

Decision No. 38787.

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of Application of SOUTHERN PACIFIC)
GOLDEN GATE FERRIES, LTD., for authority to aban-)
don or to suspend the operation of its San)
Francisco-Berkeley Ferry Line, unless in the) Application
opinion of the Commission public interest is) No. 21297
better subserved by the continuation for the)
time being of the curtailed service now in effect.)

E. J. FOULDS, for Southern Pacific Golden Gate Ferries, Ltd.

LLOYD W. DINKELSPIEL, for California Toll Bridge Authority.

FRED C. HUTCHINSON, by JOHN D. PHILLIPS.

BY THE COMMISSION:

O P I N I O N

This proceeding deals with the application of Southern Pacific Golden Gate Ferries, Ltd., for a further extension of time for the suspension of service on its San Francisco-Berkeley automobile ferry line.

A public hearing was held in this matter before Examiner Hunter at San Francisco March 4, 1938.

Under date of June 24, 1937, Southern Pacific Golden Gate Ferries, Ltd., applied to this Commission for authority to abandon or to suspend the operation of its San Francisco-Berkeley ferry line unless, in the opinion of the Commission, public interest was to be better served by continuation of the curtailed ferry service then in effect.⁽¹⁾

(1) More specifically the applicant prayed that the Commission make and enter an alternative order either (1) authorizing applicant to abandon its Berkeley ferry line, or (2) authorizing applicant to suspend the operation of its Berkeley ferry line subject to the further order of the Commission; unless, in the opinion of the Commission, the public interest is better subserved by the continued operation, for the time being, of said Berkeley ferry line on its present curtailed schedule.

In its Decision No. 29999 this Commission expressed the opinion that the continued operation of the San Francisco-Berkeley service could only be maintained with a substantial financial loss to the company and would cast a serious burden on the operation of the San Francisco-Oakland Pier and San Francisco-Sausalito routes. At the same time, however, the Commission recognized the prudence of reserving final decision as to whether or not it was in public interest to permanently abandon this line until such time as the immediate future operating conditions and various public requirements were better known. The Commission, therefore, concluded that this service should be suspended for a period of six months, and that upon the termination of this period it would, by appropriate supplemental proceedings upon the application of Southern Pacific Golden Gate Ferries, Ltd., order the said San Francisco-Berkeley service further suspended for an additional period, totally abandoned, or resumed.

The period of suspension expired February 15, 1938. Under date of February 4, 1938, request was made by Southern Pacific Golden Gate Ferries, Ltd., that the Commission authorize the continued suspension of the service for a further period of six months commencing February 16, 1938. Inasmuch as the question of the restoration of the Berkeley service is one of considerable public importance, and one in which a number of parties may be interested, the application for a further suspension was set for public hearing March 4, 1938, and to provide for such hearing and determination, the time for the suspension of service was extended to March 31, 1938.

Representatives of the Southern Pacific Golden Gate Ferries, Ltd., in the hearing of March 4th, stated that, in view of the uncertainty of other operations of the company it seemed desirable to

continue this matter in status quo, or, in other words, continue the suspension of the service. On the other hand, if such an extension of time is not granted the company takes no position as to whether the service should be resumed or abandoned, but prefers to leave the matter to the Commission's discretion. A view was expressed by a witness of the company that service could not be profitably operated under prevailing conditions.

A resolution passed by the City Council of Berkeley was introduced as Exhibit No. 146,⁽²⁾ which urges that applicant's request for a further extension of time be denied and that this carrier be required to resume the service at once or abandon the line. The City's witness expressed the view that inasmuch as applicant had been granted a reasonable and sufficient trial period to determine whether or not it desired to resume service, and that inasmuch as the pier facilities which will revert to the City of Berkeley upon the abandonment of operations were undergoing deterioration with the passage of time, lack of use, and restricted maintenance during such period of suspension, the City of Berkeley was justified in opposing applicant's request for further extension of time, which could not reasonably be justified. The City Council of Berkeley took no position as to whether public interest required the abandonment or resumption of service.

A representative of the California Toll Bridge Authority took the position that the suspension of the service on this route was tantamount to a discontinuance of operation within the meaning of law⁽³⁾ which provides that once such a service is discontinued, it cannot legally be resumed.

(2) Resolution No. 22476 N.S., dated March 1, 1938.

(3) Sec. 12, California Toll Bridge Authority Act, Statutes 1931, p. 916, Amended by Chapter 10, Statutes 1933 and Section 12¹, enacted by Chapter 228, Statutes 1935.

In the first order on this application, the Commission announced in Decision No. 29999, dated August 9, 1937, that upon the termination of the six months' suspension period, it would, by appropriate supplemental order, finally determine what disposition should be made of the original application.⁽⁴⁾

The record supports the conclusion that the resumption of service on the Berkeley route cannot be accomplished without substantial losses to the company. Neither applicant nor any other interested party presented any evidence urging the resumption of service on this line. On the other hand, all the testimony points to the lack of public necessity for the resumption of this service. It appears that a further continuation of the period for suspension will not only serve no good purpose for the parties in this proceeding, or other portions of the general public, but, on the other hand, may work some injury upon the City of Berkeley.

A full and careful consideration of the facts and circumstances of record leads to the conclusion that applicant's supplemental request for a further continuance of the suspension of this service should be denied and authority should be granted to abandon operations on the San Francisco-Berkeley ferry line as applied for in the original application.

(4) The prayer of this applicant reads as follows:

"WHEREFORE, applicant asks that the Commission make and enter its order, either:

- (1) Authorizing applicant to abandon its Berkeley ferry line; or
- (2) Authorizing applicant to suspend the operation of its Berkeley ferry line subject to the further order of the Commission; unless, in the opinion of the Commission, the public interest is better subserved by the continued operation for the time being of said Berkeley ferry line on its present curtailed schedule."

O R D E R

A public hearing having been held in the above-entitled application and all matters having been duly submitted,

IT IS HEREBY ORDERED that the application of Southern Pacific Golden Gate Ferries, Ltd., for further suspension of the service between San Francisco and Berkeley is denied.

IT IS HEREBY FURTHER ORDERED that the request of Southern Pacific Golden Gate Ferries, Ltd., to abandon operations on its San Francisco-Berkeley line, as prayed for in the original application, is granted, together with authority to remove or dispose of terminal facilities and approaches thereto.

IT IS HEREBY FURTHER ORDERED that Southern Pacific Golden Gate Ferries, Ltd., is directed to cancel forthwith all rates, rules, regulations and time schedules for the transportation of freight and passengers on its San Francisco-Berkeley line.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 21st day of March, 1938.

Walter H. Moore
Leon C. Kilduff
Frank R. Kilduff
Barbara Kilduff
Walter H. Kilduff
Commissioners