

Decision No. 26543

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Order to)
Show Cause why the tariffs of the)
STOCKTON-LONG BEACH STEAMSHIP)
COMPANY should not be cancelled.)

Case No. 3692.

ORIGINAL

D. A. Linthicum for Respondent Stockton-Long Beach
Steamship Company.
William Gissler, Jr., for Los Angeles-Long Beach
Despatch Line.
Russell M. Grose for Los Angeles Steamship Co., and
California Steamship Company.
Fred Adams for Pacific Steamship Lines.
Mr. Linden for the Sudden Steamship Company.
Ear Remington for the San Francisco Chamber of
Commerce.
Edwin G. Wilcox for Oakland Chamber of Commerce.
F. Merkelbach for Albers Bros. Milling Company.

BY THE COMMISSION:

O P I N I O N

This proceeding was instituted September 18, 1933,
by the Commission on its own motion for the purpose of determining
if certain tariffs of the Stockton-Long Beach Steamship Company
are lawfully filed in compliance with Section 50-D of the Public
Utilities Act, effective August 21, 1933.

A public hearing was held before Examiner Geary at San
Francisco October 11, 1933, and the proceeding having been sub-
mitted it is now ready for our Opinion and Order.

Section 50 (d) reads in part as follows:

"No corporation or person, their lessees, trustees,
receivers or trustees appointed by any court whatsoever,
shall hereafter begin to operate or cause to be operated
any vessel for the transportation of persons or property,
for compensation, between points in this State, without
first having obtained from the Railroad Commission a
certificate declaring that public convenience and necessity
require such operation, but no such certificate shall be
required as to termini between which any such corporation
or person is lawfully operating vessels in good faith under
this act as it existed prior to this amendment, under

tariffs and schedules of such corporations or persons, lawfully on file with the Railroad Commission."

The Stockton-Long Beach Steamship Company is a fictitious name for a service offered to the public by D. A. Linthicum of Long Beach. Mr. Linthicum filed tariffs in the latter part of the year 1932, and they were rejected because they failed to comply with the rules of tariff construction. The tariff now being employed by this respondent was originally published under the caption of the Stockton-Long Beach Steamship Company January 3, 1933 and was cancelled by C.R.C. No. 3 issued February 23, 1933, effective March 25, 1933, which latter tariff is now under consideration in this proceeding. Mr. Linthicum, a witness for respondent Stockton-Long Beach Steamship Company, testified that he as an individual is endeavoring under the fictitious name to transport property by vessel between Long Beach and Stockton, serving also river landings adjacent to Stockton on the San Joaquin, Mokelumne, Middle and Old Rivers. There was read into the record by this witness a statement outlining the efforts made to establish a steamer service. The testimony, however, beyond being a historical review of past performances and efforts to establish a service, actually showed that the respondent while soliciting tonnage at the rates published in the tariffs was not operating any vessels at this time between Long Beach and Stockton, nor had he done so in the past, also that he was without a dock assignment at Long Beach and maintained no independent operating forces either at Long Beach or Stockton. Cross Examination revealed that whatever tonnage solicited and secured under the name of the Stockton-Long Beach Steamship Company was turned over to and was actually transported in the steamers of the Sudden Steamship Company, which company is a lawful common carrier, has tariffs on file and operates a

service between Long Beach and Stockton.

At the close of the hearing respondent was allowed fifteen days in which to compile and file exhibits establishing proof of the actual operations of any vessel or vessels engaged in the transportation of persons or property for compensation between Long Beach and Stockton. No such exhibit was filed.

The record is altogether free from any proof either in the oral testimony or by written documents that this respondent at any time operated vessels between Long Beach and Stockton in harmony with the requirements of Section 50(d) of the Public Utilities Act.

If respondent has any standing before this Commission by virtue of his present transportation activities it is that of an "express corporation" under Sec. 2(k) or a "freight forwarder" under Sec. 2(ka) of the Public Utilities Act.

We are of the opinion and find that D. A. Linthicum, operating under the name and title of the Stockton-Long Beach Steamship Company, performs no services by vessel between Stockton and Long Beach and therefore is not now a common carrier under the provisions of Sec. 50(d) of the Public Utilities Act, and also that he was not a common carrier lawfully operating prior to August 21, 1933, the effective date of the said Sec. 50(d).

We further find that Local Freight Tariff No. 3 C.R.C. No. 3 published in the name of the Stockton-Long Beach Steamship Company and by its terms effective March 25, 1933, is unlawful and the same is hereby cancelled and stricken from the files of the Commission.

O R D E R

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted and the Commission

being now fully advised and basing its order on the conclusion as contained in the opinion which precedes this order,

IT IS HEREBY ORDERED that the respondent Stockton-Long Beach Steamship Company (D. A. Linthicum owner) immediately cease and desist from the practices of offering a transportation service by vessel as a common carrier of property between Stockton and Long Beach, or any of the intermediate points on the route, and shall not undertake such unlawful practices nor establish the operations of vessels between the points until a certificate of public convenience and necessity has been issued by the Railroad Commission after proper application therefor and in accordance with the requirements of Sec. 50(d) of the Public Utilities Act.

IT IS HEREBY FURTHER ORDERED that the Stockton-Long Beach Local Freight Tariff No. 3, C.R.C. No. 3, be cancelled and removed from the active tariff files of this Commission.

Dated at San Francisco, California, this 20th day of November, 1933.

C. L. Jensen

Leon W. Brown

M. A. Lee

M. B. Harris

Arthur J. Brown

Commissioners.