

Decision No. 28243.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Joint Application
of LOS ANGELES-LONG BEACH DESPATCH LINE,
a corporation, to sell, assign and trans-
fer, and P. L. TRANSPORTATION COMPANY, a
corporation, to purchase and exercise
that certain right and privilege to op-
erate a vessel for the transportation of
property for compensation between points
in this State.)

Application No. 20102.

In the Matter of the Application of LOS
ANGELES-LONG BEACH DESPATCH LINE for
leave to temporarily discontinue regu-
lar service.)

Application No. 20112.

William Gissler, Jr., for Los Angeles-Long Beach
Despatch Line.

Pillsbury, Madison & Sutro, by Hugh T. Fullerton,
for P. L. Transportation Company.

J. J. Geary, for Pacific Coastwise Conference,
protestant.

DEVLIN, Commissioner:

O P I N I O N

These proceedings were heard at San Francisco on September 11, 1935, on a consolidated record. They will be disposed of in one decision.

By Application 20102, filed August 10, 1935, applicant Los Angeles-Long Beach Despatch Line, a corporation, seeks authority to transfer its right to operate vessels as a common carrier between the port of Eureka on the one hand and the ports of San Francisco, Oakland, Alameda and Long Beach on the other hand, to the other applicant, P. L.

Transportation Company, a California corporation.

Los Angeles-Long Beach Despatch Line does not hold a certificate of public convenience and necessity. It claims a prescriptive right by virtue of operations conducted in good faith under tariffs on file with this Commission prior to August 21, 1923.¹

The records show that on July 24, 1933, Los Angeles-Long Beach Despatch Line filed its Local Freight Tariff No. 11, C.R.C. No. 11, effective July 27, 1933, naming class and commodity rates between San Francisco and Oakland on the one hand and Eureka on the other. It had previously filed its Local Freight Tariff No. 1, C.R.C. No. 1, effective March 7, 1931, in which were contained class and commodity rates between Long Beach and San Francisco, Oakland, Alameda and Berkeley.

Applicant P. L. Transportation Company proposes to adopt the rates, rules and regulations set forth in the tariffs of Los Angeles-Long Beach Despatch Line. Both applicants allege that P. L. Transportation Company can serve the public more economically than the Los Angeles-Long Beach Despatch Line.

There is no protest to the granting of this application. Our order herein should authorize the transfer of the operative right with the specific understanding that we are not here passing upon or determining the character or extent of such right.

¹ Section 50(d) of the Public Utilities Act provides in part: "No corporation * * * 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 * * * is lawfully operating vessels in good faith under this act as it existed prior to this amendment, under tariffs and schedules of such corporation* * * lawfully on file with the Railroad Commission". (Amended Statutes 1933, Chapter 784)

By Application 20112, filed August 17, 1935, applicant Los Angeles-Long Beach Despatch Line seeks authority to suspend all scheduled service between San Francisco, Oakland, Alameda and certain other ports located on San Francisco Bay on the one hand and Long Beach and certain other ports in Southern California on the other hand. Applicant desires authority however to render an "on call" service between the ports involved during the period of suspension of scheduled sailings.

In support of this application applicant alleges that the amount of traffic available for transportation by its line has not produced sufficient revenue to justify the continuance of a scheduled service. It is argued that due to labor conditions, increased costs have been experienced, the wages paid to crews operating a vessel in March 1933 being \$1,400.00, while those for the operation of a similar vessel in July 1935 were \$2,858.00. Similar increases have been experienced in connection with the wages of stevedores for the necessary loading and discharge of cargo.

The records show that applicant has had effective tariffs on file with this Commission between the points involved herein since July 27, 1933. In addition to the ports involved in this application, rates are provided in its tariffs for transportation of property between San Francisco Bay ports and San Simeon and Santa Barbara. An officer of applicant corporation testified that no service of any character had ever been rendered to or from San Simeon or Santa Barbara. Obviously therefore applicant does not possess a prescriptive right to serve these ports. Its tariffs should be amended forthwith by eliminating therefrom all reference to these points.

This application was protested by Pacific Coastwise Conference.

