Decision No. 28114

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the Matter of the Suspension by the Commission on its own motion of rates filed by E. V. RIDEOUT COMPANY for the transportation of grain from Suisun to Oakland, Alameda and San Francisco.) Case No. 4028

Carl R. Schulz for E. V. Rideout Company
McCutchen, Olney, Mannon & Greene, by John O. Moran for The River Lines
J. E. Lyons and A. L. Whittle for Southern Pacific Company
L. N. Bradshaw and G. P. Wadsworth for Sacramento Northern Railway, and Western Pacific Railroad Company
A. E. Gibson for California Inland water Carriers Conference.
F. A. Somers for Grangers Business Association and as President of the San Francisco Grain Trade Association.

HARRIS, Commissioner.

O P I N I O N

E. V. Rideout Company, a common carrier by vessel operating solely on the inland waters of and between points in California, filed certain supplements to its tariff naming a rate of $1.10 per ton on grain transported from Suisun to Oakland, Alameda and San Francisco.(1) Both supplements are headed as follows: - "Rates named in this supplement will not apply on California intrastate traffic," and contain the following note - "Applies only on shipments consigned in care of wharves or export terminals and destined to points in foreign countries via the high seas in the course of foreign commerce." The rate to San Francisco is flagged "Reduction on foreign commerce." Competing carriers protested, and

(1) Supp. No. 17 to Local Freight Tariff No. 1-F, issued May 8, 1935, effective June 9, 1935, from Suisun to Oakland and Alameda; and Supp. No. 18 to same tariff, issued May 17, 1935, effective June 16, 1935, from Suisun to Oakland, Alameda, and San Francisco.

acting under Section 63(b) of the Public Utilities Act, the Commission on May 29, 1935 issued its order of suspension and investigation, suspending the proposed supplements and postponing the effective date thereof pending a hearing to determine their lawfulness.

Before hearing had been set on the suspension and investigation order respondent, on June 4, 1935, filed a "petition for rehearing" thereof,(2) and on June 10, 1935 an order was issued setting hearing on the suspension and investigation order and on the petition for rehearing for June 25, 1935.

Before considering the issues involved herein it is necessary to refer to prior proceedings leading up to the present controversy. In 1933 the Commission entered upon a general investigation into the lawfulness of the rates and practices of numerous common carriers by vessel,(3) including respondent. (Case 3458.) In preliminary Decision 25867 (April 24, 1933) we found in part as follows:

> "The record has disclosed a demoralized rate structure. Shippers are being charged different rates for identical service. Secret rebating, illegal discrimination, preference and prejudice, and undue extensions of credit are wide-spread. Some of these practices have been indulged in directly. In other cases the carriers have attempted to transmute themselves into private contract carriers for the obvious purpose of defeating the rates on file with this Commission. (In Re Investigation on the Commission's own Motion of E. V. Rideout Company, Case No. 3429, Decision No. 25654.)
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> Practically all carriers maintain two sets of rates. One schedule is on file with the Commission and is ostensibly applied on purely intrastate traffic. The other schedule of rates, referred to as the export rates, apply on interstate or foreign commerce. The export

(2) Respondent alleged that the suspension and investigation order was void and in excess of jurisdiction because made without due notice and hearing, thus depriving of property without due process, and because the rates applied solely to foreign commerce.

(3) The investigation embraced those operating common carrier service by vessel between points on San Francisco, San Pablo and Suisun Bays, and on the San Joaquin, Sacramento and Napa Rivers and Petaluma Creek and their tributaries.

rates are also applied by some carriers upon intrastate traffic, they apparently feeling that because of the difficulty in determining the essential character of the traffic, violations of their tariffs are impossible to detect. Many of the carriers openly violate their tariffs on intrastate traffic or haul between points where no rates are filed in the tariffs. On the whole the tariffs are ambiguous, insufficient and badly in need of revision."

