

Decision No. 27112

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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

Carl R. Schulz, DeLancy C. Smith and Murray
Draper, for applicant.

Gwyn H. Baker, for California Inland Water
Carriers' Conference.

McCutchen, Olney, Mannon & Greene, by Allan
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. Wedsworth 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 & Santa Fe
Railway.

HARRIS, Commissioner.

OPINION ON REHEARING

The Commission by Decision No. 26973 (April 23, 1934),
in the above entitled proceeding dismissed the informal appli-
cations of applicant, E. V. Rideout Company.

In its opinion the Commission said: "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."

On April 26, 1934 applicant filed application for rehearing, in which it stated that it did not desire to further litigate the question of applicant's rights on intrastate commerce in this proceeding and requested that its original rate applications herein be amended and limited by permitting the publication of the rates with the restriction, "Will not apply on California intrastate traffic." The application for rehearing further alleges that the record in the original proceeding shows that much, if not all, of the traffic which would move under the proposed rates moves in interstate commerce and that in refusing consideration of the rate applications solely upon the ground that applicant was not shown to have operative rights, the Commission exceeded its jurisdiction in so far as interstate or foreign traffic was concerned.

In applicant's attempted informal justification of the original applications it stated that the proposed rates were for the purpose of meeting the competition of truck, rail and water carriers transporting grain via other routes from Sacramento Valley points to Bay terminals, resting said applications largely upon the fact of the existence of temporary proportional rates of the Larkin Transportation Company from Sacramento to the same destinations, alleged as competitive.

While proposed so-called proportional rates were to be restricted to "apply only on shipments of grain originating at points beyond Suisun, Fairfield," and to "expire May 31, 1934, unless sooner canceled, changed or extended," they would,

practically speaking, be the local rates or at least operate to nullify any local rates of greater volume.

By Decision No. 26406 (October 9, 1933) this Commission, after extensive proceedings in which rates of the same volume as here proposed between these same points were under review fixed minimum rates on whole grain from Suisun to San Francisco and Port Costa of $7\frac{1}{2}$ cents and 7 cents per 100 pounds respectively. (River Lines vs. Rio Vista Lighterage Company, Inc. et al., Cases 3617, 3621, 3622, 3623, 3633 and 3458). Local rates of the volume here proposed between these points were found wholly inadequate, even for barge-lot quantities, upon a much more comprehensive record than in the instant case. There is no differentiation in the transportation services of applicant regardless of type of rate or intra or interstate character of the traffic.

While applicant purported to show a profitable operation to be possible under the proposed reduced rates, we think its method of operation completely fails to support such a showing. The record developed that applicant neither owns any equipment nor pays anything for the lease or rental of equipment and makes no provision for depreciation in its purported cost showing. It therefore does not afford a proper basis for the determination of the costs of the transportation or any accurate gauge of its operations.

On the other hand, protestant water and rail lines contend that because of the existing relationship of the rates throughout the Bay and Rivers region, publication of the proposed proportionals will instantly reflect to the entire Delta and Valley rate structure by encouraging the transportation of grain by unregulated motor truck carriers from the Sacramento Valley

to Suisun-Fairfield thence boat or rail beyond. It seems obvious that to grant these applications is tantamount to subsidizing unregulated carriers, some of whom are unquestionably wild-cat operators. Furthermore, the entire grain rate structure on the bay and rivers which was to a considerable extent stabilized by Decision No. 26406 supra, will again by our own act be reduced to chaos.

Applicant, having failed to justify the proposed rates, these applications should be denied.

The following form of order is recommended:

O R D E R

These applications having been duly heard and submitted, and the Commission being fully advised,

IT IS HEREBY ORDERED that the above numbered applications be and they are hereby dismissed.

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 31st day of May 1934.

C. C. Jensen
Leon C. Wilkey
W. H. Kim
M. B. Harris
W. H. Harris
COMMISSIONERS.