate of the Sierra Railway Company of California from Paulsell to Oakdale, one of the factors used in arriving at the through rate, exceeded 125% of the contemporaneously applicable grain rate.

Reparation only is sought. Rates are stated in cents

per 100 pounds unless otherwise noted.

A public hearing was held before Examiner Geary at San Francisco September 25, 1931, and the proceeding submitted.

Complainants' shipments moved via the Sierra Railway to Oakdale, thence Southern Pacific Company to destination. Prior to August 31, 1929, the rate lawfully applicable was  $19\frac{1}{2}$  cents, made combination over Oakdale, the factor from Paulsell to Oakdale being 5 cents, and from Oakdale to San Francisco  $14\frac{1}{2}$  cents. Effective August 31, 1929, defendants published a specific commodity rate of 18 cents for the through movement. This rate remained in effect until February 1, 1930, when the factor from Oakdale to San Francisco was reduced to  $11\frac{1}{2}$  cents, making a through rate of  $16\frac{1}{2}$  cents. On May 16, 1930, the factor from Paulsell to Oakdale was reduced to  $3\frac{1}{2}$  cents, further reducing the through rate to San Francisco to 15 cents. This rate is now in effect. Thus during the period covered by the complaint the applicable rates were a combination rate of  $19\frac{1}{2}$  cents prior to August 31, 1929; a through rate of 18 cents from August 31, 1929, to January 31, 1930; and combination rates of  $16\frac{1}{2}$  cents from February 1, 1930, to May 15, 1930, and 15 cents thereafter.

At the time the shipments moved the Sierra Railway Company maintained from Paulsell to Oakdale a local rate on grain of  $36\frac{1}{2}$  cents per ton of 2000 pounds. Until May 16, 1930, the contemporaneously applicable rate on paddy rice was \$1.00 per ton (5 cents per 100 pounds), or approximately 177% of the grain rate. In Pacific Rice Growers Assn. et al. vs. A.T.& S.F.Ry. et al., 19 C.R.C. 248, and Rosenberg Bros. and Company et al. vs. A.T.& S.F.Ry. et al., 22 C.R.C. 184, we held that the rates on paddy rice in California should not exceed 125% of the applicable grain rates. Complainants' case is grounded upon the fact that the rate

on paddy rice from Paulsell to Oakdale exceeded 125% of the grain rate, thus it is claimed making the through rate to San Francisco unreasonable to that extent. But we are not here concerned with whether or not the factors comprising the through rate were properly adjusted. The only issue properly before us is the reasonableness of the through rate on paddy rice from Paulsell to San Francisco. (The Texas Company vs. Southern Pacific Company et al., 34 C.R.C. 561.)

During the period covered by the complaint the grain rate from Paulsell to San Francisco was equivalent to 14.325 cents per 100 pounds, made combination over Oakdale, using the grain rate factor of 56½ cents per ton to Oakdale plus a commodity rate of 11½ cents per 100 pounds beyond, 125% of the rate of 14.325 cents is equivalent to 18 cents per 100 pounds. Thus it was only during the period prior to August 31, 1929, when the paddy rice rate was 19½ cents that the basis established by the Commission in Pacific Rice Growers Assn. vs. A.T. & S.F. Ry. and Rosenberg Bros. and Company et al. vs. A.T. & S.F. Ry. et al., supra, was exceeded.

After consideration of all the facts of record we are of the opinion and so find that prior to August 31, 1929, the rate of 19½ cents assessed on complainants' shipments was unreasonable to the extent it exceeded 18 cents; that complainant Rosenberg Bros. and Company prior to August 31, 1929, shipped four cars of paddy rice from Paulsell to San Francisco upon which it paid and bore the charges, has been damaged in the amount of the difference between the charges assessed and collected and those herein found reasonable, and is entitled to reparation with interest at 6% per annum. We are of the opinion and so find that in all other respects the complaint should be dismissed.

C R D E R

This case having been duly heard and submitted, 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 defendants Sierra Railway Company of California 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, Rosenberg Bros. & Company, all charges collected in excess of 18 cents per 100 pounds for the transportation from Paulsell to San Francisco of the four cars of paddy rice involved in this proceeding which moved prior to August 31, 1929.

IT IS HEREBY FURTHER ORDERED that in all other respects this proceeding be and it is hereby dismissed.

Dated at San Francisco, California, this 16<sup>th</sup> day of November, 1931.

C. J. [Signature]  
Leon [Signature]  
M. J. [Signature]  
M. B. [Signature]  
Frederic G. [Signature]  
Commissioners.