

ORIGINAL

Decision No. 36613

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
MARE ISLAND FERRY for an order auth-) Application No. 25727
orizing an increase in commutation)
rates.)

tum Suden and tum Suden, by Peter tum Suden for Applicant
Lowell Nelson, Business representative of the Labor Council
of Vallejo and vicinity

SACHSE, Commissioner:

O P I N I O N

In this proceeding applicant seeks authority to increase
commutation fares from 40 one-way rides for \$1 (at a rate of 2½ cents
each) to 30 one-way rides for \$1 (at a rate of 3-1/3 cents each).
No change is proposed in the 5-cent one-way cash fare.

A public hearing was held at Vallejo on August 27, 1943,
the matter was taken under submission and is now ready for decision.

The Mare Island Ferry⁽¹⁾ conducts a foot passenger common
carrier ferry service between the City of Vallejo and Mare Island
across the Mare Island Strait, a body of water approximately one-
quarter mile in width at the location of the ferry operations. The
ferry service is conducted between two slips on the Vallejo side,
one at Georgia Street and the other at Ryder Street, and two slips
on the Mare Island side. While the major portion of the operation is
provided between slips located on opposite sides of the strait, a
travel distance of approximately one-quarter of a mile between slips,
there is some cross movement between the respective slips on each side
of the strait involving travel of approximately three-quarters of a

(1) For convenience Mare Island Ferry will be referred to as the
ferry company.

mile. The service is conducted through the operation of two large steamers and fourteen smaller boats. (2) The operation of this service is restricted to passengers travelling to and from the United States Naval Base at Mare Island. Before boarding a boat on the Vallejo side for Mare Island all passengers must meet the identification requirements prescribed by the naval authorities.

The ferry company alleges in its application that the revenues now received from this operation are not compensatory and the company, a year ago, voluntarily reduced its commutation rates after conferences with representatives of the Mare Island Navy Yard and this Commission, with the understanding that if the reduced rates failed to meet the full cost of service, authority for a rate adjustment would be sought. (3) The ferry company operates under a contract

- (2) The steamers owned by applicant are the "Vallejo," having a passenger capacity of 1500, and the "Van Damme," having a capacity of 1100. Under an operating agreement between the ferry company and the City of Martinez, the "Van Damme" is now operated by the city in its ferry service between Martinez and Benicia, and, in turn, the steamer "Issaquah," owned by the city and having a carrying capacity of 900, is operated by the ferry company. This arrangement was put into effect as the "Van Damme" is better suited for the Martinez service and the "Issaquah" for applicant's operation.

The Commission has granted the ferry company's application seeking authority to exchange the boats on a permanent ownership basis (CRC Decision No. 36605).

Of the 14 smaller boats, the respective passenger capacities are:

8 of a capacity of 200 passengers
 3 of a capacity of 100 passengers
 2 of a capacity of 75 passengers
 1 of a capacity of 48 passengers

- (3) Recent Changes in Fare Structure:

<u>Item</u>	<u>Prior to 3/1/42</u>	<u>3/1/42 to 7/1/42</u>	<u>Subsequent to 7/1/42</u>
Commutation Fare	25 for \$1	30 for \$1	40 for \$1
One-way Cash Fare	5 cents	5 cents	5 cents

with the Mare Island naval authorities dealing with both service and rates. A copy of this agreement is a part of the record in this proceeding.

Two exhibits are in evidence relating to the operating results of the ferry company, one designated as Exhibit No. 2, introduced by the Commission's associate engineer O. B. Liersch, and the other, Exhibit No. 5, introduced by the ferry company's consulting engineer H. G. Butler. In view of the fact that Exhibit No. 2 is more comprehensive in its scope, applicant requested that it be introduced first as it constitutes the basis for Exhibit No. 5.

Referring to Exhibit No. 2 with respect to passengers carried, the report shows that for the eight months' period ending May 31, 1943, the ferry company on the average carried 758,560 commutation passengers and 120,949 5-cent fare passengers per month, the commutation passengers representing 86 per cent of the total traffic carried. The record shows that the traffic has remained more or less constant during this eight months' period. Under prevailing conditions, with wage levels as of June 1, 1943, it is estimated that the operating expenses for a typical month are \$24,639.⁽⁴⁾ To this estimated operating expense there should be added an item of \$500 per month to cover extraordinary repairs to the eight flat-bottom boats and deferred maintenance. Attention is called to the fact that the ferry company faces increased operating expenses as a result of additional personnel required on the boats together with higher wage scales.

With reference to future operating results, the estimates introduced by our engineer, Mr. Liersch, and applicant's engineer, Mr. Butler, are in substantial agreement. Table No. 1 of Exhibit

(4) Schedule 1 of Exhibit No. 2

No. 2 and Exhibit No. 4 shows traffic, gross revenues, operating expenses, depreciation, losses, net revenue, and rate of return on several different fare bases ranging from 40 single fare commute tickets (2½ cents per ticket) to 30 tickets for \$1 (3-1/3 cents per ticket). The 5-cent single trip cash fare, in view of the fact that the overwhelming majority of riders are regular commuters, is left unchanged in all estimates.

