

Decision No. 29876.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
ALAMEDA TRANSPORTATION COMPANY, INC.,  
a corporation, for a certificate of  
public convenience and necessity  
authorizing the transportation of  
freight by vessel between San Fran-  
cisco and Yerba Buena Island and  
Yerba Buena Shoals, and between Oak-  
land and Alameda, on the one hand,  
and Yerba Buena Island and Yerba  
Buena Shoals, on the other hand.

ORIGINAL

Application No. 20973.

McCutchen, Olney, Mannon & Greene, by F. W. Mielke,  
for applicant.

McCarthy, Richards & Carlson, for Key System.

Gwyn H. Baker, for Crowley Launch & Tugboat Co. and  
Bay Cities Transportation Co.

BY THE COMMISSION:

O P I N I O N

By this application Alameda Transportation Company, Inc.,  
a corporation engaged in the transportation of property as a common  
carrier by vessel under authority of a certificate of public conven-  
ience and necessity granted by Decision No. 16211 of March 17, 1926,  
in Application No. 12437, seeks authority to enlarge the scope of its  
certificated operations to include service between San Francisco, Oak-  
land and Alameda on the one hand and Yerba Buena Island and Yerba  
Buena Shoals on the other hand.

A public hearing was had at San Francisco before Examiner  
W. S. Johnson on April 19, 1937.

In support of the application H. B. Smith, Secretary of

applicant corporation, testified that it is now rendering a daily service from and to Yerba Buena Island and Yerba Buena Shoals, transporting property for the U. S. Lighthouse Service and the U. S. Navy Department, and for some twenty-six contractors and firms engaged in dredging and construction work on Yerba Buena Shoals for the approaching Golden Gate International Exposition. This traffic was said to approximate 50 per cent. of applicant's total business. In addition it is expected that there will be a considerable movement of property in connection with the construction and maintenance of an airport on the Shoals upon the conclusion of the exposition.

Witness for applicant stated that the service referred to has been and is now being performed in the belief that the Island and Shoals are intermediate on its route between San Francisco and Oakland and thus within the scope of its certificated right. He explained, however, that in Decision No. 28283 of October 14, 1935, in Case No. 3824,<sup>1</sup> this Commission tentatively found that the right was not as extensive as applicant had assumed, and that when and if such finding is made final, applicant will lose this large and important volume of traffic and the public will be deprived of its service unless the present application be granted.

The rates proposed are those which have been and are now being charged for the service and are identical with those published in applicant's Local Freight Tariff No. 4, C.R.C. No. 4, for similar operations between San Francisco and Oakland, except that a minimum charge of \$1.00 is proposed in lieu of the minimum charges of 35 cents and 50 cents specified in the tariff.

---

<sup>1</sup> Case No. 3824 is an investigation on the Commission's own motion into the operative rights of common carriers engaged in transporting passengers and property by vessel between points on San Francisco, San Pablo and Suisun Bays, and on the San Joaquin, Sacramento and Napa Rivers and Petaluma Creek and their tributaries (39 C.R.C. 429).

No one protested the granting of this application.

By order entered this day in Case No. 3824, supra, the Commission determined that as of January 16, 1936, applicant possessed only the right to transport "property between San Francisco on the one hand and all points on the Oakland estuary including all shipyards on the other on the gas power boat 'Jessie Matsen'." While applicant's service from and to Yerba Buena Island and Yerba Buena Shoals evidently has been conducted under a misapprehension of the extent of its operative rights, the record indicates that public convenience and necessity require the continuance of the service as herein proposed.

The assessment of a higher minimum charge to the Island and Shoals than is contemporaneously maintained from and to the more distant points of San Francisco, Oakland and Alameda is somewhat inconsistent with applicant's contention that the Island and Shoals have been served as intermediate points. The order granting the application will require applicant to observe the minimum charges applicable between San Francisco and Oakland or Alameda. If circumstances and conditions attending this service require and justify relief from Section 24(a) of the Public Utilities Act, appropriate authority should be obtained in the manner provided in the Act.

Alameda Transportation Company, Inc., 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 at any time by the state which is not in any respect limited in the number of rights which may be given.

O R D E R

This matter having been duly heard and submitted,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY  
DECLARES that public convenience and necessity require the operation  
by Alameda Transportation Company, Inc., of a common carrier service  
for the transportation of property by vessel between San Francisco,  
Oakland and Alameda on the one hand and Yerba Buena Island and Yerba  
Buena Shoals on the other hand.

IT IS HEREBY ORDERED that a certificate of public conven-  
ience and necessity authorizing said operation be and it is hereby  
granted to Alameda Transportation Company, Inc., subject to the fol-  
lowing conditions:

1. Applicant shall file a written acceptance of the certifi-  
cate herein granted within a period of not to exceed fif-  
teen (15) days from date hereof.
2. Applicant shall file 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 to the public, a tariff or tariffs constructed  
in accordance with the requirements of the Commission and  
containing rates and rules which, in volume and effect, shall  
be identical with those set forth in this applicant's Local  
Freight Tariff No. 4, C.R.C. No. 4.
3. The rights and privileges herein authorized may not be dis-  
continued, sold, leased, transferred nor assigned unless  
the written consent of the Railroad Commission to such dis-  
continuance, sale, lease, transfer or assignment has first  
been obtained.

The effective date of this order shall be twenty (20) days  
from the date hereof.

Dated at San Francisco, California, this 21<sup>st</sup> day of

June, 1937.

Walter H. ...  
Leon ...  
Frank ...  
Ray ...  
Ray ...  
Commissioners.