

Decision No. 30220

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
RIO VISTA LIGHTERAGE COMPANY, INC.,
a Corporation, for a permit to
operate "For-Hire Vessels" for the
transportation of Property, for
compensation, between points on
the inland waters of the State of
California.

Application No. 21406

ORIGINAL

Appearances

Sanborn, Roehl and MacLeod, by Clair MacLeod, for applicant.
Henry Hobbs, for Southern Pacific Company and Northwestern
Pacific Railroad Company, protestants.

RILEY, Commissioner:

O P I N I O N

Applicant seeks a permit to operate "for-hire vessels" on the inland waters of this state from Oakland (Ninth Avenue Municipal Pier) to San Rafael, Petaluma, Vallejo, Napa, Antioch, Alameda, Oakland (Inner and Outer Harbor), Yerba Buena Island (including Exposition site), Redwood City and San Francisco, for the transportation of forest products, viz.: lumber, surfaced and unsurfaced; and lath. A description of the equipment proposed to be used in said service and a statement of the rates, rules and regulations to be charged and observed¹ are contained in Exhibits "A" and "B" attached to the application.

A public hearing was held at San Francisco on September 16, 1937, at which time the matter was submitted.

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This statement was amended at the hearing by the addition of Redwood City as a point of destination at rates of \$1.75 and \$1.50 per 1000 feet board measure for minimum quantities of 60,000 and 100,000 feet board measure, respectively.

Applicant alleges that the service proposed will be that of a private carrier under a single contract with the Coos Bay Lumber Company; that the proposed operation will not be over the whole or any part of the route over which applicant now operates as a common carrier and that it will in no way interfere with its existing common carrier operations.

J. L. Lauritzen, secretary and manager of applicant, testified that the equipment proposed to be operated was formerly used by applicant in its common carrier operations between points on the inland waters, including the points involved herein, exclusively for the transportation of lumber mainly for the Coos Bay Lumber Company, but that all common carrier operations for the transportation of lumber from and to the points here sought to be served were discontinued on August 24, 1937, pursuant to the order of this Commission in re Investigation of Operative Rights of Inland Water Carriers (Decision No. 29778, dated May 24, 1937, in Case No. 3824, et al.)²

Witness Lauritzen further testified that the barge proposed to be used in the for-hire vessel operation is especially suited to the transportation of lumber, it being equipped with a crane by which the lumber can be economically and quickly loaded and unloaded. He stated that the lumber proposed to be transported is tendered to the carrier in piles containing pieces of approximately the same length, thereby permitting efficient utilization of the space on the barge. Shipments are received at carrier's tackle at point of origin, at which point shipper furnishes the necessary labor to attach carrier's

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By this decision applicant's common carrier operative rights were fixed and applicant was required to cease on or before August 24, 1937, from transporting property as a common carrier except to the extent that such operations conformed to the operative rights applicant was therein found to possess. These did not include the transportation of lumber from and to the points applicant is here seeking to serve as a for-hire vessel carrier.

tackle to an iron band or sling furnished by shipper and placed under each pile. At destination the lumber is discharged on to the dock by the barge tackle where the piles are unhooked from the iron bands or slings by an employee of the carrier. The iron bands or slings are subsequently reloaded on to the barge and returned to the shipper. By this method of handling carrier furnishes no dock labor at point of origin and is enabled to perform loading and unloading at a minimum of cost and delay to the equipment.

The proposed rates, this witness stated, are generally the same as those formerly charged by applicant for the transportation of lumber between the same points as a common carrier. He expressed the opinion that these rates would be compensatory, and in support thereof submitted two exhibits (Exhibits 4 and 5). The first (Exhibit No. 4) purports to be a statement of the revenues and expenses covering the transportation of lumber by applicant as a common carrier in the equipment here sought to be operated. This exhibit shows freight revenue of \$16,376.89 and cost of \$10,679.00³ for the six months' period from January 1 to July 1, 1936. The second exhibit (No. 5) developed the estimated revenue and expense for transporting lumber in the proposed for-hire vessel service for a twelve months' period. The estimated revenue was computed on

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The net income, after deducting federal income and state franchise taxes of \$928.67, amounted to \$4,768.74. The average monthly gross revenue during this period was \$2,729.50, which is compared with an average monthly gross revenue for the first ten months of 1936 of \$2,730.71. The months of November and December were excluded in arriving at the average revenue for 1936 for the reason that applicant's vessels were tied up during those months due to strike conditions. Witness Lauritzen admitted on cross-examination that in arriving at the figures shown in Exhibit No. 4, all shipments handled in the equipment proposed to be operated were considered, that these included some shipments from Oakland to delta points, which transportation is not covered by the proposed for-hire vessel operation, and likewise included several shipments for firms other than the Coos Bay Lumber Company. He claimed however that the inclusion of these few shipments does not materially affect the accuracy of the showing.

basis of the average monthly gross revenue for the first ten months of 1936. In arriving at the estimated costs witness Lauritzen stated that ample provision had been made for the rising costs of labor, materials and supplies. Based on this study applicant's net income from the proposed operation would amount to \$8,185.33, exclusive of federal income and state franchise taxes, for a twelve months' period.

