

Decision No. 31216

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
RALPH KING for Certificate of Public  
Convenience and Necessity to Operate  
Boats for the Transportation of  
Passengers and Freight for Compensa-  
tion between Points in the State of  
California.

ORIGINAL

Application No. 22423

BY THE COMMISSION:

ORDER OF DISMISSAL

The above application, filed on December 8, 1938, requests a certificate permitting the operation of a boat service for hire on Upper and Lower Echo Lakes in El Dorado County. Section 50(d) of the Public Utilities Act provides that a certificate must be obtained before one may operate any "vessel" for the transportation of persons or property, for compensation, between points in California. However, section 2(y) defines the term "vessel," when used in the statute, as including every species of water craft "except rowboats, sailing boats and barges under twenty tons dead weight carrying capacity, and vessels propelled by steam, gas, fluid naphtha, electricity, or other motive power under the burden of five tons net register."

At the time of filing of the above application a filing fee of Fifty Dollars was paid. (Section 57-1/2.) On January 13, 1939 applicant filed a "Petition for Refund of Filing Fee," alleging that the application had been filed in error, and that the Commission is without jurisdiction in that the rowboats and barges intended to

be used are all under twenty tons dead weight carrying capacity, while the motor boats to be used are all under the burden of five tons net register.

Alleging that the application had been filed through inadvertence, applicant asks that the filing fee be refunded and that remittance thereof be made to his attorneys.

We believe that the petition for a refund should be considered as a request for dismissal, and IT IS ORDERED that the application be and it is hereby dismissed for lack of jurisdiction.

The filing fee having been paid into the State treasury, pursuant to Section 57-1/2 of the Public Utilities Act, the Secretary of the Commission is directed to cause appropriate request to be made for authorization for a refund thereof, under Section 658.5 of the Political Code.

Dated, San Francisco, California, January 30, 1939.

Raymond J. ...  
James D. ...  
W. A. Casey  
W. Hall  
Justice J. Cassman  
Commissioners.