For the purpose of stabilizing the situation disclosed by the record, Decision 25867 (April 24, 1933) directed the carriers to revise their tariffs to remove ambiguities therefrom and "to provide rates which shall be reasonable and adequate and to apply between the points which they now serve under certificates of public convenience and necessity or prior rights." The proceeding was held open for such supplementary orders as might be found necessary. Later complaints were filed alleging rates to be unreasonably low and asking that minimum rates be established under Section 32(b) of the Public Utilities Act. These were consolidated for hearing with the general investigation.(4) With one exception (Rio Vista Lighterage Company) all of the rail and water carriers contended that the then $1.00 per ton rate on grain from Suisun to San Francisco was abnormally low.(5) Decision 26406 (October 9, 1933) directed the boat carriers to maintain for the future a rate not less than 7½ cents per 100 pounds ($1.50 per ton) on whole grain

(4) The River Lines v. Rio Vista L. Co., Case 3617; The River Lines v. S. P. Co. et al., Case 3621; The River Lines v. Frederickson, Case 3622; The River Lines v. Hansen, Case 3623; Re Suspension of Rates of Hansen, Case 3633; General Investigation, Case 3458.

(5) Many years ago the $1.00 rate was established from South Vallejo to San Francisco by Southern Pacific Company to meet water competition. Through an apparent oversight the rate was made maximum in application and thus applied from Suisun. Unregulated trucks discovered that this rate developed a substantial movement to Suisun by truck, where the traffic was turned over to Southern Pacific Company. This competition, unwittingly fostered, deprived water and rail carriers serving upper Sacramento river and the Delta region below Sacramento of a substantial volume of grain which ordinarily would move entirely by rail or water. Development of this rail-truck movement through Suisun forced many boat lines to establish the $1.00 rate, and forced Sacramento Northern and Western Pacific railroads to reduce certain rates. It was found that continuation of the $1.00 rate would undoubtedly bring about

from Suisun to San Francisco.[6] In compliance therewith respondent Rideout Company filed the $1.50 rate from Suisun to San Francisco.[7]

On March 1, 1934 respondent applied under Sections 15 and 63 of the Public Utilities Act for authority to publish and put into effect upon one day's notice a rate of $1.10 from Suisun to San Francisco, Oakland and Alameda and a rate of $1.00 to Port Costa, to apply only on shipments of grain originating at points beyond Suisun, Fairfield. (Apps. Nos. C. R. C. 15-18594 and 63-9706.) Decision 26973 (April 23, 1934) found that respondent had no tariff on file on August 16, 1923[8] for the transportation of grain from Suisun to the points named, having published its first rate thereon on July 13, 1933, and also that there was no evidence of actual operation in good faith at the time Section 50(d) became effective. Application to publish the proposed rates on one day's notice was denied. Petition for rehearing was filed, in which respondent stated that it did not desire to further litigate the question of its rights on intrastate commerce in that proceeding[9] and requested that its applica-

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a drastic reduction in the Sacramento-San Francisco rate of water carriers in order to place them upon a competitive basis with rail and water carriers operating through Suisun, and would bring about acute competition from other carriers at Suisun and other points which would split the traffic to such an extent that none would be able to operate profitably. (Decision 26406.)

(6) The rail carriers were not so ordered because they voluntarily filed applications to establish the 7½ cent rate. (Decision 26403, October 9, 1933, 63-9226 and 9227.)

(7) Supplement No. 14 to Local Freight Tariff No. 1-F. This rate was carried over in Supplement No. 15

(8) Effective date of Section 50(d) of the Public Utilities Act, which required that certificates be obtained by such carriers 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.

(9) As to respondent's right to operate, the Commission has instituted a general investigation of the operative rights of common carriers by vessel on the inland waterways of California. (Cases Nos. 3824 and 4012.) Such general investigation, to which respondent is a party, is now under submission and awaiting decision.

tions be amended by permitting publication of the rates with the restriction, "Will not apply on California intrastate traffic." Rehearing was granted, and in Decision 27112 (May 31, 1934) the Commission, after referring to its 1933 decision fixing rates (Decision 26406), found in part as follows:

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

Respondent filed Supplement 16 to its tariff on May 6, 1935, to become effective May 7, 1935, purporting to establish a $1.10 rate on grain from Suisun to Oakland and Alameda. This supplement was headed, "Rates named in this supplement will not apply on California intra-state traffic," and bore the note, "Applies only on shipments consigned to wharves or export terminals in the course of foreign commerce." Supplement 16 was rejected by the Commission because authority had not first been obtained to make it effective on less than statutory notice. (Tr., p. 31; Exhibit 2.)

