

Decision No. 23948.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

MARVELOUS MARIN (a corporation),  
TIBURON BELVEDERE CHAMBER OF  
COMMERCE, MILL VALLEY CHAMBER  
OF COMMERCE, and other Citizens  
and Residents of Marin County,  
State of California,

Plaintiffs,

v.

SOUTHERN PACIFIC GOLDEN GATE  
FERRIES, LTD. (a corporation),

Defendant.

ORIGINAL

Case No. 3048.

Walter H. Robinson, for Plaintiffs.

E. J. Foulds and R. S. Myers, for De-  
fendant.

T. Finkbohner, for Pacific Greyhound Lines.

Henry E. Greer, District Attorney of Marin  
County, for Board of Supervisors of Marin  
County, interested party.

Hal K. Remington, for Transportation Depart-  
ment of the San Francisco Chamber of Com-  
merce, interested party.

Webb H. Mahaffy and H. C. Symonds, for Town  
of Sausalito.

STEVENOT, COMMISSIONER:

O P I N I O N

In this proceeding the Commission is asked, in effect,  
to make its order directing Southern Pacific Golden Gate Ferries,  
Ltd. to improve the direct auto ferry service between San Fran-  
cisco and Tiburon, Marin County, so as reasonably to meet public

convenience and necessity.

Public hearings were conducted in this proceeding at San Francisco on June 9th, 10th, 11th, 16th, 18th and 29th, 1931.

The parties at interest stipulated that the record in Application No. 15428, heretofore adduced, be considered in evidence in this proceeding, in so far as relevant.<sup>1</sup>

The record shows that the present auto ferry schedule between San Francisco and Tiburon consists of two round trips per day, one of which is direct and the other via Sausalito.

In addition to the auto ferry service, foot passengers are afforded ferry transportation between Tiburon and San Francisco through the operation of Northwestern Pacific Railroad Company's motor ship "Marin," which makes approximately 15 round trips per day between Tiburon and Sausalito, connecting with the Northwestern Pacific Railroad Company's ferry operation at Sausalito.

Plaintiffs' showing is based primarily upon the ground that direct service should now be instituted pursuant to an understanding entered into between defendant and/or its predecessors in interest and representatives of the Tiburon-Belvedere district, whereby the ferry company agreed to inaugurate direct auto ferry service between San Francisco and Tiburon within sixty (60) days after the completion of a short and direct highway between San Rafael and Tiburon. Reference is made to a stipulation along this line, filed in Application No. 15428 and, also, to an agreement reached at a

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<sup>1</sup> Application No. 15428 was filed with the Commission on February 21st, 1929, by Southern Pacific Golden Gate Ferries, Ltd., Southern Pacific Company, Northwestern Pacific Railroad Company, Central Pacific Railroad Company, South Pacific Coast Railway, Golden Gate Ferry Company, Monticello Steamship Company and Golden Gate-San Rafael Ferry Company, seeking authority to consolidate auto ferry operation on the San Francisco Bay, under the name of Southern Pacific Golden Gate Ferries, Ltd., and provide for the necessary financing and agreements for such operation. This application was granted by the Commission's Decision No. 20925, dated April 1st, 1929.

conference held in the office of the Highway Commission at Sacramento on February 20th, 1930. Plaintiffs' showing further was based upon the contention that public convenience and necessity justify the issuance of an order by this Commission directing the ferry company to provide this service.

During the course of the hearing in the present proceeding, an offer was made by the defendant ferry company to initiate direct service between San Francisco (Ferry Building) and Tiburon, with one boat operating for twelve (12) hours for a trial period, with the understanding that if, after ninety (90) days, the revenue received did not pay the operating expense, the service would be withdrawn. The plaintiffs declined to accept this offer, contending that three months' time was not sufficient in which to demonstrate the public need for this service, as it would take a longer period of time for the traffic to become accustomed to this operation, especially if the San Francisco terminal were at the Ferry Building instead of at the foot of Hyde Street. Upon the refusal of the plaintiffs to accept the company's proposal, it was withdrawn.

The record herein contains a great deal of conflicting testimony as to the terms and conditions of the agreements between the parties relative to initiation of the proposed ferry service. At the outset, it should be understood that while the Commission desires to give due consideration to any private understanding between the utility and its patrons, relative to the initiation of the service requested herein, such agreement or stipulation cannot control the Commission in determining whether public convenience and necessity require the additional service. It is imperative that any and all

changes in the rates or service of a utility must be based upon the showing that public convenience and necessity justify such changes. This Commission will act to enforce private agreements between a public utility and other parties only when such agreements are consistent with the public interest. A contrary policy might interfere with proper regulation, in the way of imposing unnecessary expense of operation, as a result of providing a service for the special convenience of a few patrons at such a loss that a burden would be placed upon the remainder of the patrons of the utility.

Considerable testimony was introduced relative to the congestion on the highway leading to the Sausalito terminal, especially during times of peak travel. It is clear, however, that such congestion as does occur is due, primarily, to the limited carrying capacity of the ferry boats during these peak periods of auto travel. We can, therefore, dispose of this rather voluminous and conflicting testimony on the question of congestion and the condition of the existing and proposed highways on the Marin side and confine our attention to considering the effect of the plaintiffs' proposal upon the carrying capacity of the available ferry boats.

The ferry company presented evidence to show that the service now provided between San Francisco and Marin County was adequate and reasonable and that it would not be in the interest of the general traveling public affected to divide this service on the Marin side between the Sausalito and Tiburon terminals.

In this record the showing of public convenience and necessity is confined, primarily, to the testimony of residents of Tiburon-Belvedere and vicinity, representing a district having a

population of approximately 1,000 inhabitants. It is apparent that the revenue that might be expected from this district would not pay the out-of-pocket cost of operating one boat for a period of twelve hours per day, estimated at \$75,000. per year. While I am mindful of the fact that all the operations of a utility might not reasonably be expected to pay the cost of providing the same, all unprofitable operations should be justified by a real public necessity. In this case it does not seem that the residents of Belvedere and Tiburon are seriously inconvenienced by being located some nine miles distant, along a good highway, from the Sausalito terminal, where a frequent ferry service to San Francisco is provided. The record in this case is conclusive that, for the majority of the traffic between San Francisco and Marin County and points north, it would not be in public interest to divide the service between the two terminals, as proposed by plaintiffs. This position is supported by the testimony of an expert witness from the San Francisco Chamber of Commerce.

After carefully considering the record in this proceeding, the conclusion is reached that plaintiffs have failed to show that public convenience and necessity justify the Commission in issuing its order directing defendant ferry company to increase the ferry service between San Francisco and Tiburon either by dividing the service on the Marin side between the two terminals at Sausalito and Tiburon or by directing the company to change its terminal from Sausalito to Tiburon; therefore, this case should be denied and the following order will so provide.

#### O R D E R

Public hearings having been held in the above entitled proceeding, the matter being under submission and now ready for

decision,

IT IS HEREBY ORDERED that the above entitled proceeding is hereby denied.

The foregoing Opinion and Order are hereby approved and ordered filed as the Opinion and Order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 17<sup>th</sup> day of August, 1931.

CL Seamy  
Leon Whiskey

W B Harris  
Fred G. Stewart

Commissioners.