

ORIGINAL

Decision No. 41630

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 GOLDEN GATE EXCURSION COMPANY for a)
 certificate of public convenience and)
 necessity to operate a motor boat for) Application No. 29192
 transportation of passengers for com-)
 pensation between points in the State)
 of California.)

In the Matter of the Application of)
 THE HARBOR TUG AND BARGE COMPANY, a)
 corporation, for a certificate of)
 public convenience and necessity to) Application No. 29297
 operate vessels on schedule as a)
 common carrier of passengers between)
 the Foot of Broadway, Oakland, and)
 the Alameda Naval Air Station, Alameda.)

Application No. 29192

John Barton O'Brien for applicant
Reginald L. Vaughan for The Harbor Tug and Barge Company and
Donahue, Richards, Rowell and Gallagher by O. J. Bowman and
E. M. Bennett for Key System Transit Lines, protestants.

Application No. 29297

Reginald L. Vaughan for applicant
John Barton O'Brien for Golden Gate Excursion Company, and
Donahue, Richards, Rowell and Gallagher by O. J. Bowman and
E. M. Bennett for Key System Transit Lines, protestants.

O P I N I O N

Golden Gate Excursion Company, a copartnership consist-
ing of William F. Lenhart, Thomas L. Reese and Eugene Vigno, in
Application No. 29192, and The Harbor Tug and Barge Company, a
corporation, in Application No. 29297, seek certificates of public
convenience and necessity authorizing the operation of vessels for
the transportation of passengers between the foot of Broadway in
Oakland and the U. S. Naval Air Station in Alameda. Public hearings
were held before Examiner Bradshaw at Oakland. The two proceedings

will be disposed in a single opinion and order.

Applicant Golden Gate Excursion Company has been operating vessels between Oakland and the plant of United Engineering Company in Alameda since December 1947, pursuant to a certificate of public convenience and necessity granted by Decision No. 40680, dated September 10, 1947, in Application No. 28577. An 18-minute service from Oakland to the Naval Air Station is proposed between 6:00 a.m. and 8:00 a.m. with a like service from the Air Station to Oakland between 3:35 p.m. and 5:00 p.m. A one-way fare of 15 cents and commutation fares equivalent to 10 cents a ride will be charged. It is proposed to operate five days each week, namely, on Mondays through Fridays.

The Harbor Tug and Barge Company has engaged in a general launch, barge, tug and towboat business for many years, transporting passengers and property on San Francisco Bay and certain tributaries. A description of this applicant's operative rights appears in Inland Vessel Carriers Investigation, 40 C.R.C. 493, 515. It contemplates a 15-minute service during approximately the same hours as the other applicant, at the same commutation fares and a 15-cent one-way fare.

One of the copartners composing Golden Gate Excursion Company testified that parking facilities at the Air Station are inadequate; and that during peak travel periods there is considerable congestion between the Air Station and the Oakland portal of the Posey Tube, which connects Alameda with Oakland. It was stated that during six test trips made by automobile about one month ago from 50 minutes to 1 hour and 15 minutes were required to travel between these points. According to this witness, the trip by vessel between

the proposed termini can be made in nine minutes. Adequate parking space is said to be available near the foot of Broadway in Oakland. A street-car line is located one block from this location.

A statement purporting to be a balance sheet of Golden Gate Excursion Company, prepared from memory without examining its books, was offered in evidence. It sets forth assets, consisting of the value of one vessel, a truck and office equipment, amounting to \$32,100, and liabilities, consisting of miscellaneous expenses (\$250.) and mortgages on the vessel and truck (\$5,900.), amounting to \$6,150. No further showing was made concerning this applicant's financial condition. Since about March 1st, it has been transporting an average of only five passengers each way per day between Oakland and the United Engineering Company's plant, although three round trips have been operated. However, a material increase in traffic is anticipated upon the reported resumption of shipyard activities during the present month. This applicant claims to have available for service four boats, two of which are now used in serving the United Engineering Company's plant.

A lieutenant commander on the staff of the Commandant of the Navy for this district, as a witness for Golden Gate Excursion Company, referred to an investigation he made to determine the desirability of vessel service to and from the Air Station. He expressed the view that such a service would be beneficial to the Navy, because it would reduce the time employees are required to travel to and from work. It is claimed that under present transportation conditions the Navy has lost the services of some of its best employees. The witness declared that the Navy, while taking a neutral position as between the applicants, desires the service of

the most competent operator. It has available for charter to the "successful applicant" two 64-foot launches for use in the proposed service.

Applicant Golden Gate Excursion Company called two other witnesses. An industrial relations counsellor at the Air Station declared that parking facilities are now occupied to capacity; that he was satisfied of the need for water transportation to and from the Station, and that numerous employees have requested that steps be taken to arrange for such transportation. An employee at the Station residing in Vallejo, who drives to and from work, testified that delays have been encountered when driving through the Posey Tube, but that conditions are not too bad when the ship-yards are inactive. He stated that he would use the proposed boat service believing that he would thereby save time and money.

The president of The Harbor Tug and Barge Company testified to the correctness of certain financial statements which accompanied that carrier's application. A balance sheet as of March 31, 1948, shows assets of \$609,255.42, with current liabilities and a reserve for estimated Federal income taxes for the period from July 1, 1947, to March 31, 1948, amounting to \$27,649.93. According to this applicant's annual report, its income account for 1947 shows: Transportation revenue, revenue from operations other than transportation and miscellaneous income, \$408,910.50; operating expenses and taxes, \$392,962.89; and profit for the year, \$15,947.61.

