

Decision No. 19285.

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 AYRES-WHITESIDE TRANSPORTATION COMPANY,)
 a co-partnership, for a certificate of)
 public convenience and necessity to op-)
 erate vessels for transportation as a) Application No. 14152.
 common carrier of freight for compen-)
 sation between points on the inland wa-)
 ters of the State of California.)

Rufus H. Kimball, for applicant.

J. J. Geary, for Northwestern Pacific
Railroad Company, protestant.

BY THE COMMISSION:

O P I N I O N

This is an application by a co-partnership consisting of Charles Ayres and John A. Whiteside, operating vessels under the fictitious name of Ayres-Whiteside Transportation Company, for an order declaring that public convenience and necessity require the operation by it of vessels as common carriers of property for compensation between San Francisco, Oakland and east bay points on the one hand, and Novato, Marin County, on the other.

A public hearing was held before Examiner Geary at San Francisco December 7, 1927, and the matter having been duly submitted is now ready for our opinion and order.

The present freight service of applicant is between points on the San Francisco, San Pablo and Suisun Bays, authorized by Decision No. 16337 in Application No. 12577, March 30, 1926, which decision permitted the operation by this applicant of

vessels for the transportation of property between San Francisco, Oakland, Alameda (Encinal Terminals), West Berkeley, San Rafael and Sausalito on the one hand, and Suisun, Benicia and Crockett and the intermediate points on the other, as more specifically set forth in the application.

As justification for the granting of a certificate of public convenience and necessity, the application sets forth, first, that there is no other water transportation company serving Novato, and second, that Novato is along the route covered by applicant's vessels on the through movement between San Francisco and the Suisun Bay points; also that very little additional expense is involved in maintaining a service to Novato.

The proposed rates are set forth in Exhibit "A" attached to the application and are practically the same as those now in effect between San Francisco and Benicia, except there will be a carload commodity rate of 9 cents per 100 pounds and a less than carload rate of 12 cents per 100 pounds on freight not otherwise specified.

Applicant alleges that in good faith and relying on its interpretation of the order made in Decision No. 16337 it did serve Novato until about August 1st, 1927, and discontinued operations on that date upon instructions from this Commission that Novato was not on the direct water route between San Francisco and Benicia, being north of San Rafael and requiring a side trip up the Novato Creek. The instant application is made in order to cure the situation.

The manager for applicant testified that the tonnage movement was almost entirely to Novato and consisted principally of poultry feeds and petroleum, the total averaging approximately 100 tons per month for the period from May, 1926, to August, 1927. The largest part of this tonnage was secured at Oakland and east

bay points and could be moved from point of origin to destination in approximately three hours, as compared with movement via rail consuming from two to three days. There was also testimony to the effect that a canal approximately 2 7/8 miles long had been constructed to permit the operation of vessels to a feed mill located at Novato, and the use of this canal would be materially affected if common carrier vessels were not permitted to operate to the Novato wharf. One of the owners of the feed mill at Novato testified on behalf of applicant to the effect that while they employed small vessels of their own, they found it necessary and convenient to use the services of this applicant. The mill is located some two miles from the Northwestern Pacific depot, and freight received via the railroad must pay a drayage charge of \$1.00 per ton as compared with the wharf delivery of applicant.

The Northwestern Pacific Railroad Company protested the application, and its witness described the service and schedules of the rail carriers between San Francisco-Oakland and Novato, also the amount of tonnage moving and the time consumed in handling the freight. While this testimony showed there was a prompt rail service between San Francisco and Novato, there was no testimony dealing with the movement from the Oakland side of the bay to the connection at San Francisco. It was also shown that the rates via the rail carriers were materially higher than those proposed via the short trans-bay route of this applicant.

After giving careful consideration to all of the testimony and exhibits, we are of the opinion and find as a fact that public convenience and necessity require the service as set forth in the petition and that a certificate should be granted authorizing such service at the rates set forth in Exhibit "A" attached to and made part of the application. Applicant shall file with this Commission within ten (10) days from the date of this order a written acceptance of the conditions contained in the order, and

shall commence operations within thirty (30) days from the date of the order.

O R D E R

A public hearing having been held in the above entitled proceeding, the same having been duly submitted and being now ready for a decision,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the operation by Charles Ayres and John A. Whiteside, operating under the fictitious name of the Ayres-Whiteside Transportation Company, of vessels for the transportation of property for compensation between San Francisco, Oakland and east bay points, on the one hand, and Novato, Marin County, on the other hand.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and the same is hereby granted, subject to the following conditions:

Applicant shall file a written acceptance of the certificate herein granted within a period not to exceed ten (10) days from the date hereof and shall file a tariff, according to the rules of this Commission, setting forth the rates, rules and regulations governing the transportation to be furnished, which shall be those as set forth in Exhibit "A" attached to and made a part of the application and referred to in the foregoing opinion.

Dated at San Francisco, California, this 3rd day of January, 1928.

Emmery
Seamy
Leon Whipple
Thos. S. Loutin
M. J. Carr
Commissioners.