

Decision No. 36675

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of the RIO VISTA LIGHTERAGE COM- )  
PANY, INC., a corporation, organiz- )  
ed and existing under the laws of )  
the State of California, for author- )  
ity to suspend operations. )

**ORIGINAL**

Application No. 25366

In the Matter of the Investigation )  
by the Commission, upon its own )  
motion, into the operations of )  
RIO VISTA LIGHTERAGE COMPANY, INC., )  
a corporation. )

Case No. 4687

BY THE COMMISSION:

OPINION

In Application No. 25366, Rio Vista Lighterage Company, Inc. seeks authority to suspend operations as a common carrier of property by vessel until December 31, 1943; in Case No. 4687, the Commission has the operations of this company under investigation for the purpose of determining if any or all operative rights it may possess should be revoked and annulled and if any or all schedules of rates on file should be canceled, because of discontinuance or suspension of service without first obtaining appropriate authority from the Commission.<sup>1</sup>

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<sup>1</sup> In Decision No. 29778 (40 C.R.C. 493) Rio Vista Lighterage Company, Inc. was found to possess as of January 16, 1936, common carrier operative rights to render "on-call" vessel service between points on San Francisco Bay and tributary waters for the transportation of (a) property between Delta points and between Delta points on the one hand and Sacramento, Stockton, San Francisco, Berkeley, Richmond, Suisun Bay points (excluding points on tributaries) and points on the Contra Costa shore of San Pablo Bay on the other hand; and (b) a limited number of commodities between points in specified areas. In addition to these common carrier operations, permits to operate under the For-Hire Vessel Act, Statutes of 1933, ch. 223, have been issued authorizing the transportation of whole grain and rice between Suisun on the one hand and San Francisco, Oakland and Alameda on the other for Adams, Schwab & Adams (Decision No. 29964 in Application No. 20496) and for the transportation of forest products from Oakland to certain points on San Francisco Bay and tributaries for Coos Bay Lumber Company (Decisions Nos. 30220 and 30279 in Application No. 21406).

These matters were submitted at a public hearing had at San Francisco on August 16, 1943 before Examiner Mulgrew. Although it was duly notified, Rio Vista Lighterage Company, Inc. did not appear at the hearing.

A member of the Commission's staff testified that he had made an investigation of the matters in issue, examined the carrier's records and interviewed its secretary. From his testimony it appears that no common carrier service has been performed by Rio Vista Lighterage Company, Inc. since July 30, 1942;<sup>2</sup> that it has not been offered any common carrier business since August, 1942, when two shipments were tendered; that these shipments were refused because the carrier had no equipment available to perform the transportation; and that no transportation has been conducted under its for-hire vessel permits for a considerable period of time. It appears, moreover, that Rio Vista Lighterage Company, Inc. has, by sale or lease, disposed of the vessels previously used in the services in issue;<sup>3</sup> that at the present time it has no equipment available for conducting the common carrier or for-hire vessel service involved; and that the application to suspend common carrier service was filed only for the purpose of retaining the operative rights so service could be resumed should future conditions bring about an extensive demand for vessel service.

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<sup>2</sup> The carrier did not request authority to suspend its common carrier by vessel service until November 10, 1942.

<sup>3</sup> This action was taken without securing the permission of the Commission as required under Section 51(a) of the Public Utilities Act in connection with property necessary or useful in the performance of the carrier's duties to the public.

It has repeatedly and consistently been held by the Commission that unauthorized discontinuance or suspension of service is a sufficient ground for the revocation of operative rights (Decision No. 33548, 43 C.R.C. 50, and cases cited therein). On this record it is clear that Rio Vista Lighterage Company, Inc. withdrew from common carrier by vessel service without first securing appropriate authorization to do so and that its for-hire vessel permits are no longer being exercised. Accordingly, we are of the opinion and find that whatever common carrier by vessel operative rights it may possess should be revoked and annulled; that the for-hire vessel permits standing in its name should likewise be revoked and annulled; that its tariffs should be canceled; and that Application No. 25366 seeking authority to suspend common carrier service should be denied.

O R D E R

A public hearing having been held in the above entitled proceeding and based upon the evidence received at the hearing and upon the conclusions and findings set forth in the preceding opinion,

IT IS HEREBY ORDERED that any and all operative rights as a common carrier by vessel which Rio Vista Lighterage Company, Inc. may possess and the for-hire vessel permits issued in Applications Nos. 20496 and 21406 which it holds be and they are hereby revoked and annulled; and that tariffs on file with the Commission pertaining to operations under said rights and permits be and they are hereby canceled.

IT IS HEREBY FURTHER ORDERED that Application No. 25366  
be and it is hereby denied.

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

Dated at San Francisco, California, this 26<sup>th</sup> day of  
October, 1943.

Francis K. Havenner  
J. J. [unclear]  
Justus D. Casper  
[unclear]  
[unclear]  
Commissioners