

Decision No. 116746

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA
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In the Matter of the Application of)
C. P. Stanbrough for Certificate of)
Public Convenience and Necessity to)
Operate Motor Boat Service for the)
Transportation of Property, for com-)
pensation, between points on the)
Inland Waters of the State of)
California.)

APPLICATION NO. 11977

Lafayette J. Smallpage, for Applicant,
H.C.Booth, F.W.Mielke and L.N.Bradshaw, for Southern
Pacific Company and Central California Traction
Company, Protestants,
Platt Kent, for Atchison, Topeka & Santa Fe Railway
Company, Protestant,
W.H.Metson and T.S.Louttit for California Transportation
Company and California Navigation & Improvement Company,
Protestants,
A.S.Weston and Edward Stern, for American Railway
Express Company, Protestant,
D.A.Pierce and J.P.Quigley, for Western Pacific Railroad
Company, Protestants,
G.J.Bradley, for Merchants and Manufacturers Association
of Sacramento, California.
Sanborn & Roehl and DeLancey C.Smith, by H.H.Sanborn and
Arthur B. Roehl, for Sacramento Navigation Company,
Protestant,
L.H.Rodebaugh, for San Francisco-Sacramento Railroad
Company.

BY THE COMMISSION:

O P I N I O N

This is an application by C.P.Stanbrough, an individual,
under the provisions of paragraph (d), section 50, of the Public
Utilities Act, for a certificate of public convenience and necess-
ity to operate vessels for the transportation of property, for

compensation, upon the inland waters of the State of California between San Francisco and Oakland on the one hand and on the other, Stockton and Sacramento. It is not proposed to render local service from, to or between points intermediate to San Francisco, Oakland, Stockton or Sacramento. Permission is also requested, in the event the Commission finds that public convenience and necessity require the proposed service, to transfer the certificate to a corporation to be subsequently formed. Paragraph (d), section 50, of the Public Utilities Act, does not confer authority to subsequently transfer or assign the certificates granted, therefore this report will be confined to the proposed operations insofar as they relate to applicant as an individual.

The California Transportation Company, California Navigation & Improvement Company, Sacramento Navigation Company, Atchison, Topeka & Santa Fe Railway Company, Central California Traction Company, Southern Pacific Company, Western Pacific Railroad Company, and American Railway Express Company appeared in opposition to the granting of the application upon the grounds that they now render adequate and efficient common carrier service in the territory here involved.

Public hearings were held before Examiner Geary at San Francisco January 13 and March 26, 1926, and at Stockton March 11 and 12, 1926, and the application having been duly submitted and briefs filed is now ready for an opinion and order.

The record is barren of any showing of public convenience and necessity with respect to the proposed operations from or to Sacramento and no further reference will be made to that point.

The proposed service contemplates receiving the freight at designated depot terminals at point of origin and making store

door or other delivery at destination points within a radius of two miles from the unloading piers. A flat rate of 85 cents is proposed for the first 200 pounds or less, excess weights to be charged according to the Western Freight Classification, the same ranging from $37\frac{1}{2}$ cents per 100 pounds first class to $20\frac{1}{2}$ cents per 100 pounds for Class E, with certain commodity rates based on exceptions to the Western Classification. The rate of 85 cents for the first 200 pounds is an arbitrary minimum charge, while the class rates are the same as those in effect between San Francisco and Stockton via the California Navigation & Improvement Company, plus $12\frac{1}{2}$ cents per 100 pounds, which latter amount is to cover the drayage and handling costs of delivery at destinations, either San Francisco, Oakland or Stockton. It is intended to maintain a daily service, except that no westbound trips will be rendered on Saturdays and no eastbound on Sundays. The tentative schedule provides for westbound boats leaving Stockton 8 P.M., arriving in San Francisco 3 A.M. and Oakland 6 A.M., while the eastbound service will leave Oakland 6 P.M. and San Francisco 8 P.M., arriving in Stockton at 3 the following morning.

Applicant intends to have constructed four motor boats equipped with Deisel engines capable of making a speed of fifteen miles an hour, and to employ motor trucks of the Stockton & San Francisco Express Company, a corporation owned and operated by applicant, to effect the deliveries from the unloading pier to consignees. The estimated cost of placing the service in operation is \$250,000.00, of which \$219,000.00 represents the four boats; \$6,000.00 miscellaneous equipment, and \$25,000.00 cash working fund. Applicant testified that \$120,000.00 of the required amount has been pledged by relatives or business

associates and that the balance, \$130,000.00, would be secured from the sale of corporate stock.

In view of our subsequent finding herein it will not be necessary to deal with applicant's financial ability as an individual to place this service in operation.

According to an exhibit, the monthly expenses of the proposed service, including depreciation and interest on investment, are estimated at \$10,822.50. To meet these expenses it is estimated that each boat should handle approximately 21 tons of freight per day; this tonnage, applicant testified, would consist principally of farm products from Stockton to San Francisco and Oakland and certain small package freight from San Francisco and Oakland to Stockton.

