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Decision No. 7813

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

PALO VERDE COTTON ASSOCIATION, a
non-profit co-operative association,

Complainant,

vs.

CALIFORNIA SOUTHERN RAILROAD COMPANY,
a corporation,

Defendant,

Case No. 1443

In the matter of a spur track connection
north of Fertilla.

I. W. Stewart, for Palo Verde Cotton
Association.

Ward Chapman, for California Southern
Railroad Company.

BRUNDIGE, Commissioner.

O P I N I O N

The complaint alleges that the Palo Verde Cotton Association is a non-profit co-operative association formed for the purpose of ginning cotton for its members; that it is about to erect a cotton gin on its land adjoining the easterly edge of the railroad in the N. W. corner of the N. E. $\frac{1}{4}$ of Sec. 8, Township 6 S. Range 25 E, S. E. B. & M.; that it is of importance to the cotton growers of Palo Verde Valley that this gin be constructed on account of the fact that the construction of gins has not kept pace with the increased acreage in cotton,

thereby causing spoilage, wastage and deterioration of cotton during the past years; that the defendant Railroad refuses to install a spur track connection to this property; that complainant's business requires the construction of this spur track which it claims is reasonably practical, and can be installed without increasing the hazard of operation of the railroad; and that the expected business is sufficient to justify the expense.

The defendant Railroad Company denies most of these allegations; avers that they maintain a switch at Fertiliza which could be used by complainant; denies that the construction of the proposed switch or spur is reasonable or at all practical; avers that the safety of operation of the trains will be greatly impaired; and denies that the business which may be reasonably expected is sufficient to justify the expense of the spur track.

After investigation of the facts in the matter by the Commission's engineering department and after a public hearing in Los Angeles on the 9th instant it is my conclusion that the allegations of the complainant are substantially correct, that the proposed spur track connection is practicable and can be installed and used without unduly increasing the hazard of train operation, that the business to be reasonably expected by the Railroad over this connection is sufficient to justify the necessary expense, and that public convenience and necessity demand the installation of the proposed spur,

I recommend the following form of Order:-

O R D E R

Complaint having been made by the Palo Verde Cotton Association (hereinafter referred to as the Association) against the California Southern Railroad Company (hereinafter referred to as the Railroad) relative to a spur track connection north of Fertilla, a public hearing having been held and the matter being submitted and the Commission being fully advised and basing its Order on the foregoing Opinion,

IT IS HEREBY FOUND AS A FACT that public convenience and necessity demand the installation of the proposed spur track connection, and

IT IS HEREBY ORDERED that the Railroad immediately install, and complete not later than thirty (30) days from the date of this Order, a spur track connection unto the land of the Palo Verde Cotton Association north of Fertilla; the spur track to be constructed and operated under the following conditions:-

1. The Railroad shall immediately enter into a spur track agreement with the Association covering the division of cost, maintenance, and operation of the spur to be constructed; the agreement to be accompanied by a map showing to scale the location of existing tracks and right of way together with the proposed spur.
2. An estimate showing the cost to the Association, the cost to the Railroad and the total cost shall appear in the agreement.
3. The Association shall own and pay for that part of the track beyond the right of way line.
4. The Railroad shall own that part of the track on the right of way from the switch point to the right of way line and shall, as to that portion of the track, pay for the rails, rail fastenings and joints, and the Association shall pay for the grading, ties, track labor, etc.
5. The Railroad shall maintain the entire track,

the Association to reimburse the Railroad for such maintenance on the privately owned track as may be necessary from time to time and within twenty (20) days after bills are rendered by the Railroad.

6. The track shall be under the control of the Railroad and the Railroad shall have the right to use the track when this will not interfere with the use of the track by the Association.
7. There shall at all times be kept a space of six feet (6'), from the outside of the head of the nearest rail of any railroad track, entirely clear of structures, material and obstructions of every sort, but the Association may erect loading platforms, which shall not be higher than an average car floor and which shall not at any point be nearer than four feet eight inches (4' 8") from the outside of the head of the nearest rail.
8. Should the Association fail to build the proposed gin and have it in operation within six (6) months from the date of this Order, the Association shall stand the entire expense of this spur connection.

The foregoing Opinion and Order are hereby approved and ordered filed as the Opinion and Order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 29th day of June, 1920.

N. S. Loveland
Frank A. Brown
H. K. Dunning

Commissioners