Respondent then filed Supplement 17, naming a $1.10 rate on grain from Suisun to Oakland and Alameda.(10) This was filed May 9, 1935, to become effective June 9, 1935. Respondent later filed Supplement 18, naming the same rate from Suisun to Oakland, Alameda, and San Francisco.(10) This was filed May 17, 1935, to

(10) Supplements 17 and 18 are both headed, "Rates named in this supplement will not apply on California intra-state traffic," and each contain the following note, "Applies only on shipments consigned in care of wharves or export terminals and destined to points in foreign countries via the high seas in the course of foreign commerce." The proposed San Francisco rate in

become effective June 16, 1935. These are the suspended supplements involved in this proceeding.

Respondent contends that the Commission is without any jurisdiction in the matter in that it involves foreign commerce, that Congress has delegated authority in this particular situation to the United States Shipping Board, and that the latter has assumed jurisdiction. This contention is based upon the Shipping Act of 1916 (U.S.C., Title 46, Sections 801 et seq.), and upon Islais Creek Grain Terminal Corp. v. E. V. Rideout, Docket No. 188 before the Shipping Board.(11) Complaint before that Board, filed May 9, 1935, alleged that complainant operated an export grain terminal at San Francisco; that Rideout "is a common carrier by water in foreign commerce" between named California ports, "engaged in the transportation of grain in the course of foreign commerce * * * and not operating as a ferry boat or ocean transportation," and subject to the provisions of the Shipping Act; that Rideout's "published rate" from Suisun to Oakland and Alameda is $1.10(12) while the published Supplement 18 is flagged as being "Reduction in foreign commerce."

(11) Department of Commerce, U. S. Shipping Board Bureau, Division of Regulation.

(12) Supplement 16, naming such rate, was filed with the California Commission May 6, 1935, to become effective May 7, 1935, and was rejected by the Commission on May 6, 1935 (Exhibit 2) for reasons heretofore stated. The Shipping Board complaint was dated May 6, 1935, verified May 7, 1935 and filed May 9, 1935. Counsel attaches no significance to the rejection by the California Commission of Supplement 16 on May 6, 1935, "for the reason that the rate was published. The letter of transmittal states that it was published for the information of the Commission. It is my understanding that the Commission has no jurisdiction over foreign rates, and the rejection by the Commission could not affect the rates on foreign commerce." (Tr. 32.) Supplement 17, naming the same rate, to become effective June 9, 1935, was filed because of "an excess of caution. I wanted to do everything that I could conceivably to have this in so there would be no question about it, and after publishing it on one day's notice I then republished it on 30 days notice. I wanted to be sure that the supplement was accepted by the Commission - not that I thought it was necessary that it should be, but because of the effect that it might have on the shipping public." (Tr. 33.)

rate from Suisun to San Francisco is $1.50, being discriminatory, and that a nondiscriminatory rate to the latter point would not be in excess of $1.10. This complaint was originally drafted by counsel for Rideout. (Tr. 25.) It was filed by Islais Creek Grain Terminal Corporation on May 9, 1935. The Shipping Board made service upon Rideout, and the latter's counsel then prepared and caused to be filed an answer and a joint acknowledgment of satisfaction of complaint whereunder Rideout agreed "to publish and maintain rates from Suisun to San Francisco not in excess of the rates concurrently maintained by it for like transportation to Oakland and Alameda," or $1.10 per ton. Attached to the acknowledgment of satisfaction was a copy of Supplement 18, under suspension in this proceeding. On June 8, 1935 the Shipping Board wrote the following letter to the various parties interested in that proceeding:

