

Decision No. 5763.

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE
STATE OF CALIFORNIA.

* * *

In the Matter of the Application of)
WESTPORT TIE COMPANY)
for an order approving the order of)
the Board of Supervisors of the)
County of Mendocino in granting fran-)
chise to construct wharf at Westport.)

Application Number 3747.

Mannon and Mannon, for applicant.

BY THE COMMISSION:

O R D E R.

WESTPORT TIE COMPANY reports that it is engaged in the business of manufacturing railroad ties near the village of Westport, Mendocino County and that it desires and intends to engage in the business of erecting, maintaining and operating a wharf over the waters of the Pacific Ocean at Westport and collect tolls.

Attached to the petition herein is a copy of applicant's articles of incorporation, a copy of Ordinance Number 205 of the Board of Supervisors of Mendocino County under which applicant proposes to operate, also a copy of permit issued by the United States War Department authorizing the construction of the wharf. While it appears from applicant's articles of incorporation that it was not organized primarily for the purpose of conducting a public utility business, the fact remains that if it operates this wharf for profit, it will come under the jurisdiction of the Railroad Commission. Applicant may find it advisable, therefore, to amend its articles of incorporation accordingly. Section 1 of Ordinance Number 205 of the Board of Supervisors of Mendocino County provides that applicant may

take and charge such tolls for freight as may be fixed by the Board of Supervisors of Mendocino County. Under the provisions of the Public Utilities Act, the Railroad Commission has complete jurisdiction over the rates charged by wharfingers notwithstanding contrary provisions in the Ordinance.

IT IS HEREBY ORDERED that the Railroad Commission approve the authority granted WESTPORT TIE COMPANY, by the Board of Supervisors of the County of Mendocino, Ordinance No. 205, being a franchise to run, control, manage and maintain a wharf, chute and pier at the town of Westport in said County of Mendocino; except that the Commission does not approve Section I of said Ordinance in so far as the same purports to grant to the Board of Supervisors of said County, the right to fix the rates for freight going over said wharf, chute, or pier, in as much as the authority to fix rates is vested in the Railroad Commission; and provided that before this order is effective applicant shall file with the Commission stipulation to be approved by the Commission, setting forth that neither applicant, its successors or assigns will ever claim before the Railroad Commission or other public body, a value for the rights and privileges granted by said Ordinance in excess of the amount actually paid to the County of Mendocino as the consideration for the granting of such rights and privileges, which cost shall be stated in said stipulation.

Dated at San Francisco, California, this 16th day of September, 1918.

Edwin O. Edgerton

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Commissioners