

Decision No. 23892.

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of  
WILMINGTON TRANSPORTATION COMPANY,  
a corporation, for a certificate of  
public convenience and necessity to  
operate vessels for the transporta-  
tion of persons for compensation be-  
tween Wilmington, Port of Los Angeles,  
and The Isthmus, Santa Catalina Island.)

APPLICATION NO. 21238

David P. Fleming, Executive Vice-President, for Applicant.

L. H. Connor, Operating Manager, for Applicant.

Gibson, Dunn & Crutcher, by Woodward M. Taylor, attorneys  
for Applicant.

BY THE COMMISSION:

O P I N I O N

This is an application filed by the Wilmington Transportation Company, seeking a certificate of public convenience and necessity to operate vessels for the transportation of persons for compensation between Wilmington, Port of Los Angeles, and The Isthmus, Santa Catalina Island.

Public hearing on this matter was conducted before Examiner McCaffrey at Los Angeles on June 18, 1937, at which time it was duly submitted and is now ready for decision.

The record shows that labor prices have increased some thirty (30) per cent over the 1936 figures, which makes the cost of furnishing this service by the S. S. Cabrillo with its capacity of six hundred (600) passengers prohibitive. In addition

to increased labor costs, the testimony shows that there has also been an approximate ten (10) per cent increase in the cost of supplies and materials. The S. S. Cabrillo was built in 1902, and although it has been maintained in satisfactory operating condition, it would require the immediate expenditure of from \$10,000.00 to \$15,000.00 to place it in condition for continued operation. The Company is of the opinion that adequate facilities can be provided for the transportation of passengers between Wilmington and The Isthmus by means of a water taxi.

Although no equipment of this latter description is owned by the Wilmington Transportation Company, arrangements have been made to rent such a boat from the H-10 Water Taxi Company in Long Beach. This Company owns and operates fifteen (15) of these boats, three (3) of which are of the same capacity and alleged to be entirely suitable for the operation proposed herein.

Initially it is felt that one (1) such boat will adequately handle such traffic as may present itself. The boat to be used is fifty (50) feet in length, twelve (12) feet in beam, draws four (4) feet of water, and is powered by three (3) Cummings Diesel engines with an aggregate horsepower of 450. It is registered by name and number with the United States Custom Department, and is under the jurisdiction of the Industrial Accident Commission of the State of California, in so far as safety matters are concerned. The boat in question has a capacity of not to exceed ninety-eight (98) persons, carries a crew of two (2) and is equipped with life preservers, fire extinguishers, etc. In addition to the crew of two (2), the Wilmington Transportation Company proposes to place another employee aboard the boat to provide for additional comfort of passengers.

The record indicates that there is some demand for service between Wilmington and The Isthmus, but not sufficient

demand to justify the operation of a large steamer such as the Cabrillo.

The Isthmus is strictly a resort colony, and there are dining and sleeping accommodations for from between six hundred (600) and seven hundred (700) persons. Due to its resort character, the colony at The Isthmus is strictly seasonal and in conformity with this fact, the operation proposed by the applicant is a seasonal one annually from May 29th to the Tuesday after the first Monday in September, both dates inclusive.

No one appeared in opposition to the application as proposed and a careful review of the record leads us to the conclusion that public convenience and necessity require the operation by the Wilmington Transportation Company of a water taxi service for the transportation of persons for compensation between Wilmington, Port of Los Angeles, and The Isthmus, Santa Catalina Island. The following order will so provide.

Wilmington Transportation Company 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 to the number of rights which may be given.

O R D E R

Public hearing having been held upon the above entitled matter, and the Commission being fully advised, the Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by Wilmington

Transportation Company of vessels for the transportation of persons for compensation between Wilmington, Port of Los Angeles, and The Isthmus, Santa Catalina Island, annually from May 29th to the Tuesday after the first Monday in September, both dates inclusive.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be, and it is hereby granted to Wilmington Transportation Company for such service, subject, however, to the following conditions:

- (1) The service herein authorized shall be substantially in accordance with the schedules shown in Paragraph V of the application.
- (2) Applicant shall file its written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from the date hereof.
- (3) Applicant shall file in triplicate, within a period of not to exceed thirty (30) days after the effective date of this order, on not less than one (1) day's notice to the 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 on Exhibit "A", attached to and made a part of the application, insofar as they pertain to the certificate herein granted, or rates and rules satisfactory to the Commission.
- (4) 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 one (1) day's notice to the Commission and the public, time schedules covering the service herein authorized in a form satisfactory to the Railroad Commission.
- (5) The rights and privileges herein authorized may not be discontinued, sold, leased, transferred or assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.
- (6) No vessel may be operated by applicant herein unless such vessel is owned by said applicant or is leased by it under a contract of agreement on a basis satisfactory to the Railroad Commission.

The authority herein granted shall become effective on the date hereof.

Dated at San Francisco, California, this 28<sup>th</sup> day of June, 1937.

Walter M. ...  
Leon ...  
Frederick ...  
Robert ...  
Walter ...  
Commissioners.