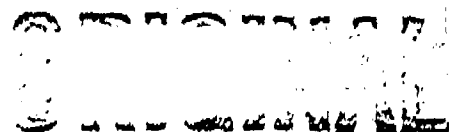


Decision No. 28802



BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
CHARLES PIERSON SLOCOMBE for certif-)
icate of public convenience and) Application No. 20433
necessity to operate water taxi)
service, as a common carrier, between)
Long Beach-Los Angeles Harbor and)
Avalon, Santa Catalina Island.)

Jonah Jones, Jr., for Applicant.

Gibson, Dunn & Crutcher, by Woodward M.
Taylor, and David P. Fleming, for
Wilmington Transportation Company,
Interested Party.

F. E. Billhardt, for Pacific Electric
Railway Company, Interested Party.

BY THE COMMISSION.

OPINION AND ORDER

The above numbered application was filed by Charles Pierson Slocombe, on March 19, 1936, requesting a certificate of public convenience and necessity to operate a "water taxi" service between Long Beach (Los Angeles Harbor) and Avalon, Santa Catalina Island.

A public hearing on the matter was conducted by Examiner McCaffrey at Los Angeles, on April 23, 1936, at which time it was duly submitted and is now ready for decision.

At the present time, steamship service between the mainland at Wilmington and Avalon, Santa Catalina Island, is provided by the Wilmington Transportation Company. Applicant herein does not propose to duplicate the service provided by Wilmington Transportation Company, but asks for a limited certificate which will permit him to provide service between Long Beach and the Island, leaving Long Beach daily between the hours of 5:00 and 7:00 each evening and returning between the hours of 12:00 midnight and 2:00 each morning.

This type of service, as contrasted with that supplied by Wilmington Transportation Company, would make it possible for patrons to make a trip to Avalon for the evening and return the same night. It is proposed that this service shall be operated on a seasonal basis only, namely, commencing each year on the 22nd day of May and operating daily, including Sundays and holidays, until and including the 14th day of September.

Service by applicant is to be provided by means of a "water taxi" registered in the United States Custom House as the "Jericho" (more particularly described in Exhibit "C" attached to and made a part of the application), which is a vessel licensed to carry eighty-two passengers. The record shows that, should necessity demand, applicant has available, and will place in service, additional "water taxis" of a total capacity of approximately four hundred passengers. The service proposed herein is not entirely new to applicant, since his testimony indicates that for several years last past, he has been operating a similar service as a "charter service" or "on-call service."

Wilmington Transportation Company offered no objection to the granting of the application, provided the applicant would stipulate that the certificate of public convenience and necessity be restricted, as to the service proposed to be rendered, to the hours and dates set forth in the application, and that the return trips be limited as set forth in Exhibit "A" attached to the application. Applicant accepted such stipulation (Tr. page 3, line 6).

The Board of Harbor Commissioners of the City of Long Beach, in a letter dated March 26, 1936, indicated that the granting of the certificate as sought herein "will provide a service for which there has long been a demand."

Charles Pierson Slocombe is hereby placed upon notice that "operative 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 by the State which is not in any respect limited as to the number of rights which may be given.

• O R D E R

A public hearing having been held on the above entitled application, and the Commission being fully advised,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY FINDS AS A FACT AND DECLARES that public convenience and necessity require the operation of a "water taxi" service by Charles Pierson Slocombe, as a common carrier for the transportation of passengers and hand baggage between Long Beach and Avalon, Santa Catalina Island, in conformity with the exhibits attached to and made a part of the application herein, and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity covering the service described in the above finding of fact be, and the same is, hereby granted to Charles Pierson Slocombe, subject to the following conditions:

- (1) Applicant shall file with the Commission a 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 triplicate and concurrently make effective, on not less than ten (10) days' notice to the Railroad 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 exhibits attached to the application, in so far as they conform to the certificate herein granted, or rates and rules satisfactory to the Railroad Commission.

- (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 Railroad 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 obtained.
- (5) No vessel may be operated by applicant herein, unless such vessel is owned by said applicant or is leased by applicant under a contract or agreement on a basis satisfactory to the Railroad Commission.

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

Dated at San Francisco, California, this 11th day of May, 1936.

M. B. Harris
Leon C. Wilson
W. J. Lee
W. H. ...
Paul R. ...

Commissioners.