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Decision No. 18131

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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E. V. RIDEOUT,	)	
Complainant	)	
vs.	)	Case No. 2233
ERICKSON NAVIGATION COMPANY,	)	
Defendant.	)	
	)	

Gwyn H. Baker for Complainant

Sanborn & Roehl and DeLancey C. Smith  
for Defendant.

BY THE COMMISSION:

O P I N I O N

The complaint herein alleges in effect that although defendant has been operating vessels between San Francisco and Mare Island under the authority of this Commission by Decision No. 13566, dated May 17, 1924, in Application No. 10001 and Decision No. 15320, dated August 18, 1924, in Application No. 11324, nevertheless such authority was granted unlawfully and in violation of the substantial rights of complainant, a competitor of defendant, in that notice was not served upon him so as to enable him to appear and protest the granting of such authority. The prayer is for an amendment of Decision No. 15320 rescinding the authority to operate between the above-mentioned points, and for an order of the Commission directing the defendant to cease and desist from such operations.

In answer, the defendant set up that the complaint is nothing but a belated petition for rehearing, and since it was filed after the lapse of time within which a petition for rehearing could be brought, the same should be dismissed, as the Commission is without jurisdiction to entertain it. A public hearing was held before Examiner Wheat at San Francisco, the matter was duly submitted, and is now ready for decision.

It is true that this complaint, in effect, attempts to reach the matter in question in the same manner as would a petition for rehearing, yet, since it does request an amendment of our prior Decision and Order No. 15320, we shall treat it as a petition for reopening Application No. 11324, rather than a petition for rehearing. The record clearly shows that the defendant was in fact authorized to operate vessels between the points in question. Therefore, the only matter to be determined by us is whether there is good cause for our rescinding, altering or amending our prior Order and Decision No. 15320.

Under Decision No. 13566 in Application No. 10001 the defendant was authorized to acquire all of the operative rights upon San Francisco Bay or the inland waters of the State of California theretofore held by John Erickson, deceased. Under Item 38 of Tariff 1-A, C.R.C. No. 3 of John Erickson (effective May 1, 1918), there were provided, in addition to various rates on specific commodities, rates on freight N.O.S. between San Francisco and Mare Island, which constituted a prior operative right of John Erickson, and which was, by the above Decision No. 13566, transferred to the defendant. In the re-issue by the defendant of the above-mentioned John Erickson tariff, the item naming the rate on freight N.O.S. between Mare Island and San Francisco was not carried forward, though the specific rates on various commodities between the same points were continued in effect. By Decision No. 15320 (here sought to be amended) the

defendant, among other things, was authorized so to amend its tariff as to include this freight item N.O.S. which inadvertently had not been carried forward.

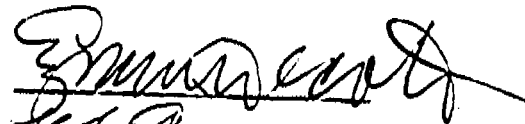
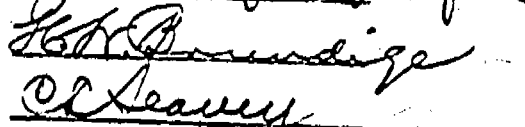
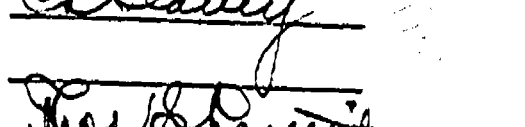

It is apparent from the above that the Commission fully intended to grant the authority to the defendant to operate vessels between Mare Island and San Francisco, and we are of the opinion that the complaint requesting us to rescind such authority is without merit, and should be dismissed.

O R D E R

Complaint having been brought by E. V. Rideout against Erickson Navigation Company, requesting this Commission to rescind the authority granted to the defendant to operate vessels between Mare Island and San Francisco, a public hearing having been held thereon, the matter having been duly submitted and the Commission being fully advised in the premises:

IT IS HEREBY ORDERED that said complaint herein be, and the same is hereby dismissed.

Dated at San Francisco, California, this 30<sup>th</sup> day of March, 1927.

  
  
  
  
Commissioners