LBM

Decision No. 23286.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation on the Commission's own motion into the failure of LOS ANGELES-SAN FRANCISCO NAVIGATION CO. to file reports in compliance with the Commission's General Order No. 65.

ORIGINAL

Case No. 2969

Sanborn, Roehl, Smith and Brookman,
By A. B. Roehl, for defendant.

SEAVEY, Commissioner:

O P I N I O N

The Commission by its order of December 10, 1930 instituted a proceeding on its own motion for the purpose of enabling Los Angeles-San Francisco Navigation Co. to show cause, if any it has, why the penalties provided by statute should not be invoked against said Los Angeles-San Francisco Navigation Co. because of its failure to comply with the Commission's General Order No. 65.

General Order No. 65 of the Commission reads as follows:-

> "IT IS HEREBY ORDERED, by the Railroad Commission of the State of California that every public utility whose operating revenues exceed $50,000. per annum shall file with the Railroad Commission a copy of each statement prepared in the ordinary course of business, either monthly or for other definite period, which show, among other things, the operating results for the period, and the financial condition at the close of such period. In addition, every corporation having operating revenues in excess of $50,000. per annum shall file with the Railroad Commission a copy of its annual report and other financial statements issued to its stockholders.

The statements and reports required to be filed by this order shall be filed as soon as they are prepared and made available for distribution.

This order shall become effective July 1, 1922, and does not supersede any former order of the Commission".

A. E. Gillespie, president of defendant, admitted at the hearing that financial statements were prepared monthly but was of the opinion that such statements did not come under the Commission's General Order No. 65 because they were not distributed to the public and did not necessarily reflect the financial condition of the company.

The Commission's order is general in its terms and contemplates that there be filed with the Commission a copy of any statement prepared in the ordinary course of business which reflects to the management the results of the operation for the period covered by the statement. The fact that the management may not accrue depreciation monthly or may omit some other item of expense or may not distribute the statement to the public does not excuse a utility from filing a copy of the statement which is actually prepared. In terms of the order, a statement is distributed when it is made available to the officers or to the management or board of directors of a corporation. The order says nothing about the distribution to the public.

A. E. Gillespie agreed to file with the Commission a copy of the company's balance sheet and a profit and loss statement for November, 1930, and stated that similar statements for subsequent months would be filed with the Commission. The November 1930 statements were received by the Commission on December 27th. Defendant requests that such statements be kept confidential. This request has been considered and in my opinion should be denied.

In view of the fact that defendant has filed and has agreed to file hereafter monthly reports in response to the Commission's General Order No. 65, I believe that this proceeding should be dismissed.

I herewith submit the following form of order:

## O R D E R

A hearing having been held in the above entitled matter, defendant having appeared at such hearing, and having agreed to file with the Commission the reports required by the aforesaid General Order No. 65, and the Commission being of the opinion that this proceeding should be dismissed, and that defendant's request that its General Order No. 65 reports should be kept confidential, should be denied.

IT IS HEREBY ORDERED that this proceeding be, and the same is hereby dismissed.

IT IS HEREBY FURTHER ORDERED that defendant's request that its General Order No. 65 reports be kept confidential, be, and the same is hereby denied.

The foregoing Opinion and Order are hereby approved and ordered filed as the Opinion and Order of the Railroad Commission of the State of California.

DATED at San Francisco, California, this 13th day of January, 1931.

C. L. Seavey

M. J. Carr

M. B. Harris

Fred E. Stevenson

Commissioners.