

Decision No. 23832.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

SANTA BARBARA LUMBER AND MILL COMPANY,
a corporation, UNION MILL AND LUMBER
COMPANY, a corporation, BOYD LUMBER AND
MILL COMPANY, a corporation, AMBROSE
LUMBER COMPANY, a corporation, and DAN-
IEL R. WAGNER doing business as WAGNER
LUMBER AND MILL COMPANY,

Complainants,

vs.

STEARNS WHARF COMPANY, a corporation,

Defendant.

ORIGINAL

Case No. 2842.

In the Matter of the Application of
STEARNS WHARF COMPANY, a corporation
for an order authorizing an increase
in rates.

Application No. 16925.

G. C. De Garmo, for complainants in Case 2842,
protestants in Application 16925.

W. F. Williamson, Wallace & Vaughan, by Reginald
L. Vaughan, for Stearns Wharf Company, defend-
ant in Case 2842 and applicant in Application
16925.

BY THE COMMISSION:

O P I N I O N

By Case No. 2842, filed March 20, 1930, and as amended,
the complainants, Santa Barbara Lumber and Mill Company, Union Mill
and Lumber Company, Boyd Lumber and Mill Company, Ambrose Lumber
Company and Wagner Lumber and Mill Company allege that the defend-

ant, Stearns Wharf Company, assesses and collects a rate of \$1.40 per 1000 feet for the wharfage of lumber at Santa Barbara, which rate is unfair, unreasonable and discriminatory. The prayer is for a storage rate of 75 cents per 1000 feet.

By Application No. 16925 filed October 1, 1930, the Stearns Wharf Company alleges that its present wharfage rates effective July 30, 1923 (Wharf Schedule No. 2, C.R.C. No. 2) do not yield a fair return for the use of the properties devoted to the public service. The prayer is for an order authorizing the increasing of practically all wharfage rates and charges and particularly the rate on lumber from \$1.40 to \$1.70 per 1000 feet.

These proceedings although heard separately, were by a stipulation made at the close of the final hearing in Application No. 16925, consolidated as to the entire record. The proceedings will therefore be disposed of in one decision.

Public hearings were held before Examiner Geary at Santa Barbara October 16 and 17 and November 24 and 25, 1930, and the proceedings having been submitted and briefs filed, the last one June 19, 1931, are now ready for our opinion and order.

For the purpose of this decision complainants in Case 2842, who are also the protestants in Application 16925, will be referred to as the complainants, and the applicant in Application 16925, who is the defendant in Case 2842, as the defendant.

Both by formal answer and by motion made at the hearing defendant moved the dismissal of certain portions of Case 2842, together with several exhibits, upon the grounds that they stated evidentiary matter, had no proper place in a pleading, and were conclusions of law. The matters sought to be eliminated relate to the value, use, depreciation revenues, earnings, etc., of defendant's property. The material is evidentiary in nature but

this Commission does not adhere to technical procedure and since our rules require that formal complaints state fully and clearly the specific acts complained of, together with such other facts as will give a full understanding of the situation, we are of the opinion that the motion should be denied, and it is so ordered.

The record shows that in 1927 properties of the Stearns Wharf Company, hereinafter referred to as the Wharf Company, were in a run-down condition, as a result of which there was much agitation in the City of Santa Barbara against a renewal of the wharf franchise. The owners not being financially capable of restoring the wharf to a desired standard, a group of Santa Barbara people in 1927 purchased the capital stock of the Wharf Company for \$75,000. These new owners finally determined to rehabilitate the structures and a contract totalling \$112,353.39 was entered into for certain reconstruction work. At the same time a 20-year renewal of the wharf franchise was obtained from the City of Santa Barbara.

During 1928 because of the reconstruction work operations were practically at a loss and in the first half of 1929 it appeared as though an assessment against the stockholders would be necessary. An application (No. 15964) was filed September 19, 1929, whereby as in the instant application an advance in rates was sought, but shortly after the filing there was a comprehensive increase in revenue due to a temporary boom in the oil industry, whereupon the application was dismissed.

The questions to be determined in these proceedings are, the value of the wharf properties, the segregation of the public utility from the non-utility properties, the segregation of the revenues and expenses and the establishment of reasonable rates.

