

Decision No. 29984.

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.

**ORIGINAL**

Gibson, Dunn and Crutcher, by Woodward M.  
Taylor, for Applicant.

BY THE COMMISSION:

SUPPLEMENTAL OPINION AND ORDER

This is a supplemental 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, on the one hand, and The Isthmus and/or Avalon via The Isthmus, Santa Catalina Island, on the other hand, annually from July 1st to Labor Day, both dates inclusive.

Public hearing on this matter was conducted before Examiner Ager at Los Angeles on May 24th, 1938, at which time it was taken under submission, and it is now ready for decision.

By the provisions of Decision No. 29892, dated June 28th, 1937, subsequently amended by Decision No. 29972, dated July 27th, 1937, both on Application No. 21238, the Wilmington Transportation Company was authorized to transport passengers and excess baggage 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. The service authorized by the above numbered decisions was to be provided through the medium of water taxis and the evidence shows that this type of service was performed throughout the 1937 season. It now appears that there is insufficient patronage between Wilmington and The Isthmus prior to July 1st to justify the commencement of service before that date. It also appears that there is considerable demand for transportation of persons and their baggage by vessel between The Isthmus and Avalon and, in order to meet such demand, applicant desires to have its certificate amended so as to extend The Isthmus service to Avalon.

No changes in fares between Wilmington and Avalon, from those authorized by Decision No. 30478, dated January 3rd, 1938, on Application No. 21596, are proposed but, as indicated by Exhibit No. 4, a supplementary tariff will be issued setting forth the fares for such persons as may desire to make the trip only between Avalon and The Isthmus, or vice versa. There is a slight modification proposed in the schedule as originally authorized and a better class of equipment will be placed in the service.

No opposition developed at the hearing and a review of the record leads to the conclusion that the application is reasonable and should be granted. 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 as to the number of rights which may be given.

O R D E R

Public hearing having been held upon the above entitled supplemental application 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 and excess baggage, for compensation, between Wilmington, Port of Los Angeles, on the one hand, and The Isthmus and/or Avalon via The Isthmus, on the other hand, and between The Isthmus and Avalon, Santa Catalina Island, annually from July 1st to Labor Day, 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 schedule shown in Exhibit No. 3.
- (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 No. 4, in so far as they pertain to the certificate herein granted, or rates and rules satisfactory to the Railroad 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 five (5) days' 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 or agreement on a basis satisfactory to the Railroad Commission.

IT IS HEREBY FURTHER ORDERED that the certificate of public convenience and necessity granted by Decision No. 29892, dated June 28th, 1937, and subsequently amended by Decision No. 29972, dated July 27th, 1937, both on Application No. 21238, is hereby revoked.

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

Dated at San Francisco, California, this 21<sup>st</sup> day of May, 1938.

Walter W. W.  
John A. W.  
Frank W.  
R. B. W.  
Ray W.  
Commissioners.