

Decision No. 27145

**ORIGINAL**

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation on )  
the Commission's own motion into the )  
rates, rules, regulations, charges, )  
classifications, contracts, practices ) Case No. 3458 et al.  
and operations, or any of them, of )  
Alameda Transportation Company, a )  
corporation, et al. )

Carl R. Schulz, for E. V. Rideout Company.

M. J. McCarthy, for Port Costa Warehouse Company.

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

John C. Stone and Allan P. Matthew, for The  
River Lines.

A. L. Whittle, for Southern Pacific Company,  
Northwestern Pacific Railroad Company and  
Petaluma & Santa Rosa Railroad Co.

L. N. Bradshaw and J. P. Haynes, for Sacramento  
Northern Railway and Western Pacific Railroad  
Company.

HARRIS, Commissioner.

OPINION ON REHEARING

Upon petition by E. V. Rideout for rehearing and by its order of November 20, 1933, the Commission instituted an investigation on its own motion into the rates, rules and regulations governing the transportation by water of grain and grain products from Suisun to Port Costa, California.

By Decision No. 26406 (October 9, 1933) this Commission,

after extensive proceedings,<sup>1</sup> involving all inland water carriers including petitioner, prescribed a minimum rate of 7 cents per 100 pounds on whole grain from Suisun to Port Costa.

Although petitioner attended the original hearing and appeared as a witness therein, he asked reopening of the case, largely on the ground that he did not receive notice of said hearing and did not understand the issue or its relationship thereto.

While petitioner purported to show a profitable operation to be possible under a lesser rate than the existing prescribed minimum, we think his method of operation completely fails to support such a showing. The record developed that petitioner neither owns any equipment nor pays anything for the lease or rental of equipment and makes no allowances for depreciation in its purported cost showing.

Protestant water and rail competitors herein contend that the type of operation represented by petitioner and its purported cost showing do not warrant the Commission prescribing a rate reduction between these points which will be applicable via all carriers serving these points and that if other carriers interested in this proceeding were to regard only the cost factors which petitioner shows as affecting his operations, and make their rates accordingly, most of them would be transporting this business at less than out-of-pocket cost. Also they insist that under the provisions of the Public Utilities Act petitioner has no right whatever to operate between these points.

---

<sup>1</sup>

The River Lines versus Rio Vista Lighterage Company, Inc. et al., Cases 3617, 3621, 3622, 3623, 3633 and 3458.

In a subsequent related proceeding involving a review of this same situation the Commission, by Decision No. 27112 (May 31, 1934) declined to authorize any change in this rate as prescribed in Decision No. 26406, supra, and dismissed petitioner's application for lack of justification of proposed reduction on whole grain from Suisun to Port Costa. By original Decision No. 26973 (April 23, 1934) the Commission had likewise dismissed petitioner's application for reduction in said rate upon the ground that he had not shown any operating rights between the points involved in accordance with the provisions of Section 50(d) of the Public Utilities Act and prior to July 1931, had never filed any tariff for this transportation.

This proceeding should be dismissed. The following form of order is recommended:

O R D E R

This matter having been duly heard and submitted by brief and the Commission being fully advised,

IT IS HEREBY ORDERED that this proceeding be and it

2

In the Matter of the Applications of E.V. Rideout Company relative to rates on grain from Suisun to San Francisco, Oakland, Alameda and Port Costa. Applications Numbers C.R.C. 15-18594 and C.R.C. 63-9706.

3

The record shows that the first time E.V. Rideout Company published a grain rate from Suisun was on July 13, 1931.

Section 50(d) of the Public Utilities Act became effective August 16, 1923. 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."

is 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 8<sup>th</sup> day of June, 1934.

Alley  
Leon Alley  
M. J. Lee  
M. B. Harris  
COMMISSIONERS.