Engineers for complainants examined the properties in

November 1929 for the purpose of determining their approximate cost, and in this study used the plans, contracts and specifications followed by the construction company and the blue prints prepared by the engineers for defendant. It was explained that this study gave consideration to the cost or value of the properties including items not embraced in the reconstruction contract (a) at the contract prices, (b) at the second-hand material prices used by defendant, and (c) on basis of 50% of the value of the new materials. The result of this cost analysis (Exhibit No. 3) was as follows:

<u>Items</u>	(a)	(b)	(c)
Causeway	\$35,244.67	\$31,436.62	\$30,478.91
Approach	12,167.20	11,509.90	11,236.23
Commercial Wharf	100,325.08	86,814.00	83,210.57
Public Utility Property) alone	<u>\$147,736.95</u>	<u>\$129,760.52</u>	<u>\$124,925.71</u>
Recreation Wharf	11,689.71	11,689.71	11,689.71
Boat Repair "	9,424.33	9,125.43	9,053.03
Fish "	11,916.34	10,803.19	10,531.69
Boat Anchorage	1,310.35	1,310.35	1,310.35
Total Non-Public Utility) Property	<u>\$34,340.73</u>	<u>\$32,928.68</u>	<u>\$32,584.78</u>
Grand Total, all Property	\$182,077.68	\$162,689.20	\$157,510.49

An average of the three valuations for the public utility property is \$134,141.06, and for the entire property \$167,425.79.

Engineers in the employ of the Wharf Company also prepared a valuation by using the same plans and specifications employed in the reconstruction of the old wharf, and in addition made a survey and inventory of the entire rebuilt structure. From this physical inventory the unit values of the property as of January 1, 1929, were determined. The results obtained are as shown by Exhibit No. 1 in Application No. 16925, and this valuation is brought up to August 31, 1930, by certain readjustments in the

accounts and by the cost of certain additions and betterments made since January 1, 1929 (Exhibit No. 11).

The following statement gives the two valuations:

<u>Items</u>	<u>Jan. 1, 1929</u> (Ex. No. 1)	<u>Aug. 31, 1930</u> (Ex. No. 11)
Causeway and Approach	\$46,812.07	\$49,291.82
Commercial Wharf	97,497.28	97,110.13
Total Public Utility Property	<u>\$144,309.35</u>	<u>\$146,401.95</u>
Recreation Wharf	13,690.18	30,665.88
Boat Repair "	11,353.75	13,995.14
Fish "	13,348.16	23,616.60
Row Boat Anchorage	1,303.24	1,348.98
Total Non-Public Utility Property	<u>\$39,695.33</u>	<u>\$69,626.60</u>
Grand Total, all Property	<u>\$184,004.68</u>	<u>\$216,028.55</u>

The total thus obtained, \$216,028.55, is represented to be the value of all structures as of August 31, 1930, before depreciation. Deducting from this total the sum of \$69,626.60, the claimed value of the non-utility properties, boat, fish and recreation wharves and row-boat anchorage, there remains \$146,401.95, defendant's claimed value of the causeway, approach and commercial wharf. These three facilities are used to a greater or less extent in the handling of commercial freight and particularly by the lumber companies. The values arrived at by the two engineering organizations do not materially differ.

The parties are agreed that the boat repair, fish and recreation wharves and the row-boat anchorage are not used in the public utility service, and therefore should be deducted from the total property value. There is a difference of opinion as to the use made of the causeway, approach and commercial wharf, particularly of these properties by the lumber traffic.

To the sum of \$146,401.95 (value of causeway and approach and commercial wharf, August 31, 1930) defendant's accountant has added \$2,149.40 as working capital, \$1,000.00

organization expense and \$20,000.00 going concern value, making a total of \$169,551.35, and from this amount has deducted the sustained depreciation of \$18,527.96 accrued at 7.67%, producing a rate base of \$151,023.39 for the utility portion of the property.

Going concern or good-will values are elements of doubt in connection with public utilities, and their ascertainable costs, if any, are usually included in the current operating expenses. In the instant situation no wharf competition is met, and giving thought to the short existence of operations by this defendant and the history of the predecessor company, there appears no justification for including a going concern value in the rate base. (5 C.R.C. 19-38, 28 C.R.C. 733-736, 35 C.R.C. 459-478.) With the elimination of this item of \$20,000.00 and a careful study of all engineering figures compiled by complainants and defendant, the value of the causeway, approach and commercial wharf after depreciation may fairly be assumed to be \$130,000.00.

There was much discussion as to the segregation of the claimed use value of the causeway, approaches and commercial wharf facilities jointly occupied to a greater or less extent by all of defendant's patrons. Complainants urged that all of the causeway used by pedestrians should be charged to the non-utility activities, and that only 55½ per cent. of the value of the balance of the causeway and approach should be charged to the public utility division. Defendant maintains that approximately the entire value of the causeway and approach and the entire value of the commercial wharf should be assessed against the utility property. With these latter contentions we do not agree, for the activities on the recreation, boat repair, fish wharves and the boat anchorage require much use of these facilities. We must conclude from a study of the record that for rate-making purposes a fair value of the property devoted to the public utility service is not in

excess of \$125,000.00.