Applicant's Exhibit No. 5 contends for a monthly increase in operating expenses of \$2,145 made up of the following items:

Use and occupancy insurance	\$ 400
Nine additional men at \$140	1,260
Two additional men at \$180	360
Increases - Shop Superintendent and Port Captain	125

It appears that a considerable part of these additional operating costs are already being incurred and that the total expense, with the possible exception of the insurance item, cannot be avoided. I have made full allowance for these costs.

Applicant's engineer further testified that the company had committed itself to its employees to an increase in wages, and to this end an application would be filed with the War Labor Board within a week's time for a general increase in wages for both large and small boat operators and split-shift dockhands, which would entail an increased operating expense of \$830 per month. We have since been notified of the filing of this application.

The outstanding item in these estimates is federal taxes, and particularly the so-called war taxes; viz., the federal surtax and the excess profits tax. The effect of these war taxes on this applicant and on the users of this ferry service can well be illustrated if the estimated operating results under the fares sought by applicant (5-cent cash fare and 30 tickets for \$1.00) are briefly

analyzed. Table No. 1 of Exhibit 2 shows that with such fares, under the conditions assumed in Part A of Table No. I and with a rate base of \$159,989, the business and revenues to be expected are as follows:

Estimated Operations Under 5-cent Cash
Fare and 3-1/3-cent Commute Fare (30
Tickets for \$1.00).

(1)	121,000 5-cent cash fare passengers, per month	6,050.00
(2)	758,500 Commute passengers (at 3-1/3¢) " "	25,281.00
(3)	879,500 Total passengers (avg. fare 3.56¢) " "	31,331.00
(4)	Operating Expenses, incl. depreciation and operative taxes, but before Federal Income Tax, per month	25,139.33
(5)	Net operating revenue, per month	6,191.67
(6)	Nonoperating revenue, " "	14.00
(7)	Total monthly net revenue before Income Taxes	6,331.67
(8)	Total annual net revenue, before Income Taxes	75,980.00
(9)	Income Taxes	52,483.00
	Including State Franchise Tax	\$ 3,039
	Normal Federal Income Tax	2,902
	Federal Surtax	1,766
	Excess Profits Tax	<u>44,776</u>
	Total	\$52,483
(10)	Net return, after all taxes	23,497.00
(11)	Rate of return on \$159,989 rate base, after all taxes	14.7%
(12)	Rate of return on same rate base before Excess Profits Tax	42.7%

It is to be noted that under this fare structure, out of a total net annual revenue of \$75,980 the company would pay \$44,776 as federal excess profits tax and that after paying this and all other taxes it would retain a net return of \$23,497, which is 14.7 per cent on the estimated rate base. The rate of return before this tax would be 42.7 per cent. The outstanding, and to my mind controlling, fact is that the ferry company would not pay this excess profits tax out of its "excess income," but would merely collect the tax from its patrons in excessive fares, retaining for itself only such portion of the collection as is not absorbed by the excess profits tax provisions of the recent federal war tax statutes.

I can find no indication of any purpose or intent on the part of Congress, in its enactment of the present war tax legislation, that regulated utilities should act as collectors of indirect war taxes, or that such war tax should be levied on the rate payer in the guise of added charges for transportation or utility services, or that such war taxes must then become "operating expenses," forcing the additional burden on the rate payer but not on the utility corporation. On the contrary, the Congress has by special and specific legislation imposed direct excise taxes on the use of certain communication and railroad services and such taxes are a direct charge on the consumers of such services.

It does not seem necessary for the Commission to reach a determination, in this relatively minor rate proceeding, on all phases of the important matter of utility war taxes and on the question of how such taxes, over and above the normal prewar taxes, should be treated equitably and fairly between the utility on the one hand and the rate payer on the other hand. Upon this record the conclusion is inescapable that a fare structure higher than required to pay for the reasonable cost of adequate service, plus a fair return commensurate with the degree of risk attaching to this transportation service would result in rates unjust and unfair to the patrons of this ferry company.

There is no doubt that this carrier is entitled to some relief in the form of an increase in the commute fares. From the data in the record a fair and reasonable rate structure can be developed; viz., 5-cent single cash fare and 32 commutation tickets (3-1/8 cents per ticket). The rates recommended herein will produce gross and not revenue adequate to ensure continued good service, they will be in accord with the terms of the contract between applicant and the naval authorities, and they will provide a fair return for the ferry company.

The recommended rates are based upon the following estimate:

Estimated Annual Operating Results from Recommended 5-cent Cash Fare and 5-1/8 Cents Commutation Fare (32 Tickets for \$1.00)

(1) Gross Revenue from 121,000 monthly cash passengers and 758,500 monthly commute passengers		\$358,716	
(2) Operating Expenses		337,328	
(a) Including Depreciation	\$32,460.48		
(3) Net revenue, before Income Taxes		21,348	(b)
(4) State and Federal Income Taxes		5,777	
Including State Franchise Tax	\$ 854		
Normal Federal Income Tax	2,902		
Federal Surtax	1,766		
Excess Profits Tax	255		
Total	5,777		
(5) Net Revenue, after all taxes		15,571	(b)
(6) Rate Base		159,989	
(7) Rate of Return on (6)		9.7%	(b)

- (b) Net revenue includes \$1,680 nonoperating revenue. If this item is eliminated the rate of return is reduced to 8.7%.

