

Decision No. 29516.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

CALIFORNIA INLAND WATER CARRIERS'
CONFERENCE,

Complainant,

vs

HAROLD S. PETERSON, WALTER PETERSON
and GEORGE PETERSON, doing business
as the PETERSON WATER TAXI,

Defendants.

Case No. 3986.

ORIGINAL

Gwyn H. Baker for Complainant.
G. H. Van Harvey for Defendants.

BY THE COMMISSION:

O P I N I O N

Complainant, a voluntary unincorporated association of inland water carriers, herein seeks an order from this Commission requiring defendants, a co-partnership, to cease and desist alleged transportation of passengers or property between points on the inland waters of the State, by the use of a vessel of more than five (5) tons net register without having first obtained a certificate from this Commission, as required by Section 50 (d) of the Public Utilities Act. Defendants in their answer, aver separate defenses of private agreement and lack of Commission jurisdiction over the operations as conducted.

A public hearing herein was conducted by Examiner W. R. Williams at San Francisco, at which time the matter was submitted on briefs which have been filed, and now is ready for decision.

Defendant co-partnership is composed of Harold S. Peterson, Walter Peterson and George Peterson, operating under the name of "Peterson Water Taxi." Three power boats are used but only one, the "Sea Giant", exceeds five (5) ton net burden and its operations alone are the subject of this inquiry. The admitted operations of the defendants are:

- (1) Deep sea fishing parties outside the Golden Gate.
- (2) Fishing parties on the inland waters under charter.
- (3) Transporting pilots to ships at quarantine in Golden Gate.
- (4) Transporting seamen and ship employees and visitors to and from ships anchored in the bay.
- (5) Sightseeing trips to both Golden Gate Bridge and San Francisco Bay Bridge.
- (6) Transporting employees of the Golden Gate Bridge district between the Federal Dock at Presidio Point and Lime Point in Marin County, under contract with Golden Gate Bridge district.

Among the questions to be determined are whether the "Sea Giant" has performed all or any of such services and whether, in so doing, it has created for its operators the status of a common carrier between points on the inland waters of the State. Undoubtedly the transportation of persons to the high seas, may be disregarded; also the transport of parties when the boat is under charter.

The Petersons maintain a wharf at the north foot of Buchanan Street, San Francisco, near the Transport Dock at Fort Mason, and the "Sea Giant" uses the wharf as a base. The record shows that passengers are transported on individual fare bases

in the manner indicated by items 4 to 6, inclusive, as set forth above. The only operation seriously disputed by complainant is the contract hauling of employees to the Golden Gate Bridge.¹ This service is based on an agreement with the bridge district (Exhibit No.1) providing an individual rate of 15¢ one way, 25¢ round trip. The passengers paid this rate. Another contract (Schedule No.2) provided for similar transportation of W.P.A. workmen from San Francisco to Lime Point, Marin County, at the same rates and the fares of the individuals were paid by the W.P.A. All other movements of the "Sea Giant" were on individual fare bases, according to the testimony of Harry S. Peterson, with no movement for less than \$5.00. Peterson's testimony is assuring that the "Sea Giant" was held ready at the wharf at Buchanan Street for the transportation of persons or property between that dock and points on the Inland waters for compensation and that this service was available to the public, individually or by groups, at individual fares.

Section 50(d) of the Public Utilities Act requires that persons so operating shall not begin such service without first obtaining from this Commission a certificate authorizing such operations. We find that defendants have not met this prerequisite and hence must be ordered to cease and desist all common carrier operations between points in this State with any vessel whose net register is more than five tons. (See Harbor

¹

No transportation to the San Francisco-Oakland Bridge, under this contract, has been furnished for more than a year.

Tug and Barge Company vs. Osborn et al., 37 C.R.C. 851).

While the record technically justifies a cease and desist order, and such will be made, there is no indication in the record that defendants herein at any time acted in bad faith in their operations, and, for this reason, they should have a chance to prosecute an application to establish and maintain service on inland waters of the State, as the operation of the boats has been long established and seems to possess elements justifying continuance. For this reason, the order will provide authority to file an application and, pending hearing, to suspend effectiveness of the cease and desist order.

O R D E R

Public hearing having been held on the above entitled complaint, the matter having been duly submitted on briefs, which have been filed, and now being ready for decision,

IT IS HEREBY ORDERED that defendants, and each of them, within sixty (60) days from the date hereof, cease and desist all operations on the inland waters of the State of California as a common carrier for the transportation of persons for compensation, unless within thirty (30) days from date hereof said defendants make application to the Commission for a certificate of public convenience and necessity to conduct such common carrier service for the transportation of persons between said points.

IT IS HEREBY FURTHER ORDERED that in the event such application be filed, further proceedings herein be suspended until determination of such application on its merits, and that the instant proceeding remain open for such further proceedings herein and the entry of such further order or orders herein as may be meet in the premises.

Dated at San Francisco, California, this 1 day of February, 1937.

[Handwritten signatures of three commissioners]
COMMISSIONERS.