Complainants submitted Exhibit No. 5 giving an estimated total income of the Wharf Company for the year 1929 of \$49,809.90. Defendant's Exhibit No. 11 shows the actual 1929 income as \$57,479.50. Defendant's 1930 figure of \$57,861.39 was obtained by use of the actual receipts for the first eight months and an estimate for the balance of the year (Exhibit No. 11). The complete results for the years 1929 and 1930 (defendant's Exhibit No. 11) are set forth in the following tabulation:

Estimated 1930 Income and Expense and Comparison
with Income and Expense for the year 1929 (Calendar Years)

	Estimated 1930		1929	
	Utility Operations	Non-utility Operations	Utility Operations	Non-Utility Operations
<u>INCOME:</u>				
Wharfage, lumber	\$32,575.98	\$ - - - -	\$30,863.77	\$ - - - -
Wharfage, merchandise	7,425.50	- - - -	8,690.72	215.49
Dockage	2,257.50	- - - -	2,429.45	- - - -
Commissions	455.79	- - - -	584.92	- - - -
	<u>\$42,715.77</u>	- - - -	<u>\$42,568.86</u>	\$ 215.49
Rent	- - - -	\$ 6,231.96	- - - -	4,659.75
Water	- - - -	590.34	- - - -	4,500.60
Parking	- - - -	3,934.86	- - - -	2,829.70
Hoist	- - - -	2,638.26	- - - -	1,610.50
Small boat dockage, misc.)	- - - -	1,750.20	- - - -	1,094.60
Total income from opns.	<u>\$42,715.77</u>	<u>\$15,145.62</u>	<u>\$42,568.86</u>	<u>\$14,910.64</u>
<u>EXPENSE:</u>				
Officers' salaries	\$4,500.00	\$1,500.00	- - - -	- - - -
Salaries and wages	8,524.25	2,250.00	\$9,818.50	\$1,342.50
Electricity	203.13	270.57	246.98	101.67
Repairs	998.04	108.96	80.64	- - - -
Telephone	71.28	- - - -	128.90	- - - -
Water	- - - -	217.65	- - - -	582.50
Printing and Stationery	57.75	14.25	184.30	- - - -
Legal Expense	1,633.35	- - - -	933.51	- - - -
Other fees, etc.	1,848.33	- - - -	2,523.30	- - - -
Supplies and misc.	201.63	- - - -	660.07	- - - -
Insurance	2,983.27	1,371.24	3,317.15	1,365.52
Taxes	1,721.63	818.77	1,551.83	638.84
	<u>\$22,642.66</u>	<u>\$6,551.44</u>	<u>\$19,445.18</u>	<u>\$4,031.09</u>
Net operating profit before depreciation & federal income tax	<u>\$20,073.11</u>	<u>\$8,594.18</u>	<u>\$23,123.68</u>	<u>\$10,879.55</u>
<u>OTHER CHARGES:</u>				
Depreciation, 7.67%	\$11,229.04	\$4,981.52	\$11,041.95	\$4,261.99
Estimated 1930 fed- eral income tax	791.21	323.19	- - - -	- - - -
	<u>\$12,020.25</u>	<u>\$5,304.71</u>	<u>\$11,041.95</u>	<u>\$4,261.99</u>
Net operating profit	<u>\$8,052.86</u>	<u>\$3,289.47</u>	<u>\$12,081.73</u>	<u>\$6,617.56</u>

The total net operating profit for the year 1930 was, utility \$8,052.86, non-utility \$3,289.47, and for the entire property \$11,342.33. There is included in operating expenses, year 1930, under Officers' Salaries \$6,000.00, divided public utility \$4,500.00, non-public utility \$1,500.00, an item not incurred in the previous years. This amount represents a president's salary authorized by the Board of Directors November 15, 1930, retroactive to January 1, 1930. The testimony indicates that the directors had previously discussed the compensation of a president and general manager but refrained from fixing the exact amount because the Wharf Company was not then in a position to justify the expenditure. The complainants in this proceeding protested vigorously against any part of the \$6,000.00 being included in the utility operating expenses, claiming the necessary work could properly be handled by the active employees of the Wharf Company. Items amounting to \$3,481.68, Legal Expenses of \$1,633.35, and Other Fees of \$1,848.33, the latter being principally the expenses incurred by engineers in arriving at a valuation for the wharf properties, were also objected to by complainant on the grounds that they are unusual, incurred to meet a special situation, and therefore should be distributed over a period of years.

The record clearly indicates that the combined management compensation paid by the Wharf Company of \$6,000.00 to its president and \$3,000.00 to its superintendent, totalling \$9,000.00 per annum, is excessive in connection with a property having a gross income of but \$57,861.39. The legal and engineering expenses being of a special and unusual nature, should not all be charged in the year 1930, but may properly be spread over a period of years.