Southern Pacific Company and Northwestern Pacific Railroad Company, engaged in the transportation of lumber and other property by railroad between the majority of the points sought to be served by applicant, protested the granting of the application. They contend that applicant is here proposing to operate a for-hire vessel service over a part of the route operated by the applicant as a common carrier,⁴ that the proposed rates are lower than those now applicable for rail transportation and lower than the minimum rates suggested in the proposed report of Examiner Howard G. Freas of this Commission in Case No. 4028, Part "L" and Case No. 4145, Part "A", for the transportation of lumber by for-hire highway carriers and common carriers between the same points,⁵ and if established would place for-hire highway carriers and common carriers, including the rail service, at a disadvantage. The provision for the return of the iron bands or slings without additional charge, they argue,

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Section 13 of the For-Hire Vessel Act reads:

"No permit shall be issued to any person or corporation for the operation of for-hire vessels over the whole or any part of any route operated by the applicant as a common carrier."

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Exhibit No. 6 submitted by protestants compares the rates on lumber proposed by applicant, converted from the stated basis of cents per 1000 feet board measure to cents per 100 pounds, with existing higher rail rates and also with higher minimum rates suggested by Examiner Howard G. Freas in his proposed report, for the transportation of lumber by for-hire highway carriers and common carriers between the same points.

is contrary to the principle that each transportation service should be made to stand its proportion of the transportation burden. They ask that in the event the permit sought is granted, applicant be required to establish rates no lower than those now applicable by railroad.

It is clearly established by the record that the proposed operation will be private in nature, that the vessels are of the type specified in the For-Hire Vessel Act, and that the proposed operation will not contravene the provisions of Section 13 of the For-Hire Vessel Act.⁶ Moreover the record is persuasive that the rates proposed by applicant will be compensatory for the service sought to be performed.

On this record I am of the opinion that the proposed service conforms to all of the requirements of the For-Hire Vessel Act, and that the application should be granted.

The following form of order is recommended:

O R D E R

This matter having been duly heard and submitted,
IT IS HEREBY ORDERED that a permit issue to applicant, Rio Vista Lighterage Company, to operate the barge "R.V.L. No. 8" and the tug "R.V.L. No. 4" as for-hire vessels from Oakland (Ninth Avenue Municipal Pier) to San Rafael, Petaluma, Vallejo, Napa, Antioch, Alameda, Oakland (Inner and Outer Harbor), Redwood City, Yerba Buena Island (including Exposition site) and San Francisco

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See Application of Marine Service Corporation (Decision No. 27819, dated March 18, 1935, in Application No. 19705); Application of Rio Vista Lighterage Company (Decision No. 29964, dated July 27, 1937, in Application No. 20496); Application of Henry A. Juhl (Decision No. 29989, dated July 27, 1937, in Application No. 20469.

for the transportation of forest products, viz.: lumber, surfaced and unsurfaced; and lath, and between the same points in the reverse direction for the transportation of iron bands or slings returned after having been used in the going movement of the lumber; for the Coos Bay Lumber Company, subject to the following conditions:

1. Applicant shall file its written acceptance of the permit herein granted within a period of not to exceed fifteen (15) days from the date hereof.

2. Applicant shall file in duplicate with its acceptance of the permit and on not less than five (5) days' notice to the Commission and the public, a tariff containing rates and rules which in volume and effect shall be identical with the rates and rules set forth in Exhibit "B" as amended or rates and rules satisfactory to this Commission.

3. The applicant shall, in instances where the vessel or vessels used under the authority here granted are also used in common carrier service, maintain records that will disclose clearly the revenues and expenses attributable to the for-hire operation.

4. This permit and the rights and privileges exercisable thereunder shall not be sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such sale, lease, transfer or assignment has first been obtained.

The effective date of this order shall be twenty (20) days from the date hereof.

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
October, 1937.

Walter M. ...
John ...
Frank ...
Robert ...
Ed. & Alice
Commissioners.