It appears from the record that a large tonnage of fruit and vegetables produced in the vicinity of Stockton finds a market in San Francisco and Oakland, and it is this tonnage applicant hopes to secure in order to make the proposed venture a success. The commission markets at these two points open between 4 and 5 o'clock in the morning and the prices of the products are based, to a greater or less extent, upon the supply on hand ready for delivery at that time. It is in evidence that prices are often forced down soon after the markets open when delayed supplies are received from other districts and, consequently, to secure the maximum prices efforts are continually being made by shippers and transportation lines to have the fruit and vegetables on hand sufficiently early for the first buyers. The record shows there is a constant movement of fruit and vegetables by auto truck, rail and water carriers from the Stockton district to the San Francisco and Oakland markets. The distance from Stockton to San Francisco via water is 97 miles, and

assuming the boats to be able to traverse the entire route at their maximum speed of 15 miles the trip would require a lapsed time of 6½ hours. It is in evidence, however, that there are hazards and delays to navigation, such as adverse tides, winds, fogs, shallow water, narrow channels and abrupt turns in the river, some of which are constant and others periodical, that would materially lengthen the time required to make the trip.

The captain of the Steamer J.D.Peters, operated by the California Navigation & Improvement Company, testified that due to these difficulties of operation the trip between San Francisco and Stockton ordinarily made in 9 hours by this steamer often requires 11 hours or more to complete the journey. Under the time schedule proposed the markets at Oakland would not be reached until after 6 A.M., hence the requirements of the fruit and vegetable dealers at that point would not be met and there is also doubt of the physical ability of this applicant to consistently reach the San Francisco markets to meet the requirements at that point.

The record with respect to the movement of small package freight between San Francisco-Oakland and Stockton is principally confined to individuals or companies located at Stockton. These witnesses, in the main, were representatives of retail houses in Stockton carrying but small reserve stocks of goods who when confronted with emergency orders or an unforeseen shortage rely upon securing quick delivery from the wholesale dealers at San Francisco Bay points, and they testified that if assured of store door delivery before the morning opening of their respective places of business they would patronize the proposed service. Applicant now operates the Stockton-San Francisco Express Company, a corporation performing a

forwarding and delivery service between San Francisco and Stockton-Sacramento and many of the witnesses now patronize this facility. The service is not rendered as a common carrier express company under the jurisdiction of the Commission by the provisions of the Public Utilities Act, but in effect the physical performance is the same as though it were an operating express company, inasmuch as the package freight is either picked up or received at the originating points, consolidated into packages, trunks or chests, shipped as freight via the boats of the California Navigation & Improvement Company and distributed as express in package lots at destination points. The service at the terminal points is rendered by the fleet of trucks owned by the Stockton-San Francisco Express Company and as these trucks would be utilized in connection with the proposed service, the package shipper is now receiving from this applicant almost the identical advantage which would be rendered for this class of freight should the application be granted.

There are six common carrier transportation companies rendering regular freight and package service between San Francisco and Stockton, viz., California Navigation & Improvement Company, California Transportation Company, American Railway Express Company, Western Pacific Railroad Company, Southern Pacific Company and Atchison, Topeka & Santa Fe Railway Company and all of these carriers protested the application. The Navigation Company operates on a week day schedule two boats having a combined carrying capacity of 1720 tons. The eastbound boats leave San Francisco at 6 P.M. arriving at Stockton at 3 o'clock the following morning and the westbound boats also leave Stockton at 6 P.M., arriving at San Francisco between 4 and 6 the following morning. Witnesses representing a large number of the principal firms in Stockton doing a constant and heavy

shipping business between Stockton and San Francisco testified they found the service of the Navigation Company exceptionally efficient, adequate and satisfactory and upon those grounds opposed any additional boat service which might tend to hamper and impair the service now being rendered.

The same kind of testimony was given with reference to a satisfactory Stockton to Oakland service for fruit and vegetables rendered by the Western Pacific.

There has been a decline in the freight tonnage and freight revenue of the Navigation Company for a number of years past, due, to a great extent, to the building of cement highways and the movement of tonnage from the farms to consuming centers by automobile trucks. The tonnage for the months of January and February, 1926 was 11256; for the same months of 1925 it was 15369, showing a loss for these two months of 4113 tons. The total freight revenue for the same period in 1926 was \$38729.00 and in 1925 \$44612.52, a decrease of \$5883.52.

If applicant were to secure a sufficient tonnage to operate successfully a substantial portion thereof would be taken from that now handled by the Navigation Company and as shown by exhibit would be a minimum of 21 tons per boat daily, or 42 tons for the 2 boats between San Francisco and Stockton. The average fruit and vegetable rate of the Navigation Company is \$4.50 per ton, and on the basis of 300 working days per year would mean a loss of \$56700.00 to the Navigation Company and completely wipe out its net revenue.

Under the provisions of paragraph (d), section 50, of the Public Utilities Act, the burden is upon applicant to

establish the fact that the proposed service would be in the public interest. It has failed to sustain this burden, the record clearly showing that the communities are now completely served by the three railroads, one express company, one regular boat line and irregular boat and auto lines, also by applicant's package express service rendered in the name of the Stockton-San Francisco Express Company.

Upon consideration of all the facts of record, we are of the opinion and find that applicant has failed to show that public convenience and necessity require the operation of vessels for the transportation of property between San Francisco-Oakland and Stockton and that the application should be denied.

O R D E R

This application having been duly submitted, full investigation of the matters and things involved having been had and basing this order on the findings of fact and the conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof,

IT IS HEREBY ORDERED that the application in this proceeding be, and the same is, hereby denied.

Dated at San Francisco, California, this 19th day of May, 1926.

H. B. Brundage
C. C. Sawyer
George W. Scott
Leon Whitell