

Decision No. 20044

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation,
upon the Commission's own Motion,
into the Construction of Facilities
and the Rendering of a Vehicular Ferry
Service by the Southern Pacific Company,
a public utility, between San Francisco
and Alameda, in this state, without first
having obtained from this Commission a
certificate that Public Convenience and
Necessity require or will require such
construction or operation, or both.

Case No. 2275.

Henley C. Booth and E. J. Foulds, for Southern Pacific
Company, Respondent.

Dudley Sales and Devlin and Brookman, by Douglas Brookman,
for Golden Gate Ferry Company, Intervener.

ORIGINAL

LOUTTIT, COMMISSIONER.

SUPPLEMENTAL OPINION.

This proceeding was instituted by an order of the Commission, dated September 3, 1926, instituting an investigation upon the Commission's own motion into the rendition of a vehicular ferry service by the Southern Pacific Company, a public utility, between San Francisco and Alameda, in this state, without first having obtained from this Commission a certificate declaring that public convenience and necessity required or would require such operation. The Southern Pacific Company on said date began the operation of a vehicular ferry service between its Alameda pier and San Francisco without first having obtained such a certificate of public convenience and necessity. By the order to show cause, the Southern Pacific Company was directed to appear before the

Commission and show cause, if any it had, why it should not be required to cease and desist from such service and operation unless and until it should have secured from the Commission a certificate, declaring that public convenience and necessity required or would require such service.

At the time and place set in the order to show cause, the Southern Pacific Company appeared and filed a formal return to the order and requested that a day be set for the taking of testimony and a hearing on the merits of the issues raised by said Commission's order and the return thereto.

The Golden Gate Ferry Company appeared at said hearing and requested to be permitted to intervene in the proceeding, inasmuch as it then had pending before the Commission an application for a certificate of public convenience and necessity to operate a vehicular service between Alameda and San Francisco, said application being numbered in the office of the Commission, 12673; the Commission granted the request and permitted Golden Gate Ferry Company to intervene. Hearings were held and the matter submitted to the Commission for its decision and the Commission did thereafter and on December the 17, 1926, render its Decision No. 17766, dismissing said order to show cause, upon the ground that the Southern Pacific Company did not require a certificate of convenience and necessity to institute and continue to operate said vehicular service. Thereafter and within proper time, the Golden Gate Ferry Company filed its petition with the Commission, seeking a rehearing of said matter, which said petition for rehearing was by the Commission on the 6th day of January, 1927, by Decision No. 17852, denied.

Thereafter petition of the Golden Gate Ferry Company, a corporation, against the Railroad Commission of the State of California was filed with the Supreme Court of the State of California, seeking to annul said order and Decision No. 17766, and

after hearing thereon and on or about the 31st day of May, 1928, the Supreme Court of the State of California made its order annulling the said order and Decision No. 17766 of this Commission and a remittitur with certified copy of the opinion of the Supreme Court was filed in the above entitled matter on the 3rd day of July, 1928.

The above entitled proceeding was then set for hearing for the 12th day of July, 1928, at 10:00 o'clock A. M., at which time the matter was submitted to the Commission for its further decision and determination herein.

It appears that the service, which is now being rendered in the performance of the vehicular service between the City and County of San Francisco and the City of Alameda is one, which a considerable number of the public has become accustomed to patronize and the same should be continued, if possible, without any interruption. There is on file and under submission to the Commission Application No. 12673, an application by the Golden Gate Ferry Company, a corporation, to perform such a service, also Application No. 14856 by the Southern Pacific Company to perform a like service.

It is impossible to make a determination as to whether or not necessity exists for the ferry service involved and, if so, the applicant which can best perform that service until each of the pending proceedings for a certificate shall have been submitted to the Commission for a determination on the merits.

The effective date of the order recommended to be issued in this proceeding, ordering the Southern Pacific Company to cease and desist from its vehicular operation between San Francisco and Alameda should be so fixed that a determination on the merits of Applications Nos. 12673 and 14856 can be made before such date.

I, therefore, recommend the following form of order:

SUPPLEMENTAL ORDER.

The Railroad Commission, upon its own motion, having instituted an investigation into the rendering of a vehicular ferry service by the Southern Pacific Company, a public utility, between San Francisco and Alameda in this State, without first having obtained from this Commission a certificate declaring that public convenience and necessity required or will require such operation and the Southern Pacific Company having been ordered to appear and show cause, if any it had, why it should not be ordered to cease and desist from such operation unless and until it should obtain from this Commission such a certificate and hearings having been held and the matter having been submitted to the Commission for its determination,

IT IS HEREBY ORDERED that the Southern Pacific Company, a corporation, be and it is hereby ordered to cease and desist from its operation of a vehicular ferry service between the City and County of San Francisco and the City of Alameda in the State of California unless and until it shall have obtained from this Commission a certificate declaring that public convenience and necessity required and will require such operation.

IT IS FURTHER ORDERED that the effective date of this order shall be sixty (60) days from the date hereof.

The foregoing supplemental opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission.

Dated at San Francisco, California, this ¹⁵ 12 day of July, 1928.

C. L. Deering

Thos. D. Loutin

M. A. Cunn
COMMISSIONERS.