> "This has reference to (1) the complaint in Nos. 188 filed by Islais Creek Grain Terminal Corporation regarding the lawfulness of a rate of $1.50 per net ton charged by E. V. Rideout for the transportation of grain from Suisun to San Francisco, California, when consigned to wharves or export terminals in the course of foreign commerce; (2) acknowledgment of a satisfaction of complaint jointly filed by complainant and defendant whereunder defendant agreed to publish and maintain rates from Suisun to San Francisco not in excess of the rates concurrently maintained by it for like transportation to Oakland and Alameda; and (3) petitions of California Transportation Company, Sacramento Navigation Company, Fay Transportation Company, Southern Pacific Company, Western Pacific Railroad Company, Sacramento Northern Railway and California Inland Water Carriers' Conference for rejection of tariff or suspension of rate of $1.10 per ton published in supplement No. 18 to Local Freight Tariff No.1-F of E. V. Rideout Company, effective June 16, 1935, on grain from Suisun to Oakland, Alameda and San Francisco when consigned in care of wharves or export terminals and destined to points in foreign countries via the high seas in the course of foreign commerce.
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> In view of the acknowledgment of satisfaction of complaint hereinbefore mentioned, the Department will enter an order dismissing the complaint. Carriers by water engaged in foreign commerce are not required to file tariffs with us and we lack the power to suspend their rates. Consequently the supplement in question will be retained in our correspondence file merely as a matter of general information.

Any question as to the lawfulness of rates applicable for transportation in foreign commerce may be the subject of complaint as contemplated in Section 22 of the Shipping Act of 1916.

Very truly yours,

(Signed) H. S. Brown,
H. S. Brown, Chief,
Division of Regulation."

The complaint was dismissed by the Department of Commerce on June 12, 1935. Respondent contends that the Shipping Board has assumed jurisdiction by accepting the acknowledgment of satisfaction of complaint, and that such jurisdiction appears from the last paragraph of the letter quoted above. It is there stated that while tariffs are not required to be filed and the Board lacks power to suspend rates, "any question as to the lawfulness of rates applicable for transportation in foreign commerce may be the subject of complaint * * *." Respondent argues that it is inconceivable that the Shipping Board may remove discrimination while the Railroad Commission may fix specific rates, as this would be a conflict of authority, and that the test to be applied is whether Congress has entered the field.

United States Code, Title 46, Section 801 reads in part as follows:

"The term 'common carrier by water in foreign commerce' means a common carrier, except ferryboats running on regular routes, engaged in the transportation by water of passengers or property between the United States or any of its Districts, Territories, or possessions and a foreign country, whether in the import or export trade: Provided, That a cargo boat commonly called an ocean tramp shall not be deemed such 'common carrier by water in foreign commerce.'"

Under Section 816 no common carrier by water in foreign commerce shall make any charge "which is unjustly discriminatory between shippers or ports, or unjustly prejudicial to exporters of the United States as compared with their foreign competitors," and the Board may

alter such rate to the extent necessary to correct an unjust discrimination or prejudice and may order the carrier to discontinue collection thereof.

Section 832 reads as follows:

> "This chapter shall not be constmued to affect the power or jurisdiction of the Interstate Commerce Commission, nor to confer upon the board concurrent power or jurisdiction over any matter within the power or jurisdiction of such commission; nor shall this chapter be construed to apply to intrastate commerce." (Emphasis added.)

The only witness called by respondent was its counsel, from whose testimony it is clear that respondent's vessels operate exclusively between points in California. (13)

(13) When asked if respondent operated any vessel between a port of the United States and a foreign port, the witness stated: "The termini are both in the United States, the commerce being in the course of foreign transportation." He further testified as follows:

"Q. Does E. V. Rideout Company operate any vessel as a common carrier in the import or export trade? A. Yes, it does.

Q. Between a port of the United States and a foreign port? A. He operates vessels in foreign trade, in export trade to foreign countries, yes.

Q. In other words, you contend that E. V. Rideout Company is actually engaged in operating a vessel between San Francisco, for example, and a point in Australia, for example? A. I already explained that the termini of Rideout are both in California, but the trade is export trade to foreign countries.

Q. Will you specify the points between which E. V. Rideout operates? A. I don't know the points between which he operates. I think a frank answer for the purpose of this case would be that the traffic involved is both operated from Suisun to San Francisco and from Suisun to Oakland, and from Suisun to the other East Bay points of Berkeley and Alameda.

Q. In other words, he operates exclusively upon the inland waters of the State of California? A. His vessel carries freight physically on the waters of the State of California between termini in the State of California." (Tr. 48-49.)

