

Decision No. 20551

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

CALIFORNIA TRANSPORTATION COMPANY,

a corporation,

Complainant,

vs.

CHARLES AYRES and JOHN A. WHITESIDE,  
 doing business under the fictitious  
 name of Ayres-Whiteside Transportation  
 Company, PETER CHRISTENSEN, DAVID L. PETERS,  
 JOHN DOE, RICHARD ROE and FRANK SNOW,

Defendants.

ORIGINAL

Case No. 2551

In the Matter of an Investigation on the  
 Commission's own motion into the practices  
 and operations of CHARLES AYRES and  
 JOHN A. WHITESIDE, co-partners operating  
 vessels for the transportation of prop-  
 erty on the inland waters of the State of  
 California under the fictitious name of  
 AYRES-WHITESIDE TRANSPORTATION COMPANY.

Case No. 2605

Sanborn & Roehl and DeLancey C. Smith, by  
 H.H. Sanborn, for California Transportation  
 Company, Complainant in Case No. 2551 and  
 Intervenor in Case No. 2605.

BY THE COMMISSION -

O P I N I O N

In Case No. 2551, California Transportation Company, a corpor-  
 ation, complains of Charles Ayres and John A. Whiteside, doing  
 business under the fictitious name of Ayres-Whiteside Transportation  
 Company, Peter Christensen, David L. Peters, John Doe, Richard Roe  
 and Frank Snow, alleging unauthorized and illegal operation of  
 vessels in the carriage of property, for compensation, between  
 Pittsburg and Antioch, on the one hand, and points on the inland  
 waters of the State of California, on the other hand; that such  
 operation has been conducted without regular authority therefor

having been obtained from the Railroad Commission; and is in violation of the provisions of the Public Utilities Act, and particularly Section 52 thereof, and of the orders of the Railroad Commission.

On September 21, 1928, the Commission on its own motion made its order instituting an investigation regarding the practices and operations of Charles Ayres and John A. Whiteside, co-partners operating vessels for the transportation of property between points on the inland waters of the State of California, under the fictitious name of Ayres-Whiteside Transportation Company, and directing said respondents to appear and show cause why any or all operative rights possessed by said respondents under the authority contained in this Commission's Decision No. 16537 in Application No. 12577, as decided March 30, 1926, or otherwise, should not be revoked and annulled by this Commission because of abandonment of service and/or illegal or unlawful operation.

Public hearing on the above entitled cases was conducted by Examiner Handford at San Francisco, at which time the matters were consolidated for the receipt of evidence and for decision, were duly submitted and are now ready for decision.

By its Decision No. 16537, on Application No. 12577, as decided March 30, 1926, the Commission granted a certificate of public convenience and necessity to Charles Ayres and John A. Whiteside, operating under the fictitious name of Ayres-Whiteside Transportation Company, for the operation of vessels for the transportation of property, for compensation, 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 of Rodeo and Port Costa, including Shipping Board vessels anchored in the bay near Benicia, on the other hand.

By its Decision No. 18551 on Application No. 13430, as decided June 27, 1927, the Commission denied the application of Ayres-Whiteside Transportation Company, a co-partnership, for authority "to operate vessels for the transportation of property from and to Pittsburg, Antioch and the intermediate points."

By its Decision No. 14824 on Application No. 10492, as decided April 20, 1925, the Commission denied the application of David L. Peters for a certificate of public convenience and necessity authorizing the operation of a vessel for the transportation of property, for compensation, between points on the inland waters of the State of California.

From the record in this proceeding it appears and we hereby find as a fact that defendant Peter Christenson has not operated a vessel since March, 1926; that he has not operated under the joint tariffs filed with this Commission by Ayres-Whiteside Transportation Company, the last tariff now of record being C.R.C. No. 9, Local and Joint Freight Tariff No. 3-D, issued January 14, 1928, effective February 16, 1928.

The record herein further shows and we hereby find as a fact that transportation to and from Pittsburg and Antioch was conducted by defendants Charles Ayres and John A. Whiteside, operating under the fictitious name of Ayres-Whiteside Transportation Company to and from Army Point and there connecting with the gasoline boat "Utility" operated by defendant David L. Peters, said Peters having no operative right permitting him to transport property, for compensation, on the inland waters of the State of California.

It further appears from the record herein and we hereby find as a fact that defendants Charles Ayres and John A. Whiteside, operating under the fictitious name of Ayres-Whiteside Transportation Company, have not operated any vessels over the routes covered by their certificated authorization since

April 26, 1926, such abandonment of service having been made without authorization by this Commission.

Although duly served with copies of the complaint and order to show cause and with notice of the public hearing, no answer was filed by any of the defendants herein, nor was there any appearance by or in behalf of said defendants or respondents at the hearing.

O R D E R

A public hearing having been held on the above entitled complaint and on the order to show cause in connection with the investigation instituted on the Commission's own motion, the matters having been duly consolidated for the receipt of evidence and having been regularly submitted, the Commission being now fully advised and basing its order on the findings of fact as appearing in the opinion which precedes this order,

IT IS HEREBY ORDERED that the certificate of public convenience and necessity as heretofore granted to Charles Ayres and John A. Whiteside, co-partners operating under the fictitious name of Ayres-Whiteside Transportation Company by this Commission's Decision No. 16337 on Application No. 12577, decided March 30, 1926, be and the same is hereby revoked, canceled and annulled,

IT IS HEREBY FURTHER ORDERED that David L. Peters be and he hereby is directed to immediately cease the operation of vessels in the transportation of property, for compensation, on the inland waters of the State of California, and not to resume such operation until he will have obtained from this Commission a certificate of public convenience and necessity therefor, after proper application and in accordance with the provisions of Section 50-D of the Public Utilities Act,

IT IS HEREBY FURTHER ORDERED that defendant Peter Christensen immediately cancel his concurrence in Local and Joint Freight Tariff No.3-D (C. R. C. No.9) as issued January 14, 1928, by Ayres-Whiteside Transportation Company and effective February 16, 1928.

IT IS HEREBY FURTHER ORDERED that the complaint in Case No.2551, insofar as it refers to defendants John Doe, Richard Roe and Frank Snow be and the same is hereby dismissed.

IT IS HEREBY FURTHER ORDERED that the Secretary of this Commission be and he is hereby directed to serve a certified copy of this order on the District Attorneys of the Counties of Alameda, Contra Costa, Marin, Solano, Yolo, San Joaquin, Sacramento and the City and County of San Francisco.

The effective date of this order is hereby fixed as twenty (20) days from the date hereof.

Dated at San Francisco, California, this 30th day of December, 1928.

Leon Whitehall  
C. Seamy  
Thos. D. Loid  
W. J. L.  
COMMISSIONERS.