

During the time the petition for rehearing was pending, applicant acquired by purchase the operating rights of Davies Warehouse Company between Los Angeles and Los Angeles harbor (Decision No. 24416, dated January 25, 1932, on Application No. 17901). On November 17, 1933, applicant filed his supplementary application requesting extension of his acquired right from Los Angeles harbor to Long Beach harbor and enlarging the scope of service to include all freight traffic in addition to water borne traffic at docks and harbor warehouses. This supplementary application was heard together with the rehearing on the original application and both matters are now ready for decision.

The denial of applicant's request as originally made, by Decision No. 25567, was, in my opinion, erroneous. Applicant at the time of hearing was actually transporting large tonnage under proper contracts with three large shippers; he had induced the diversion of this and other tonnage to Long Beach harbor and applied for a certificate to place his operations under regulation and for all the public. The rates he adopted were those being charged for similar carriage between Los Angeles harbor and Los Angeles and were less than those established for service between Long Beach harbor and Los Angeles by existing carriers operating under this Commission.

That the diversion of traffic induced by applicant was in cooperation with the Long Beach Harbor Commission and at the urging of that body, cannot be disputed. It appears, also, that the existing carriers did not offer the cooperation nor the rates that Long Beach Harbor Commission was seeking to place its facilities on the same basis as the contiguous harbor of Los Angeles. It is urged by protestants that Los Angeles harbor rates were depressed to an unprofitable basis by contract and illicit operations and that the purpose of carriers was to bring such rates up to compensatory basis, rather than reduce Long Beach rates to competitive standards. While I am not unmindful of the deplorable condition

of traffic affecting harbors, due to rate cutting to meet contract or "wildcat" operations, the fact remains that parity of rates would have benefited both harbors and all carriers while disparity naturally kept water traffic where the rate was lowest. The accomplishment of such parity has resulted from the activity of applicant. He deserves recognition and reward.

Long Beach has invested \$16,000,000. in its harbor facilities. With land transportation rates lower at the contiguous water of Los Angeles harbor, it could not hope to attract seaboard traffic. The testimony of Capt. Barry, Mr. Collins and Mr. Bland discloses that efforts to gain reduced rates met no success until applicant began service to Long Beach docks in March, 1931. At that time applicant filed his original application fixing rates on the Los Angeles harbor basis. He began contract service with the formal opening of the Long Beach docks and wharves. It was not until nine (9) days after the first hearing of the instant application (May 20, 1931) that the certificated carriers serving Long Beach tendered rates substantially meeting those proposed by applicant.

It appears, therefore, that applicant was meeting the need of the Long Beach harbor authorities when he filed his first application and that his offer should be considered as of the date of filing (March 30, 1931), rather than subject it to the acts of protestants two months later. In my opinion, after thorough study of the record, the original application should have been granted. By his supplementary application applicant has made it easy to accomplish this now by extension of the right he has acquired to Los Angeles harbor to Long Beach harbor for water borne traffic only. Applicant has asked for unlimited service to Long Beach city, as well as the docks and wharves. Such an enlargement of the original request is not supported by the record.

The following form of order will, I believe, do justice to all interested:

ORDER

R. G. Knoll having made application to the Railroad Commission for a certificate of public convenience and necessity, as above entitled, and the matter now being ready for decision,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA
HEREBY DECLARES that public necessity and convenience require the extension of applicant's service for the transportation of freight between Los Angeles and Los Angeles harbor, as authorized by Decision No. 24416, dated January 25, 1932, on Application No. 17901, between Los Angeles harbor (Wilmington only) and Long Beach harbor, over and along the following route:

From the junction of Anaheim Street and Harbor Truck Boulevard, thence easterly via Anaheim Street to Wilmington Boulevard, thence via Wilmington Boulevard to Pico Avenue, thence via Pico Avenue to all the docks, wharves and warehouses of the Long Beach harbor area, west of said Pico Avenue; and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be and the same hereby is granted R. G. Knoll provided, however, that applicant shall restrict his transportation business between Los Angeles and Long Beach to commodities received and/or discharged at said docks, wharves and warehouses east of Pico Avenue and/or which have been transported by water or are to be transported by water, and no other service, and subject to the following conditions:

1. Applicant shall file his written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from date hereof, stipulating therein that such certificate is accepted as an extension and enlargement of the rights granted applicant by Decision No. 24416 on Application No. 17901, and consolidated therewith, and not as a new or separate right.
2. Applicant shall file, in triplicate, and make effective within a period of not to exceed thirty (30) days after the effective date of this order, on not

less than ten days' notice to the Commission and the public a tariff or tariffs constructed in accordance with the requirements of the Commission's General Orders and containing rates and rules which, in volume and effect, shall be identical with the rates and rules shown in the exhibit attached to the application in so far as they conform to the certificate herein granted.

3. Applicant shall file, in duplicate, and make effective within a period of not to exceed thirty (30) days after the effective date of this order, on not less than five (5) days' notice to the Commission and the public, time schedules covering the service herein authorized in a form satisfactory to the Railroad Commission.

4. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

5. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by him under a contract or agreement on a basis satisfactory to the Railroad Commission.

IT IS HEREBY FURTHER ORDERED that in all other respects the application be and the same hereby is denied.

For all other purposes the effective date of this order shall be twenty (20) days from the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission.

Dated at San Francisco, California, this 27th day of May, 1934.

O. C. Leary
Leon A. Wilson
M. A. ...
M. B. ...
W. ...
Commissioners.