

Decision No. 19611

INDEXED

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

THE CALIFORNIA TRANSPORTATION
COMPANY, a Corporation,

Complainant,

vs.

Case No. 2493.

AYRES-WHITESIDE TRANSPORTATION
COMPANY,

Defendant.

Sanborn, Roehl and DeLancey C. Smith,
for Complainant.

Rufus H. Kimball, for Defendant.

CARR, COMMISSIONER:

O P I N I O N .

The complaint and answer here place in issue the right of defendant to serve Martinez and Avon under the Certificate granted it by Decision No. 16337, in re application of Ayres-Whiteside Transportation Company, 27 C.R.C. 834.

A public hearing was held on April 3, 1928, and the case is now under submission and ready for decision.

The certificate under which the defendant claims the right to serve Martinez and Avon authorizes operations between San Francisco, Oakland, Alameda, West Berkeley, San Rafael and Sausalito on the one hand and Suisun, Benicia and Crockett and intermediate points on the other hand, as more specifically set forth in the application and as amended."

The application referred to named the following specific points to be served: San Francisco, Oakland, Alameda, Berkeley, San Rafael and Sausalito, Rodeo, Crockett, Port Costa, Benicia and Suisun, qualified, however, by the general intermediate application of rates

set forth in Rule 2 of Exhibit "B" reading: "rates named in this tariff will apply from or to directly intermediate points, unless specifically provided in connection with individual items or rates." Thus defendant in its application requested, and the Commission in its order granted, authority to operate between San Francisco Bay points and Suisun, Benicia, Crockett and all points directly intermediate thereto. The right of defendant to serve Avon and Martinez must necessarily then depend upon the sole question of whether or not these two points are directly intermediate to the points specifically named in the order.

Certificates of this character should be given a reasonably liberal interpretation. So construed, this certificate based on the operating routes followed by the vessels would authorize the service of Martinez as a directly intermediate point between San Francisco Bay points on the one hand and Suisun on the other. It cannot, however, be stretched to include the service of Avon as a directly intermediate point, since to serve Avon requires a distinct and material departure from the usually traversed channel through Carquinez Straits. (See Sperry Flour Co. v. Island Transportation Co., Dec. 18994 of date November 3, 1927.)

I recommend the following form of order:

O R D E R

This case having been duly heard and submitted, full investigation of the matters and things involved having been had, and basing its order on the findings of fact and the conclusions contained in the opinion which precedes this order,

IT IS HEREBY ORDERED that defendant Ayres-Whiteside Transportation Company be and it is hereby directed to cease and desist from transporting property to or from Avon.

IT IS HEREBY FURTHER ORDERED that defendant Ayres-White-
side Transportation Company be and it is hereby directed to cancel
all rates, rules and regulations contained in tariffs on file with
this Commission for the transportation of property to or from
Avon.

The effective date of this order will 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 Com-
mission.

Dated at San Francisco, California, this 17th day of
April, 1928.

Leon Whitell

C. Seaver

M. J. Cain

Commissioners.