

Decision No. ~~21853~~ 20833

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the Matter of the Application of  
COUSINS LAUNCH AND LIGHTER COMPANY  
for authorization to discontinue opera-  
tion as a common carrier.

)  
) Application No. 13,713  
)

In the Matter of the Application of  
COUSINS LAUNCH & LIGHTER COMPANY for  
certificate of public convenience and  
necessity to operate 5 vessels, 4  
lighters and derrick for the transporta-  
tion of persons and property for com-  
pensation, between points upon the  
inland waters of California.

) ORIGINAL  
)  
) Application No. 14,676  
)  
)

COGGESEHALL LAUNCH & TOWBOAT COMPANY,

Complainant,

vs.

)  
)  
) Case No. 2380  
)

COUSINS LAUNCH & LIGHTER COMPANY, a  
copartnership comprising WILLARD W.  
COUSINS, HENRY G. COUSINS, MRS. EDNA  
J. PHILLIPS and DORIS E. BALDWIN,

Defendants.

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Denver S. Sevier, for the  
Cousins Launch & Lighter Company.

Pierce H. Ryan, for the  
Coggeshall Launch & Towboat Company.

BY THE COMMISSION:

O P I N I O N

By and under Decision No. 18,331 on Application No. 13,713, now before the Commission upon an Order of Reopening, applicant and defendant above named, was authorized to cancel freight and passenger tariffs naming rates, fares, rules and regulations for the transportation by it of passengers and property on Humboldt Bay. In said Decision it was stated, however, that:

"this authorization shall in no wise be considered as a determination by the Railroad Commission of the character of the operations of the said Cousins Launch & Lighter Company, a co-partnership."

By and under Decision No. 19,653 in Case No. 2380, now before this Commission on rehearing, defendant was ordered to immediately cease and desist from all common carrier operations between any and all points on Humboldt Bay in the State of California. In the order granting a rehearing of this matter it was, among other things, ordered that the effective date of said decision, except as to the operations of defendant between Eureka and Rolph, be suspended until the further order of this Commission.

After the rendition of the cessation order, defendant filed its Petition for Rehearing, likewise its Application No. 14,676, for a certificate of public convenience and necessity to operate vessels as a common carrier for the transportation of persons and property between points on Humboldt Bay in the State of California. The Commission granted the rehearing, reopened Application No. 13,713 for further consideration, and consolidated these two matters for hearing and decision with the newly filed Application No. 14,676.

A public hearing was held before Examiner Vaughan, the matter was duly submitted and is now ready for decision.

At the hearing it was represented by counsel for defendant and applicant that the application for authority to cancel the tariffs was filed under a misapprehension as to the legal status of the company. The belief of the company at the time of such filing was that it was operating as a private contract carrier, not subject to the jurisdiction of the Commission and authority was therefore requested to cancel any rates on file with the Commission and effective at the time.

A motion was thereupon made requesting that this Commission set aside its Decision No. 18,331 in Application No. 13,713, so as to restore to the Cousins Launch & Lighter Company the rights theretofore possessed by it as set forth in its tariffs on file and in effect at the time.

Complainant and protestant made no objection to the granting of this motion providing that such tariff restoration should not affect in any manner the operations conducted by it between Eureka and Rolph. A stipulation was entered into to the effect that defendant and applicant could refile a tariff substantially in the following form:

COUSINS LAUNCH AND  
LIGHTER COMPANY (a  
common carrier)

LOCAL FREIGHT TARIFF

NAMING COMMODITY RATES ON FREIGHT AND TOWAGE CARRIED  
OR TOWED BY VESSELS BETWEEN POINTS ON  
HUMBOLDT BAY

Issued by  
Cousins Launch & Lighter Co.,  
W. W. Cousins, Manager for  
Owners, Eureka, California

(Cousins Launch and Lighter Local Freight Tariff)

RULES AND REGULATIONS

- Rule 1. APPLICATION OF RATES - Launches for towing or for transportation of freights furnished on application at reasonable hours. Rates for towing computed by the hour. Lumber in quantities equivalent to 20,000 feet, B. M., at freight rate in tariff, under 20,000 feet B. M. at \$2.00 per thousand feet.
- Rule 2. TERMINAL CHARGES (Derrick) Single Lift .....\$ .50  
Capacity Lift..... 5.00
- Rule 3. MISCELLANEOUS (Outside Freight over Wharf per ton. .50
- Rule 4. LOADING AND UNLOADING \* Unloading always excluded  
Loading included in rates hereinafter set forth -
- Rule 5. MISCELLANEOUS MATTERS -(a) Freights to points on Humboldt Bay or from points on Humboldt Bay to Eureka to be left on landing or ships berth at such points after carriage at risk of skipper.

Mem

FREIGHT - EUREKA TO LITTLE RIVER WHARF (North of Saoma)

General Merchandise .....	\$1.50 per ton
Furniture (measurement).....	1.50 per ton
Castings, Iron, Etc .....	1.50 per ton

(Cousins Launch and Lighter Local Freight Tariff)

Freight Rates

Launches for towing, or for transportation of freight between Eureka and all points on Humboldt Bay and tributaries furnished on application at reasonable hours. Rates for towing to be computed by the hour.

