

Decision No. 26824

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of
NELSON STEAMSHIP COMPANY for a Certificate of Public Convenience and Necessity to operate vessels for the transportation of passengers for compensation upon the high seas between points within the State of California.

ORIGINAL

Application No. 19268.

Thelen & Marrin, for applicant.
R. G. Hillebrand, for Southern Pacific Company,
protestant.
L. G. Markel, for Pacific Greyhound Lines, Inc.,
protestant.
T. M. Cole, for Los Angeles Steamship Co.,
protestant.
H. B. Brittan, for Pacific Steamship Lines, Ltd.,
protestant.

SEAVEY, Commissioner:

O P I N I O N

This is an application by the Nelson Steamship Company for a certificate to operate vessels for the transportation of passengers for compensation upon the high seas between the following points, namely, San Francisco and Los Angeles Harbor, and between San Francisco and/or Los Angeles Harbor and San Diego, California.

The applicant showed by testimony that it had been operating for a great many years in the carriage of freight between the points covered in its application, as well as other points on the coast and in intercoastal trade, carrying passengers as incidental to its freight business, which service was for many years irregular but for a number of years prior to August 21, 1933 was on regular sailing schedules. The record also shows that the applicant, by inadvertence, overlooked the filing of tariffs for

passenger service in accordance with the amendment to Section 50(d) of the Public Utilities Act, effective August 21, 1933. The record also shows that when applicant's failure to conform to the statute was drawn to its attention by the Railroad Commission it immediately ceased the selling of tickets and filed the present application and that it has not sold tickets nor carried passengers and does not propose to do so until a certificate may have been issued to it under this application.

Under questioning by protestant lines applicant stipulated that the rights it seeks are confined wholly to the carrying of passengers on so-called "freighters" as a matter incidental to the carrying of freight, and that the vessels upon which it would conduct its business are of the character authorized under federal permit to operate a freight business with a passenger capacity in excess of officers and crew of not to exceed sixteen. Applicant also put in testimony showing that there was demand for the service and that there had been in the past sales of transportation of this nature over the applicant's lines and that since the cessation of sales of tickets there had been requests on the part of the public for accommodations on the applicant's ships.

Protestants appearing presented testimony generally along the line of showing their schedules and operations and presenting proof that they are running at much less than their passenger capacity. The record shows, however, that so far as those protesting are concerned applicant was not in direct competition. The two lines which are in competition with applicant did not appear as protestants but did indicate through correspondence referred to in the record that they had no objection to the issuance of the certificate asked for.

Under the record it is recommended that a certificate be granted.

O R D E R

The above matter having been heard on February 16, 1934 and having been submitted on that date, and the Commission being fully informed regarding all matters pertinent thereto,

IT IS HEREBY ORDERED that a certificate be and it is hereby granted to Nelson Steamship Company to operate vessels of the so-called "freighter" type carrying passengers not in excess of 16 per vessel, as per permits issued therefor under federal authority, for compensation upon the high seas between San Francisco and Los Angeles Harbor and between San Francisco and/or Los Angeles Harbor and San Diego, California, subject to the following conditions:

1. Applicant shall file its written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from the date hereof.
2. Applicant shall file in duplicate and make effective within a period of not to exceed thirty (30) days from the effective date of this order, on not less than ten (10) days' notice to the Commission and the public, a tariff constructed in accordance with the Commission's rules and containing rates and rules which in volume and effect shall be identical with the rates and rules shown in Exhibit "B" attached to the application.
3. The Nelson Steamship Company is hereby placed on notice that operating rights do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. Aside from their purely permissive aspect they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the state which is not in any respect limited to the number of rights which may be given.

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 26th day
of February, 1934.

C. S. Leary
Leon Sweeney
W. A. Lee
W. K. Davis
Matthew H. Hays
Commissioners.