

ORIGINAL

Decision No. 38382

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Roy J. Peterson, doing business under the name of Roy J. Peterson Co., 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. 26992

BY THE COMMISSION:

Appearances

- Roy J. Peterson, in propria persona.
- R. G. Anderson, for Sailors Union of the Pacific.
- John A. Quadres, for Pacific Coast Marine Firemen's Union.
- Albert D. Elledge, for Harbor Tug & Barge Company.
- Douglas Brookman, for San Francisco Water Tour Company.
- Walter G. Westman, for Crowley Launch & Tugboat Company.
- Homer H. Grant, for Key System.

O P I N I O N

By this application, Roy J. Peterson, doing business as Roy J. Peterson Company, seeks a certificate of public convenience and necessity authorizing him to transport passengers as a common carrier by vessel between points on San Francisco Bay, Golden Gate Strait, and tributary waters.

A public hearing was had at San Francisco on October 17, 1945, before Examiner Mulgrew.

Applicant testified that since July 1945 he had owned a one-half interest in the "Barnacle," a vessel under 5 tons net register and capable of accommodating 25 passengers; that he had been informed that he could transport passengers in a vessel of

such net register tonnage without first obtaining a certificate of public convenience and necessity;¹ and that, although the "Barnacle" had been acquired with the idea of using it in passenger service, it had not been so used because it required a new engine and other refitting and because an operation limited to one small boat would be unsatisfactory. Acquisition of at least one more vessel of greater carrying capacity than the "Barnacle," applicant explained, would be necessary in order to provide service for stevedore gangs and other large groups. A one-vessel operation, he also explained, could not maintain service without interruption, because at times the boat would have to be laid up for repairs. He claimed that he had seen "lots of boats" which he could obtain for the contemplated service, that surplus landing barges and other military and naval craft would probably soon be available, and that he could get the necessary capital for financing the acquisition of needed vessels.

The proposed operation, applicant stated, would be between all points on San Francisco Bay, Golden Gate Straits and tributary waters where service might be wanted. Scheduled service would not be offered unless and until warranted by a sufficient demand. Applicant said that he planned to obtain landing facilities near the Ferry Building and to operate water-taxi on call and cruising services from this location. He admitted that he had had no experience in carrying passengers, and that he had made no estimates of operating revenues and expenses or definite arrangements for acquiring or berthing vessels. As he put it, he decided to ask for the

¹ The Public Utilities Act, in Section 2(l), defines the term "common carrier" as used in that Act as including "every corporation or person **** owning, controlling, operating or managing any vessel, as hereafter defined, engaged in the transportation of persons or property for compensation between points upon the inland waters of this State ****." Section 2(y), which defines the term "vessel," specifically excludes self-propelled vessels "under the burden of five tons net register."

operating authority and if he got it see what he could do with it.

Representatives of the Sailors Union of the Pacific and the Pacific Coast Marine Firemen's Union appeared in support of the granting of the application. They testified that numerous members of their organizations had complained about the service available between the San Francisco waterfront and cargo vessels anchored in the bay; that scheduled services between the shore and these vessels did not coincide with the times when watches were changed aboard ship; that the existing supplementary water taxi service was insufficient to meet the demand for that service; and that additional service was needed by union officials, stevedores, armed guard crews and others. The witnesses asserted that there had been many instances when members of the crews of the anchored vessels had been subjected to serious delays, especially in leaving the ships, and that there had been other instances in which the water taxis had been badly overcrowded. They also asserted that, as a result of the unsatisfactory transportation available, it had become extremely difficult to man vessels anchored in the bay. The men preferred, they said, to sign on the ships berthed at waterfront piers or scheduled for immediate departure and had generally refused to sign on the anchored vessels.

Harbor Tug and Barge Company, a common carrier of passengers between points on San Francisco and San Pablo Bays under operating authority granted by the Commission, opposed the granting of the application.² Its general manager testified that the company operated a fleet of fifteen water taxis having carrying capacities ranging from 60 to 120 passengers and a total carrying capacity of 1,250 passengers. One of the fifteen, he said, was a new vessel

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See Application of Harbor Tug and Barge Company for Certificate of Public Convenience and Necessity, 27 C.R.C. 609 and Vessel Operative Rights, 40 C.R.C. 493.

which had been in operation for only one week. Another new vessel, he stated, was enroute from San Pedro and upon arrival would also be placed in service. According to the witness, arrangements had been made with the War Shipping Administration and general agents for cargo vessels anchored in San Francisco Bay under which service had been provided twice daily to these ships at agreed times. In addition, he said, the company kept vessels available for general water taxi service on a 24-hour basis and its boats cruised through the cargo ship anchorages during daylight hours. He claimed that there was no reason why anyone should be without service, that no request for service had been refused, and that no complaints had been registered with the company. The demand for water taxi service, he contended, had passed its peak and was on the decline. He estimated that the volume of traffic had dropped some 60 to 65 percent since September 15, 1945, when the high point resulting from the concentration of vessels in the bay upon the termination of hostilities had been reached. The equipment operated by his company, the witness claimed, was sufficient to meet all existing demands for service as well as those which might reasonably be anticipated in the future. He denied that the water taxis operated by the company had been overloaded.

With respect to the availability of vessels for applicant's contemplated service, Harbor Tug and Barge Company's general manager testified that, as the result of an extensive search undertaken by the company, nine vessels had been found in southern California; that these ships had been chartered by, and were being operated by, the company; and that the company's search disclosed that other suitable vessels were not available. Landing barges and similar craft, the witness claimed, were not adaptable to water taxi service. Similar testimony was offered by a copartner of San Francisco Water

Tour Company, providing transportation for United States Government personnel between San Francisco Bay points and from and to vessels in the bay under contract with the United States Navy. This witness said that he had been commissioned by the Navy to find boats suitable for water taxi service, that he had searched from Seattle to San Diego for such vessels, that the few which he had located had been requisitioned by the Navy, and that four new water taxis were now under construction for use in the operation conducted by his company.

Applicant's frank admission that his purpose was to obtain operative authority and, after he had secured it, decide what he could do with it, shows that he has not determined whether or not he is willing to shoulder the responsibilities of a common carrier. Moreover, his ability to provide the proposed service is open to serious question. The record indicates, for example, that suitable vessels would not be readily available to him. Indeed, on this point the showing made leads to the conclusion that such vessels will not be available for some time. In addition, there is no indication that the enterprise could be successfully operated from a financial standpoint. The showing made fails to establish a need for the proposed service and falls far short of demonstrating that applicant would be able to provide the service were he to be authorized to do so. Also, there is no reasonable assurance that he is willing to assume the duties and obligations of a common carrier. The application must, therefore, be denied.

ORDER

A public hearing having been held in the above entitled application and based upon the evidence received at the hearing and upon the conclusions and findings set forth in the preceding opinion,

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

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

Dated at San Francisco, California, this 6th day of November, 1945.

Harold C. Anderson

Justice J. C. Quinn
Francis O. Davis

James H. Quinn
Commissioners