Freight Charges

Lumber (transportation service only) per 1,000 B. M. for 20,000 feet lots or over .....	\$ .80
Lumber (transportation service only) per 1,000 feet B.M. for less than 20,000 feet lots .....	1.60
Lumber (including loading lighters) per 1,000 feet B.M. for 20,000 feet lots or over .....	1.60
Lumber (including loading lighters) per 1,000 feet B.M. for less than 20,000 feet lots .....	2.00
Wood (including loading lighters) per cord .....	1.60
Ryan's Slough and Freshwater Lighterage .....	.20
	addition to above rates.

Ties, posts, grade stakes and shingles classed as lumber and subject to above rates.

TOWING

By launches of not over five gross tons, per hour .....\$4.00  
By launches over five gross tons, per hour ..... 5.00  
Rafts between Carson's Shingle Mill and Bay Mill.....17.00  
Rafts between McKay's in slough and Bay Mill ..... 15.00  
Rafts from rafting ground to mooring (Carson's) ..... 7.50  
Towing empty booms Carson's Bay Mill to Shingle Mill... 7.50  
Towing on steamers between wharfs depending on time  
and distance moved \$5.00 to \$20.00  
Rafts between Ryan's Slough and Bay Points \$15.00 to \$25.00  
depending on time and tide

Provided, however, that the transportation of general merchandise not including lumber, shakes, shingles or wood between Eureka and Rolph (also known as Fairhaven) is prohibited.

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COUSINS LAUNCH AND LIGHTER COMPANY  
(a common carrier)

LOCAL PASSENGER TARIFF

ONE WAY, ROUND TRIP, PARTY AND SPECIAL PASSENGER FARES,  
AND RULES AND REGULATIONS BETWEEN EUREKA AND ALL  
POINTS ON ZUMBOLDT BAY

Issued by  
Cousins Launch & Lighter Co.  
W. W. Cousins, Manager for Owners,  
Eureka, California.

(Cousins Launch and Lighter Company Local Passenger  
Tariff)

Item No.            Section Crew between Eureka and Little River  
                         Wharf (Flat Rate) per month .....100.00

No regular trips. Fares to apply when number of  
passenger fares sufficient to exceed minimum rates.

		Minimum Charges for Special Passenger Trips					
Special Launches between	Single Round Trip	7:00 A.M. to 5:00 P.M.	5:00 P.M. to 7:15 P.M.	7:15 P.M. to 8:30 P.M.	8:30 P.M. to 9:30 P.M.	9:30 P.M. to 7:00 A.M.	
Eureka and Samoa	:\$.20 :\$.40 :	\$1.50	\$2.50	\$3.00	\$3.50	\$4.00	
Little River Wharf	.20 .40	2.00	3.00	4.00	4.50	5.25	
Arcata	.40 .80	3.00	4.50	5.50	6.00	6.50	
Fields Landing	.40 .80	6.00	6.50	7.00	7.50	8.25	
Rolph	.20 .40	2.00	2.50	3.00	3.50	4.00	

Rates between Eureka and Rolph will apply only to transportation of stevedores used for the purpose of loading and unloading.

No regular schedule to any of above wharfs-

Provided, however, that the transportation of persons for compensation between Eureka and Rolph (also known as Fairhaven) excepting stevedores for the purpose of loading and unloading vessels, ships crews, ships officers, U. S. Custom officers, and persons directly connected with the ship, is prohibited.

From the evidence it is clear that defendant and applicant is now and for many years has been operating as a common carrier by vessel for the transportation of passengers and property between points on Humboldt Bay. Furthermore, it is apparent that through a mistake as to its status application was made to cancel its tariffs thereby depriving it of the right to operate as such common carrier. The Commission's decision permitting cancellation of tariffs having been based upon evidence of an erroneous belief, and in view of the fact that such authorization was made subject to its not being considered as a determination by the Commission of the character of the operations of the defendant and applicant, we feel that it should be set aside, and that the stipulation should be approved and the tariffs as offered be permitted to be filed, thereby restoring to defendant and applicant the rights possessed by it prior to the cancellation of its tariffs. The order to cease and desist as contained in Decision No. 19,653 should only apply to transportation between Eureka and Rolph. In

view of the fact that the tariffs will be restored by motion in the reopened Application No. 13,713, it becomes unnecessary to make any determination as to Application No. 14,676, and it will, therefore, be dismissed.

An Order in conformity with the above will be entered.

O R D E R

The matters as above numbered and entitled having been filed with this Commission, having been heard and submitted, and being now ready for decision,

IT IS HEREBY ORDERED that Decision No. 18,331 on Application 13,713 be and the same is hereby rescinded and set aside, and

IT IS HEREBY FURTHER ORDERED that Cousins Launch and Lighter Company be and it is hereby authorized and directed to file within thirty (30) days from the date of this order tariffs in substantially the form shown in the foregoing opinion, which tariffs shall apply to transportation of persons and property between all points on Humboldt Bay, excepting between Eureka, California, and Rolph, California, and

IT IS HEREBY FURTHER ORDERED that the order contained in Decision No. 19,653 in Case No. 2320 shall apply only to the transportation of persons and property by Cousins Launch and Lighter Company between the points of Eureka, California, and Rolph, California, and

IT IS HEREBY FURTHER ORDERED that Application No.

14,676 be and the same is hereby dismissed.

Dated at San Francisco, California, this 4th  
day of March, 1929.

Thos B. Lott  
of Seamy  
Franklin  
Leon Whitell  
M. J. Lane  
Commissioners