This applicant's general manager described its passenger-carrying vessels. The fleet comprises six vessels of a carrying capacity from 75 to 95 passengers, two vessels having a capacity of 228 passengers each, and two vessels under charter of a 70-

passenger capacity. It was stated that this applicant might lease the two vessels which can be secured from the Navy, but in either event it has ample equipment for the proposed service as well as other operations now being conducted.

The Harbor Company's general manager contended that, in order to accommodate 500 daily passengers each way with a 15-minute service, a minimum of three boats will be required, and at least one of the three boats should be capable of carrying 200 passengers. He stated that when his company operated a similar service during the war at least ten minutes were required to make the trip between the proposed termini.

The testimony in Application No. 29192 concerning the investigation made by the lieutenant commander of the Navy was incorporated in the record in Application No. 29297, by stipulation. The industrial relations counselor who testified in connection with the first-mentioned application was also called as a witness by the Harbor Company. In addition to giving similar testimony, he expressed the view that insufficient buses are operated by the Key System and cited instances in which buses were overcrowded during peak hours. This witness, based upon an incomplete survey, estimated that about 500 people would patronize a boat service on working days. He did not express any preference as between the two applicants.

Two employees of the Air Station, called as witnesses for the Harbor Company, testified that they would use the proposed boat service, due to the anticipated reduction in travel time; and that the proposed fares are satisfactory. It was stipulated that seven other employees, who were in attendance at the hearing, would give similar testimony.

Applicant Golden Gate Excursion Company contended that berthing facilities at the foot of Broadway are now used to capacity and that there are no suitable facilities there or nearby which could be used by another carrier. However, the assistant port manager, Board of Port Commissioners, City of Oakland, asserted that some of the slips are now used for storage purposes and would be made available to the Harbor Company if it secures a certificate.

Protestant Key System Transit Lines presented evidence in both proceedings. Its traffic engineer described the bus service at present in operation. From Oakland to the Air Station three trips between 5:00 a.m. and 6:00 a.m., 22 trips (two of which originate at San Francisco) between 6:00 a.m. and 7:00 a.m. and 16 trips between 7:00 a.m. and 8:00 a.m. are operated. In the opposite direction, 19 trips are operated between 3:00 p.m. and 4:00 p.m., 13 (two of which operate to San Francisco) between 4:00 p.m. and 5:00 p.m., and 7 between 5:00 p.m. and 6:00 p.m. A so-called basic service on 20-, 30- or 60-minute headways is operated in each direction during other hours.

The Key System's witness said that during the peak period of 1 hour 10 minutes 1,500 men are transported to or from the Air Station; that the running time by bus from the Air Station to 11th and Broadway in Oakland is 22 minutes; and that according to experience the actual time en route does not exceed 30 minutes. He further stated that, according to a recent check, an average of from 44 to 56 passengers are carried per bus, but that a 35 per cent standee load is never exceeded.

The facts of record in these proceedings demonstrate that vessel service between Oakland and the Naval Air Station is justified

as a means of affording some relief from crowded conditions encountered in traveling between these points during peak periods, whether by public or private forms of transportation. It is also clear, and seems to be conceded by the applicants and their witnesses, that the vessel operation should be conducted by one rather than two carriers. The problem is, therefore, presented of determining which of the applicants should be authorized to establish the service.

Careful consideration has been given to the facilities, experience and financial condition of each applicant to the extent that the evidence submitted has enabled us to do so. Based upon the facts presented, we are of the opinion that The Harbor Tug and Barge Company is in a position to supply a more satisfactory, dependable and enduring service than the Golden Gate Excursion Company.

In view of all the facts and circumstances of record, the Commission finds (1) that public convenience and necessity require the establishment and operation by The Harbor Tug and Barge Company of a service by vessels, as a common carrier, for the transportation of passengers between the foot of Broadway in Oakland and the U. S. Naval Air Station in Alameda; and (2) that the application of Golden Gate Excursion Company for authority to establish a similar service should be denied.

The Harbor Tug and Barge Company is hereby placed upon notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business over a particular

route. This monopoly feature may be changed or destroyed at any time by the State, which is not in any respect limited to the number of rights which may be given.

O R D E R

Public hearings having been had in the above-entitled applications and the Commission, upon the evidence received, having found that public convenience and necessity so require.,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity be and it is hereby granted to The Harbor Tug and Barge Company, authorizing the establishment and operation of a service by vessels, as defined in Section 2(y) of the Public Utilities Act, for the transportation of persons, as a common carrier, between the foot of Broadway in Oakland and the U. S. Naval Air Station in Alameda.

(2) That in providing service pursuant to the certificate herein granted, The Harbor Tug and Barge Company shall comply with and observe the following service regulations:

- (a) Applicant shall file a written acceptance of the certificate herein granted within a period not to exceed 30 days from the effective date hereof.
- (b) Applicant shall comply with the provisions of Tariff Circular No. 2 and General Order No. 87 by and concurrently making effective, appropriate tariffs and time schedules within 60 days from the effective date hereof and on not less than 5 days' notice to the Commission and the public.

(3) That the application filed by Golden Gate Excursion Company in Application No. 29192 be and it is hereby denied.

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

Dated at San Francisco, California, this 25th day of May, 1948.

R. J. Anderson
Justin J. Calmes
Ernest H. Lowell
Harold P. Kula
Kenneth Pottor
COMMISSIONERS