

ORIGINAL

Decision No. 28978

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Applications of	)	
E. V. RIDEOUT COMPANY relative to	)	Applications
rates on grain from Suisun to San	)	No. C.R.C. 15-18594
Francisco, Oakland, Alameda and Port	)	No. C.R.C. 63-9706
Costa.	)	

- Carl R. Schulz, for applicant.
- Gwyn H. Baker, for California Inland Water Carriers' Conference.
- McCutchen, Olney, Mannon & Greene, by Allen P. Matthew and F. W. Mielke, for The River Lines.
- James E. Lyons and A. L. Whittle, for the Southern Pacific Company, protestant.
- T. P. Wadsworth and L. N. Bradshaw, for the Sacramento Northern Railway and Western Pacific Railroad, protestants.
- L. S. Wing, for California Farm Bureau Federation.
- Berne Levy, for The Atchison, Topeka and Santa Fe Railway.

HARRIS, Commissioner.

O P I N I O N

The applications herein cover the proposed publication, on less than statutory notice, of rates on grain, in bags, from Suisun to San Francisco, Oakland, Alameda and Port Costa, said rates to apply only on shipments of grain originating at points beyond Suisun, Fairfield and to expire May 31, 1934, unless sooner cancelled, changed or extended.

Written protest was filed on behalf of competing common carriers by rail and water in the course of the hearing of which applicant's claims to operating rights between the points herein were challenged.

The record does not show that applicant had a tariff on file on August 16, 1923<sup>1</sup> for the transportation of grain from

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<sup>1</sup> On this date Section 50(d) of the Public Utilities Act became effective. It required certificates of public convenience and necessity to be obtained by carriers operating on the inland waters of the State except those " \* \* \* lawfully operating vessels in good faith under this Act as it existed prior to this amendment, under tariffs and schedules \* \* \* lawfully on file with the Railroad Commission."

Suisun to San Francisco, Oakland, Alameda or Port Costa. Applicant's first rate on grain from Suisun to any points here involved was published on July 13, 1933. Nor is there any evidence in the record that applicant was actually operating vessels in good faith between the points herein at the time Section 50(d) became effective.

In the absence of a showing that applicant possesses an operative right between the above named points, the applications should be denied and this proceeding dismissed without prejudice.

#### O R D E R

Based upon the conclusions and findings in the foregoing opinion, and good cause appearing,

IT IS HEREBY ORDERED that the informal applications of applicant, E. V. Rideout Company, Numbers C.R.C. 15-18594 and 63-9706 be and they are hereby denied without prejudice and that this proceeding be and it is hereby discontinued.

Dated at San Francisco, California, this 23d day of April, 1934.

C. L. Seavey  
Leon C. Davidson  
W. H. Burr  
W. B. Harris  
W. H. [unclear]  
COMMISSIONERS.