

Decision No. 29154.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

CALIFORNIA INLAND WATER CARRIERS
CONFERENCE,

Complainant,

vs.

J.C. FREESE COMPANY, a corporation,

Defendant.

ORIGINAL

Case No. 3770.

Gwyn H. Baker, for the Complainant.

Pillsbury, Madison & Sutro, by Hugh Fullerton,
for the Defendant.

James E. Lyons and A. L. Whittle, for Southern
Pacific Company, Northwestern Pacific Railroad
Company, and Petaluma & Santa Rosa Railroad
Company, Interveners.

CARR, Commissioner:

OPINION ON REHEARING

On March 11, 1935, by Decision No. 27808, the above defendant was found to be engaged in the transportation of property by vessel for compensation and as a common carrier on the inland waters of the state, without a certificate of public convenience and necessity, and was ordered to cease and desist from such operations.

The Commission being in doubt as to whether the record justified a finding of common carrier operations granted the defendant's petition for rehearing. At the rehearing the record was supplemented, the nature of the defendant's operations being displayed in considerable detail.

The pattern of operations complained of, as depicted by the evidence is not such as to bring them within the inhibitions of the Public Utilities Act and to support a cease and desist order. That

they approach closely to the line which separates inhibited operations and those not banned by the Act may hardly be gainsaid, and slight changes in the character of the operations might lead to a different conclusion. Under the circumstances the complaint should be dismissed.

It follows that if defendant's operations do not come within the purview of common carrier operations, then they fall within the scope of Chapter 223, Statutes 1933, and defendant should immediately take appropriate action to secure a "For Hire Vessel" permit from this Commission.

I recommend the following form of order:

O R D E R

Public hearings on rehearing having been held,

IT IS HEREBY ORDERED that the complaint be and the same is hereby dismissed.

The foregoing Opinion and Order on Rehearing are hereby approved and ordered filed as the Opinion and Order on Rehearing of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 28th day of September, 1936.

M. B. Lewis
Leon A. Wiley
W. A. C. ...
Michael ...
COMMISSIONERS