

Decision No. 42572

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
Estate of PHOEBE A. HEARST, Deceased,)
WILLIAM RANDOLPH HEARST, Successor in)
Interest, to discontinue service as a) Application No. 28248
Public Utility and Cancel Rates as a)
Wharfinger.)

Appearances

Garton D. Keyston and Flint and Mackay,
for applicant.

A. H. Brazil, for protestants.

O P I N I O N

Applicant seeks authority to discontinue operations as a public wharfinger at San Simeon, San Luis Obispo County. It alleges that profits have been small or nonexistent for many years, that the wharf is unsafe for further use without major repairs and reconstruction, and that rehabilitation of the structure is not economically justified.

Public hearings were held before Examiner Bryant at San Simeon on July 25, 1947, and at San Luis Obispo on August 10, 1948. Briefs have been filed and the matter is now ready for decision.

Testimony regarding operation of the wharf was provided by the applicant's general manager and by the resident wharfinger. They stated that no ocean-going steamer had docked at the wharf since 1935. Since that time, according to the testimony, the only revenue-producing patrons of the wharf have been one petroleum company, certain companies handling and packing fish, and the local fishermen. Early in 1947 the fish-packing companies removed their equipment and discontinued use of the wharf. The resident wharfinger believed there

all who used it. He submitted a detailed study of the cost of restoring it to a satisfactory and safe condition for further public use. The total estimated cost of labor and materials is shown as \$44,140, which was increased to \$58,270 by the addition of insurance, taxes, overhead, and a provision for contingencies. He stated that the life of wharves under circumstances such as those herein involved is usually considered to be 20 years.

An accountant testified that the wharf operations have been generally unprofitable. For the eight years from 1940 to 1947 inclusive, he stated, the total revenue was \$7,097 and the expense of operation was \$8,843, resulting in a net loss of \$1,746. Depreciation was not included as an expense item for the reason that the wharf had been fully depreciated on the books of the company prior to 1940.³ This witness asserted further that, assuming the needed repairs and reconstruction to the wharf were accomplished and the necessary maintenance provided, an income of at least \$10,000 a year would be necessary

³ Year-by-year revenues and expenses, as shown in the accountant's exhibit, are as follows:

<u>Calendar Year</u>	<u>Revenues</u>	<u>Expenses</u>	<u>Net Profit or Loss</u>
1940	\$ 148.12	\$1,425.39	\$(1,277.27)
1941	1,375.93	742.66	633.27
1942	418.16	1,377.28	(959.12)
1943	221.73	1,269.68	(1,047.95)
1944	1,017.06	1,218.06	(201.00)
1945	1,753.56	1,223.88	529.68
1946	1,822.65	798.21	1,024.44
1947	340.73	788.11	(447.38)

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in order to meet the costs of operation and provide a return of five per cent on the net investment.

The application was opposed by various persons living in and around the communities of San Simeon and Cambria. They contended that the deficit experienced by the wharf over recent years was due largely to inefficient operation and inattention to the possibilities of its development; that increased rates and tolls are feasible; that use of the wharf by abalone fishermen was discontinued only because the necessary handling equipment had been removed; that the amphibious vehicles being used as a substitute are undependable and unsatisfactory; and that a pier at Morro Bay, the closest one available, is too far away for satisfactory use. Witnesses testified that abalone fishing in the San Simeon area is quite extensive; that many people have evidenced interest in pleasure-boat possibilities; and that the people engaged in both of these pursuits are agreeable to a reasonable increase in wharfage rates.

The record shows clearly that the San Simeon wharf is unsuitable for public service in its present state, and that repairs necessary to place it in a satisfactory condition would involve the expenditure of some \$50,000 to \$60,000. Although the protestants suggest that potential revenues might justify the investment, it is at least exceedingly questionable whether such expenditure would be prudent under present conditions. Even though the annual gross

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More detailed figures, as submitted by the accountant, are as follows:

Operating Costs	\$3,700
Maintenance	2,062
Amortization	3,000
Five per cent interest on capital	<u>1,575</u>
Total	\$10,337

Note: In arriving at the above figures, the witness estimated the value of the structure at \$60,000 and the useful life at 20 years, after repair.

revenue were increased in some manner to a level four times as great as that received in the most favorable year of the last ten years, the amount would still be insufficient to meet the estimated bare expenses of operation, maintenance and amortization. There appears to be no reasonable prospect of any such substantial increase in gross revenue. It does not appear that public convenience or necessity justify continuation of the wharfing operations herein involved. Under all of the circumstances it manifestly would be unreasonable to direct applicant to rehabilitate the wharf and to continue in the wharfing business.⁵

Upon careful consideration of all of the facts and circumstances of record it is concluded that applicant should be authorized to discontinue public utility operations as a wharfing. The application will be granted.

O R D E R

Public hearings having been had in the above-entitled application, and based upon the conclusions and findings set forth in the preceding opinion,

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At the adjourned hearing, and on brief, applicant raised the contention that the wharf, when established, was designed for private use and was never intentionally dedicated to public use; that the small boats which have used the wharf for the past 10 or 12 years are not "vessels" as defined in the Public Utilities Act; that applicant is not actually a public wharfing; and that the Commission is without jurisdiction to require that the wharf be rehabilitated and continued in public service. In view of our conclusions on this record, it is unnecessary to discuss the question of jurisdiction.

IT IS HEREBY ORDERED that the above-entitled application be and it is hereby granted. Promptly upon discontinuance of public wharfinger service applicant shall file with this Commission an appropriate tariff supplement, in triplicate, cancelling its schedule of rates and charges.

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

Dated at San Francisco, California, this 1st day of March, 1949.

A. J. Duntzman
Frank Powell
Harold P. Kille

(Commissioners)