On the face of the suspended supplements the rates named therein will not apply on intrastate traffic. Respondent has made no showing as to the nature or possible status of the grain shipments to which the suspended rates are intended to be applied. However, witness F. A. Somers, President of the San Francisco Grain Trade Association testified in part as follows:

> "* * * as a matter of actual practice it is very rare that a certain specific lot of grain, specific as to the number of bags, and the identity of every kernel of the grain comes under an export rate, as we have had them in the past, and has gone to foreign points without some consideration of change in character or blending with other grades, or being cleaned or something of the kind." (Tr. 36.)

> "I would say that in practically 75 per cent of the various movements of export parcels, or at least a portion of such receipts which might move in under an export rate, would find a domestic market either by way of screenings, or light weight barley, or damaged rejections." (Tr. 37.)

> "In fact, in one case that we had occasion to look up, there was grain moved to San Francisco to the export terminal here, which is supposed to operate only for export business - bought by an exporter - very large quantities of it, several thousand tons, with the full intent and purpose of selling that in British markets. A changed condition lowered the market there, and our home market advanced, and all of that grain was used within the State of California, going out by rail and truck from that terminal." (Tr. 37.)

In Ore-Wash. R. & Nav. Co. v. Straus, 73 Fed.(2d) 912, which involved the sufficiency of a complaint seeking to recover interstate rather than intrastate freight charges on grain shipments moving by rail from Oregon points to Portland on the ground that such shipments were to be transshipped by vessel to other states and foreign countries, the Court stated as follows:

> "Under the decisions, it is clear that two elements are indispensable to constitute an interstate or foreign shipment:
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> (1) There must be a through and continuous movement from one state to another, or to a foreign country.
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> (2) There must be, at the time that the movement is started, an intention that the shipments shall be interstate or foreign, and this intention must be carried out. In a word, there must be the intent and the event."

When asked by counsel for respondent whether there would be any difficulty on the grain trade in applying the different basis of rates, assuming the law to be that the intent of the shipper at the time the grain moved from its point of origin determined its interstate character regardless of its subsequent disposition, Witness Somers replied as follows:

> "* * * the question is fallacious, because it could not be put into absolute practice, to prove what a man's intent was. If a lot of grain was bought to fill a certain order with, for shipment to Great Britain, and ordered to the Islais Creek Grain Terminal, and there was an export rate im effect, I would say it would be perfectly proper if that identical unchanged lot of grain, was forwarded eventually to Great Britain, that it should enjoy the benefit of any export rate, but in practice - some years it has been nearer 90 per cent than 75 per cent - it has been found that grain which had to be cleaned or blended, or screened, or in some way lost its identity; the volume becomes another lot of grain, which in its final analysis could not, to its fullest extent, enjoy an export rate, because some of it found a domestic market." (Tr. 46-47.)

As to intent Witness Somers testified further as follows:

> "* * * a man with good intent sells a large quantity of grain for export to a certain foreign market. With entire good intent he buys grain in the country and orders it to a terminal on San Francisco Bay. There is an export rate that is to his advantage, and he naturally declares it for export, and pays the export rate. Sometimes he has the advantage of holding it on the cars for damage" (demurrage) "for a longer period than the customary 48 hours, which is also an advantage. After the grain is there, it might be brought in at harvest time and sold December shipment. Conditions may change, the grain might possibly be cancelled - that sale on the other side, as we call it, and resold for consumption in a local barley or feed mill.
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> Q You mean when it is at the export terminal? A At the export terminal, awaiting some final destination movement." (Tr. 45.)

From the record herein we think it is clear that by far the greater proportion of the grain moving to San Francisco Bay terminals from interior points through Suisun by vessel is in fact so moving in intrastate commerce. By its terms the Shipping Act

is not to be construed to apply to intrastate commerce. Even though some of such grain may be moving in foreign commerce, under the facts shown in this record we do not believe that respondent is a "common carrier by water in foreign commerce" within the meaning of 46 U.S.C.A., Section 801, supra, and we have been cited to no case which construes that act as conferring jurisdiction upon the Shipping Board over the rates or operations of common carrier vessels operating wholly between points in one state. As to Islais Creek Grain Term. Corp. v. Rideout, Docket No. 188 before that Board, the entry of a dismissal order therein does not appear to us to be an assumption of jurisdiction over the rates of respondent. No opinion was rendered in this uncontested case, and the circumstances under which the complaint was drafted, filed, and "satisfied" have already been mentioned.

