

ORIGINAL

Decision No. 29994

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of PETER HANSEN for an order authorizing the temporary suspension of service as a common carrier by vessel on the inland waters of the State of California.

} Application No. 21257

In the Matter of the Application of PETER HANSEN for a permit under the For-Hire Vessel Act of the State of California to operate a vessel for the transportation of property for compensation on the inland waters of the State of California.

} Application No. 21258

BY THE COMMISSION:

OPINION AND ORDER

Applicant is an individual having on file with the Commission tariffs naming rates for the transportation of property as a common carrier by vessel on the inland waters of the state. By Application No. 21257, filed June 14, 1937, he seeks authority to discontinue for one year his operation as a common carrier and by Application No. 21258, filed the same date, he asks for a permit to operate a "for-hire" vessel under the For-Hire Vessel Act (Chapter 223, Statutes of 1933).

In Decision No. 29778 of May 24, 1937, in Case No. 3824, applicant was found to possess the right to transport only farm implements, tractors, lumber, hay, straw and grain, between a limited number of points. Applicant alleges that said operative rights are so restrictive that he will be unable to serve the customers whose business he has handled for a number of years and

that he will be forced to retire from business if required to operate as a common carrier thereunder. He believes that his present operation is such that it could be conducted as a "for-hire vessel" service, rather than as a common carrier service, but does not want to surrender his common carrier rights until he has had an opportunity to determine whether such "for-hire" vessel operation will be satisfactory.¹ He anticipates that within one year he will be in a position to resume his common carrier service or abandon it entirely.

If the sought "for-hire" permit be granted applicant will use the motor vessel "James F. McKenna," which has a capacity of 200 tons. He expects to transport property for only four shippers and in any event will limit his service to not more than six shippers during any year. He will not hold himself out to transport for the public generally.

The rates which applicant proposes to charge, the commodities which he proposes to handle and the points which he proposes to serve are those set forth in Exhibit "A" attached to Application No. 21258, and with a few exceptions are the same as those named in Peter Hansen's Local Freight Tariff No. 1-A, C.R.C. No. 3, on file with the Commission. He also proposes to adopt the rates on file with this Commission in Peter Hansen's Demurrage Tariff No. 1, C.R.C. No. 2.

Certain common carriers by railroad have protested the granting of these applications. They argue with considerable logic that applicant should be required to elect at this time whether he will continue to render a common carrier service. In view of the fact that applicant's operation under assumed rights was allowed to go unchallenged for a number of years, however, it appears proper to allow a reasonable period during which he may readjust his operating practices and determine whether

¹ For-Hire Vessel Act (Statutes of 1933, Chapter 223) provides:
"Section 13. No permit shall be issued to any person or corporation for the operation of for-hire vessels over the whole or any part of any route operated by the applicant as a common carrier."

or not common carrier operation under his rights as restricted will be feasible.

The granting of the application to discontinue temporarily common carrier operation will not deprive the public of means of transportation as the territory is served by other carriers.

It appears that these are matters in which a public hearing is not necessary and that the applications should be granted. Applicant is hereby notified that he will be expected to resume his operations as a common carrier within a period of one year or forfeit all rights thereunder. Therefore, good cause appearing,

IT IS HEREBY ORDERED that applicant Peter Hansen be and he is hereby authorized to suspend until July 26, 1938, his service as a common carrier by vessel upon the inland waters of this state, provided he supplement his tariffs on file with the Commission to show that his service has been suspended as authorized herein.

IT IS HEREBY FURTHER ORDERED that a permit issue to applicant Peter Hansen, effective on the date of suspension of his common carrier service as authorized in the preceding paragraph of this order, to operate that certain motor vessel, the "James F. McKenna" as a "for-hire" vessel upon the inland waters of this state, subject to all the terms and conditions of the For-Hire Vessel Act (Chapter 223, Statutes of 1933), for the transportation of the following commodities and between the following points:

1. Cereals and Cereal Products, as defined in Item No. 70 of "Exhibit A" attached to Application No. 21258 - Between any and all points on San Francisco Bay, San Pablo Bay, Suisun Bay, the Sacramento River, the San Joaquin River and their respective tributaries and sloughs, with the exception of Sacramento, points on the Sacramento River north of Sacramento and points on any tributary of the Sacramento River joining the Sacramento River at or north of Sacramento.
2. Hay and Straw - Between any and all points on San Francisco Bay, San Pablo Bay, Suisun Bay, the Sacramento River, the San Joaquin River and their respective tributaries and sloughs.

3. Lumber, all kinds - Between any and all points on San Francisco Bay, San Pablo Bay, Suisun Bay, the Sacramento River, the San Joaquin River and their respective tributaries and sloughs.

IT IS HEREBY FURTHER ORDERED that such permit be and it is hereby made subject to the following conditions:

1. Applicant shall file his written acceptance of the permit herein granted within a period of not to exceed fifteen (15) days from the date hereof.
2. Applicant shall file in duplicate with his acceptance of the permit tariffs containing rates and rules which in volume and effect shall be identical with the rates and rules set forth in Exhibit "A" attached to Application No. 21258 and in Peter Hansen's Demurrage Tariff No. 1, C.R.C. No. 2.
3. Applicant shall file a description of the vessel "James F. McKenna".
4. This permit and the rights and privileges exercisable thereunder may not be leased, transferred or assigned unless the consent of this Commission thereto has first been secured.

This order shall become effective twenty (20) days from the date hereof.

Dated at San Francisco, California, this 28th day of

July, 1937.

William H. Moore

Frank R. Taylor
Raufwalshausen

Commissioners.