

ORIGINAL

Decision No. 29896

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
HAROLD S. PETERSON, doing business under)
the name of Peterson Water Taxi, for)
certificate of public convenience and)
necessity to operate vessels for the)
transportation of persons and property)
for compensation between points upon)
the inland waters of the State of)
California.)
Application No. 21046

G. H. Van Harvey, for Applicant.

Gwyn H. Baker, for Harbor Barge and Tug
Company and Crowley Launch and Tugboat
Company, Protestants.

Ansell Williams, for Southern Pacific Com-
pany, Golden Gate Ferries and Southern
Pacific Railroad, Interested Parties.

Frank S. Richards, for Key System, Protestant.

BY THE COMMISSION.

OPINION

Applicant seeks a certificate of public convenience and necessity authorizing operation of boats of more than five tons net register, upon the inland waters of San Francisco Bay and "its tributaries," and Golden Gate Strait. The application is responsive to the order heretofore made in Case 3986, Decision No. 29576, wherein defendant and his two brothers, operating under the name, "Peterson Water Taxi," were ordered to cease and desist all operations on San Francisco Bay and its tributaries with vessels of more than five tons net register unless, within thirty days of the date of said decision (February 1, 1937), proper application for a certificate under Section 50(d) of the Public Utilities Act was filed by respondents. The instant application was filed March 3, 1937. Said order further provided

that, "in the event such application be filed, further proceedings herein be suspended until determination of such application on its merits." The proceeding was held open for such further orders "as may be meet in the premises."

Public hearings on the application were conducted by Examiner W. R. Williams at San Francisco, the matter was duly submitted and now is ready for decision.

Applicant proposes to transport persons (pilots, seamen, shipping company officials, employees and visitors) between applicant's dock at the foot of Buchanan Street in San Francisco and ships anchored in San Francisco Bay; also sight-seeing trips to Golden Gate Bridge and San Francisco-Oakland Bay Bridge. This is a service, according to his testimony, he has conducted since 1932, when he moved the business from Sausalito to San Francisco. He also testified that he had used his boats (including some of less than five tons net register) for casual employment from and to other points and in charter and lease service. Such traffic has been handled by him, and his father before him for twenty years, although only since 1929 has a boat of more than five tons register been used. He now operates the "Sea Giant," 16.2 tons, Diesel, 44 passengers, acquired in 1929, and "Miss It," 9 tons, gasoline, 56 passengers, acquired in 1936.

In support of alleged necessity for continuance of such operations, applicant produced Edgar D. Varney and Edwin W. Groeper, pilots. They testified that they used applicant's boats from the foot of Buchanan Street to ships at quarantine in Gold Gate Strait (roughly, as applicant described quarantine, "from the foot of Buchanan Street up to about Fillmore Street"), because it is more convenient than going to the foot of Howard Street, as both witnesses live in the Presidio district in the northwest. These witnesses testified that they also used either Crowley or Harbor Barge service to and from vessels. Each has used the applicant's service for two years, at least, to the

vessels, but not from or to points outside the bar, where heavier craft is necessary and for which applicant is not equipped. No other public witnesses were produced.

Applicant also seeks authority to use his boats to transport persons employed by or at Golden Gate International Exposition, "between a point in San Francisco on the shores of San Francisco Bay, to be hereafter designated, and the Exposition grounds in San Francisco Bay," also to transport, on demand only, freight stores (ship supplies, not cargo) to ships at anchor, and towing on San Francisco Bay and tributaries.

This request was supported only by the testimony of applicant. He has no contracts for such movements and no testimony was introduced showing any need for any of the services proposed. Applicant has made no arrangement for dock space (except at the foot of Buchanan Street), or shown that such arrangements could be made at Embarcadero piers; nor has any arrangement for landing at the International Exposition grounds been effected. Applicant was not certain of any single point of operation except the one he now occupies.

W.G. Westman, superintendent of protestant, Crowley Launch and Tug Company, testified that this carrier performs, and has performed for forty years, practically all the services proposed, under certificate of this Commission; that it has sixteen vessels available for the services, operating from Pier 14 at the foot of Howard Street, capable of from eight to sixteen miles per hour and with passenger capacity of from 45 to 200; that scheduled service available to the public at 15 cents one way, to and from the Exposition site, transporting passengers daily, is now maintained. This carrier also furnishes sight-seeing service on demand.

Charles Rogan, superintendent of protestant, Harbor Tug and Barge Company, testified that this carrier, operating under certificate since 1925 (succeeding Henry C. Peterson), is authorized to perform

and does perform practically all of the services for which applicant applies. It uses fifteen boats, with capacity for 927 passengers, the largest being the "Chief" and the "Lark," 90 passengers each, and capable of eighteen miles per hour. It now has a contract with the Exposition authorities to transport employees from Pier 16 to and from the site.

William P. St. Sure, Vice President of Key System, testified that this carrier is operating a passenger service from the Key System terminal in Oakland to the Exposition site, coordinated with the carrier's ferry service between San Francisco and Oakland and conducted under certificate of this Commission since April, 1937, and on through tariff of 30 cents filed April 1, 1937. This carrier is also proposing direct ferry service between San Francisco (Ferry Building) and Oakland to the Exposition site and has discussed such service with the Exposition directors.

Section 50(d) of the Public Utilities Act (effective in 1933) provides that no person or corporation may begin operation of a vessel between points within the state, without first procuring from this Commission a certificate of public convenience and necessity therefor. No such certificate has been procured by applicant. No tariff has ever been filed for points served prior to the effective date of the 1933 amendment, "under tariffs and schedules * * * lawfully on file with the Railroad Commission." Since 1933, no attempt has been made by him to procure a certificate of public convenience and necessity, until the penalties for his neglect were invoked and the Commission, by its order in Case No. 3986, gave him permission to comply with the law by procuring a certificate. The instant application is not supported by affirmative testimony showing the need for the service he proposes. The support is mainly the desire of applicant to continue operations which this Commission has found in

violation of law. Protestants herein have shown adequate and efficient service already provided by them. No question of interstate commerce is presented. Applicant not having supported his application with convincing testimony, the application must be denied. An order accordingly will be entered.

O R D E R

Harold S. Peterson, operating under the name of "Peterson Water Taxi," having made application as above entitled, a public hearing having been held, and the matter having been duly submitted,

The Railroad Commission of the State of California hereby declares that public convenience and necessity do not require the operation of vessels between points in this state in compliance with Section 50(d) of the Public Utilities Act, as proposed by applicant, and

IT IS HEREBY ORDERED that the application be, and it hereby is, denied.

For all other purposes, the effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 28th day of June, 1937.

Walter M. ...
John ...
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Commissioners