In the foregoing estimate, item 2(a), straight line depreciation is allowed on all depreciable property having regard for the temporary character of this service rendered in accordance with the Navy contract, heretofore referred to, and the special types of equipment used.

No allowance is made in operating expenses for future depreciation of property which has heretofore been fully depreciated. The Commission cannot subscribe to the theory advanced in this case that where a utility has had returned to it its full investment in a facility through an adequate depreciation allowance in the operating costs paid by the rate payers, it is nevertheless entitled to depreciate such a facility once more and to continue such depreciation operating expense against the consumer. Such a practice would be an incentive to claims for excessive depreciation allowances and lead to attempts to depreciate property over a period of time shorter than the reasonable service life. The rate payers, under such conditions, would be saddled with unnecessarily high charges not only during the first cycle of depreciation accruals, but would continue to pay excessive charges during the additional time that such fully depreciated

and paid for property might continue in utility service. Such a course would result in the utility collecting its investment in depreciable property two or three times from its patrons in the form of fictitious operative charges. Obviously, such practice would be unfair to the rate payer and contrary to the letter and intent of Sec. 49 of the Public Utilities Act.⁽⁵⁾ Depreciation should not be allowed as an operating expense after the investment in property against which depreciation accruals are accumulated has been fully depreciated.

In connection with the matter of a proper depreciation allowance in operating expense, the problem of accelerated depreciation and amortization of investment in temporary war plant facilities is before us. Eight of applicant's boats used in this service, with an aggregate book cost of approximately \$130,000, come within that category. Allowance is made in the preceding estimate, and included in Item (2-a) - Operating Expenses, Depreciation - for complete depreciation and amortization of these eight boats within a 5-year period. Applicant has stipulated that when the full investment, including capital additions and betterments, in these facilities has been accrued in contributions, as operating expenses, to the depreciation or amortization reserve, these items shall be eliminated

(5) "Sec. 49. The commission shall have power, after hearing, to require any or all public utilities to carry a proper and adequate depreciation account in accordance with such rules, regulations and forms of account as the commission may prescribe. The commission may, from time to time, ascertain and determine and by order fix the proper and adequate rates of depreciation of the several classes of property of each public utility. Each public utility shall conform its depreciation accounts to the rates so ascertained, determined and fixed, and shall set aside the moneys so provided for out of earnings and carry the same in a depreciation fund and expend such fund only for such purposes and under such rules and regulations, both as to original expenditure and subsequent replacement as the commission may prescribe. The income from investment of moneys in such fund shall likewise be carried in such fund."

from the rate base and no further depreciation allowance shall be made regardless of whether or not these boats remain in utility service after the amortization period. (6)

I recommend the following form of order.

ORDER

Public hearing having been held, the matter having been submitted, and the Commission being fully apprised,

IT IS HEREBY ORDERED that Mare Island Ferry, a corporation, be and it is hereby authorized to increase its commutation fare from forty (40) unlimited transferable single trip tickets for one dollar (\$1.00) to thirty-two (32) such tickets for one dollar (\$1.00), subject to the following condition:

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- (6) Transcript, page 23: "COMMISSIONER SACHSE: Would the Company stipulate that in the event they are still in operation at the end -- these 8 boats I mean -- at the end of the amortization or depreciation period that they shall be eliminated from further depreciation calculations and further depreciation allowance and rate base.
- "MR. tum SUDEN: It should be -- that should be a stipulation that we could enter into provided we do not have to make additional capital expenditures on these boats. I am afraid that, after examining one of them today, that we are going to have increased costs of maintaining them.
- "COMMISSIONER SACHSE: Well, I would agree with you if there be additional capital expenditures to be made, not not by operating expenses, that would increase the capital to be amortized.
- "MR. BUTLER: If I might make a remark in that connection. I think these boats will be off the property list by 5 years, beyond a doubt. As Mr. Liersch said, they are flat bottomed barges, that is what they really are.
- "MR. tum SUDEN: There is no demand for them, there would not be any use to them after the war is over on account of that construction, nobody would want to buy that type of boat; there would be too severe a strain in the lower Bay; they would not take the pounding of the lower Bay.
- "COMMISSIONER SACHSE: I was thinking of the possibility of the war not being over.
- "MR. tum SUDEN: Well, of course, under those circumstances I think I would be willing to stipulate we would make plans to do so."

Applicant shall file in triplicate and concurrently make effective within thirty (30) days from the date of this order and on not less than five (5) days' notice to the Commission and the public, a revised tariff constructed in accordance with the requirements of the Commission's Tariff Circular No. 2 establishing the increased fare herein authorized.

IT IS HEREBY FURTHER ORDERED that except to the extent authorized in the preceding ordering paragraph the proposed increase in fares be and it 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.

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

Dated at San Francisco, California, this 21st day of September, 1943.

Francis P. Stevenson
J. H. B. Allen
Richard H. Jackson
Francis P. Stevenson
COMMISSIONERS