Items of \$10,774.25, salaries and wages, utility and

non-utility, were also attacked, but an analysis of the individual salaries of each employee including the compensation of the superintendent and the allocation of the same, does not convince us that they are excessive or that a smaller force of employees could handle the work.

We are of the opinion that a management allowance of \$7,500.00 included in the utility operating expenses for a president and a superintendent is excessive for the public utility part of this property and that it should not exceed \$6,000.00 per annum, a reduction of \$1,500.00; that the legal and engineering expenses should be amortized over a period of three years, changing this charge for 1930 from \$3,481.68 to \$1,160.56, a reduction of \$2,321.12; and eliminating entirely the federal income tax of \$791.21, an item deductible from net income and having no place in the operating expenses. These adjustments decrease the utility operating expenses by \$4,612.33 and increase the net from \$8,052.86 to \$12,665.19.

Based on a valuation of \$125,000.00, a figure apparently somewhat higher than actual for the properties used in the public utility services, and on the readjustment of the operating expenses, the net operating profit of \$12,665.19 thus obtained produces a return in excess of 10%. The adjustment sought by complainants, reducing the lumber rate from \$1.40 per M feet to \$.75 per M feet, would lower the revenues by \$13,508.13, computed on the quantity of lumber handled in 1930, and would result in an operating loss of \$842.94. On the other hand the Wharf Company by its proposed changes in rates as per Exhibit No. 12 would increase the rate on lumber from \$1.40 to \$1.70 per M, the revenue by \$6,670.08, and on other commodities by \$2,132.78, a total of \$8,802.86, thus creating a net operating revenue of \$21,468.05, equal to a return of 17.2% on a valuation of \$125,000.00.

The Wharf Company (Application 16925) presented Exhibits Nos. 6, 7 and 12 showing the proposed rates and the new revenue expected therefrom. The net result for one year based on the tonnage handled over the wharf from September 1, 1929, to August 31, 1930, as shown by applicant's Exhibit No. 12 is as follows:

<u>On</u>	<u>Revenue Recd. in 1930</u>	<u>Revenue Expected under proposed rates</u>	<u>Increase</u>
Carloads	\$2,901.09	\$2,925.56	\$24.47
Less carloads	4,997.16	6,600.27	1,603.11
Sheep	252.60	757.80	505.20
Lumber	30,682.96	37,353.04	6,670.08
	<u>\$38,833.81</u>	<u>\$47,636.67</u>	<u>\$8,802.85</u>

The present freight tariff provides specific rates for a limited number of named commodities, of 50 cents per ton for carload quantities and 75 cents per ton for less than carload quantities. Other freight, with a few exceptions, has a rate of \$1.00 per ton. Under the proposed adjustment the carload and less than carload commodity rates will be 80 cents and \$1.10 per ton and the general freight rate \$1.35 per ton, increases of 60%, 49% and 35% respectively. Lumber rates would be increased from \$1.40 to \$1.70 per M feet, or 21%. The present tariff names rates for cattle, horses, mules, jacks, hogs and sheep, but only sheep have passed over the wharf and it is proposed to raise this rate from 5 cents to 15 cents per head, or by 200%.

The increase in revenue from \$38,833.81 to \$47,636.67 represents 23%. As heretofore stated, this additional revenue will, after the adjustment of the operating expenses, produce a net revenue, based on a value of \$125,000.00, of \$21,468.05, or 17.2%.

Applicant presented no convincing proof for the proposed changes, and apparently the rates are offered without consideration being given to the rail, truck and water competition. No attempt was made to demonstrate that the rates would result in a fair and equitable apportionment of the burden which the various commodities should bear.

Neither the complainants (Case No. 2842) who pray for a reduction in the lumber rate from \$1.40 to \$.75 per M feet, nor the applicant (Application No. 16925) who prays for an increase in the lumber rate from \$1.40 to \$1.75 per M feet and for various increases in other commodity rates, have justified the proposed changes.

Certain rules and regulations set forth in applicant's Exhibit No. 7 appear proper and may be put into effect by supplements to the tariff.

Upon the whole record we conclude and find that the two proceedings should be dismissed.

O R D E R

These proceedings having been duly heard and submitted, full investigation of the matters and things involved having been had, and basing the order on the findings of fact and the conclusions contained in the preceding opinion,

IT IS HEREBY ORDERED that Case 2842 and Application 16925 be and they are hereby dismissed.

Dated at San Francisco, California, this 29th day of June, 1931.

C. L. Scamell
M. J. ...
Leon ...
M. B. Harris
11. Fred G. Stewart
Commissioners.