For the purpose of this proceeding, however, it is immaterial whether or not respondent's jurisdictional contentions are correct, and the suspended tariff supplements must nevertheless be cancelled and rejected. If this Commission has no jurisdiction over the operations to be performed under the suspended rates the supplements should never have been filed as supplements to an intrastate tariff. To permit such supplements to remain as part of the official intrastate tariff would not only be improper but might tend to mislead shippers. As to operations over which this Commission has jurisdiction, to permit the suspended rates to be applied thereto would demoralize the entire grain rate structure on the bay and rivers, which was to a considerable extent stabilized by Decision 26406. We have heretofore found a rate below $1.50 to be unreasonably low (Decisions 26406 and 27112), the record shows that there has been no substantial change in the conditions which led up to Decision 26406, and respondent has made no showing of any

nature as to the reasonableness of the proposed rates. For these reasons also the suspended tariffs must be ordered cancelled and rejected. If the rates under suspension be applied on operations over which this Commission has jurisdiction, respondent will not only be subject to the penalties provided for in the Public Utilities Act, but may be required to collect from shippers the difference between any unlawful undercharges and the tariff rate. (Re Allen Bros., 37 C.R.C. 747.)

Respondent also contends that the order under which the rates were suspended was in excess of jurisdiction because made without due notice and hearing, that under Section 63(b) of the Public Utilities Act, "there is only one way in which the requirement of reasonable notice may be dispensed with, and that is by entering on an investigation of the rate attacked" (Tr. 12), and that "no such investigation has been made in this case. There has been no investigation instituted, nothing done, in conformity with this section of the Act, * * *." (Tr. 11.) This contention is without merit.

Section 63(b) provides in part that when any schedule is filed which does not result in a rate increase, "the commission shall have power, and it is hereby given authority, either upon complaint or upon its own initiative without complaint, at once, and if it so orders, without answer or other formal pleadings by the interested public utility * * *, but upon reasonable notice, to enter upon a hearing concerning the propriety of such rate, * * * and pending the hearing and the decision thereon such rate, * * * shall not go into effect; * * *."

In this proceeding an order of suspension and investigation was issued (14), followed by an order setting for hearing, and this

(14) This order, entitled "Order of suspension and investigation," states that the supplements were filed, and reads in part as follows:

"It further appearing that the Commission has received pro-

and a notice of hearing was sent to the interested parties more than ten days prior to the hearing.

To summarize, this case must be decided upon one of two issues: first, if the Commission is without jurisdiction over the traffic to be moved under the suspended rates, to permit the supplements to remain as part of an intrastate tariff would be improper and misleading to shippers; second, if the Commission has jurisdiction, the record affirmatively shows that there has been no substantial change in conditions since our prior decisions establishing a higher minimum rate and finding lesser rates to be unreasonably low, and no showing has been made herein that the proposed rates are in fact reasonably compensatory.

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tests from competing common carriers, alleging among other things, that the proposed rates are unreasonably low, detrimental to the interests and in contravention of this Commission's order in Decision No. 26406 of October 9, 1933;

It further appearing that the rights and interests of the public may be injuriously affected by the proposed schedules and it being the opinion of the Commission that the effective date thereof should be postponed pending a hearing thereon to determine their lawfulness; * * *."

The order then provides that the operation of the supplements be suspended and the use thereof deferred.

O R D E R

E. V. Rideout Company having filed Supplements 17 and 18 to C. R. C. No. 9, Local Freight Tariff No. 1-F, the Commission having issued its order of suspension and investigation wherein said supplements were suspended and the effective date thereof postponed pending a hearing to determine their lawfulness, order setting for hearing having been issued, notice given to interested parties, and hearing having been had, therefore, based upon the foregoing opinion and the findings contained therein, and good cause appearing, IT IS HEREBY ORDERED as follows:

(1) That said Supplements 17 and 18 are hereby cancelled and rejected.

(2) That a certified copy of the order herein be attached to the official tariff file of said E. V.Rideout Company.

(3) That our order of suspension and investigation herein is hereby vacated and set aside and this proceeding is hereby discontinued.

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 11th day of July 1935.

Leon O. Whitsell

M. B. Harris

Frank R. Devlin

Commissioners