Protestant contends that applicant abandoned all transportation service between the ports involved upon the loss of the last vessel operated in its service, the "F. S. Loop", which was damaged by fire on July 30, 1935, and which cannot again be placed in service until approximately \$32,000 has been expended for repairs. The record shows that applicant chartered space upon the steamer "Scotia", a vessel operated by Pacific Lumber Company in private service. No definite amount of space was contracted for, applicant being confined to the amount of space that might be available after Pacific Lumber Company had accommodated its own cargo. The record also shows that Pacific Lumber Company was compensated by applicant out of its freight revenue.

Applicant relies largely upon the authority granted California Steamship Company and Nelson Steamship Company respectively to suspend scheduled freight and passenger operations as justification for the granting of this application.² However, there was no protest to the granting of those applications, and authority to suspend operations was authorized *ex parte*. In the instant proceeding competing transportation lines through Pacific Coastwise Conference not only protest the issuance of any authority to suspend operations, but vigorously oppose the application in so far as authority is sought to render an "on call" service during the period of suspension. Opposition is based upon the contention that carriers remaining in the field are definitely obliged to render a scheduled service regardless of the amount of traffic available, while Los Angeles-Long Beach Despatch Line may conserve operating expenses during periods when traffic is not available and still enjoy a

² In re Application California Steamship Company, Application 19867, Decision 27902, April 22, 1935, and in re Application Nelson Steamship Company, Application 19908, Decision 27977, May 20, 1935.

right to transport property when desirable traffic is available. Pro-
testant's contention in this respect is not without merit.

Upon the record made in this proceeding it should be concluded that the public interest will not be injuriously affected by the suspension of the scheduled operations of applicant between ports located on San Francisco Bay and Long Beach and other ports in Southern California, there being rail carriers, express corporations, as well as other common carriers by vessel who are ready, able and willing to transport all traffic available. Our order authorizing suspension of scheduled operations however should be subject to the condition that no service of any character be rendered by applicant between the ports involved during the period of suspension.

O R D E R

These matters having been duly heard and submitted,

IT IS HEREBY ORDERED that applicant Los Angeles-Long Beach Despatch Line be and it is hereby authorized to transfer to applicant P. L. Transportation Company and that applicant P. L. Transportation Company be and it is hereby authorized to purchase the operative right of Los Angeles-Long Beach Despatch Line to operate vessels in common carrier service between Eureka, California, on the one hand, and the ports of San Francisco, Oakland, Alameda and Long Beach on the other hand, subject to the following conditions:

1. In authorizing the transfer of the operative right above referred to, the Commission is not determining the sufficiency, character or extent thereof, but is merely permitting such right as may be held by Los Angeles-Long Beach Despatch Line to be acquired by P. L. Transportation Company.

2. The consideration to be paid for the operative right herein authorized to be transferred shall never be urged before this Commission or any other rate fixing body as a measure of value for rate fixing, or any other purpose than the transfer herein authorized.
3. Applicant Los Angeles-Long Beach Despatch Line shall immediately unite with applicant P. L. Transportation Company in common supplement to the tariffs on file with the Commission covering service given under the right herein authorized to be transferred, applicant Los Angeles-Long Beach Despatch Line on the one hand withdrawing, and applicant P. L. Transportation Company on the other hand accepting and establishing such tariffs and all effective supplements thereto.

IT IS HEREBY FURTHER ORDERED that applicant Los Angeles-Long Beach Despatch Line be and it is hereby authorized within thirty (30) days from the effective date hereof, and on not less than one day's notice to the Commission and to the public, to suspend all its scheduled service between San Francisco, Oakland, Alameda and other ports located on San Francisco Bay on the one hand, and Long Beach and other ports in Southern California on the other hand until October 1, 1936, subject to the following terms and conditions:

1. In the event applicant exercises the authority granted herein it shall supplement its tariffs on file with the Commission showing that it has suspended operation.
2. No common carrier service of any character whatsoever shall be rendered between said points during the period of suspension.

This order shall become effective on the date hereof.

Dated at San Francisco, California, this 23rd day of September, 1935.

Jason Anthony

M. A. Cum

M. B. Lane

James R. Talley
Commissioners.