

ORIGINAL

Decision No. 47828

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of BRYAN BAYLY, dba HARBOR WATER TAXI CO., for a temporary enlargement of its operating certificate and rights.))))	Application No. 33696
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In the Matter of the Application of CATALINA ISLAND STEAMSHIP LINE, a corporation, for an order authorizing a temporary suspension of its passen- ger and freight operations.))))	Application No. 33697
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Gibson, Dunn & Crutcher, by Woodward M. Taylor,
 for applicant. William Lawrence, Regional Director,
 International Longshoremen's and Warehousemen's Union,
 and Clyde Thomas for Harbor Water Taxi Co., interested
 parties. Otto B. Liersch, Transportation Division of
 the Public Utilities Commission.

O P I N I O N

Applicant Catalina Island Steamship Line for many
 years last past has transported passenger and freight by *R. J. M.*
 vessels for compensation between Wilmington, California, and
 Santa Catalina Island, California, and at the present time is
 operating one steamship, the S. S. Catalina, and also owns one
 gasoline motor boat called the Descanso. The steamship is
 used regularly in the sailing between Wilmington and Santa
 Catalina Island, and the Descanso is used for overflow traffic,
 particularly in the summer months. Authority is requested
 herein to indefinitely suspend all of these operations.

The application of Bryan Bayly, doing business as Harbor Water Taxi Co., discloses that this applicant is a common carrier operating an on-call water taxi service for the transportation of passengers and their hand baggage between Wilmington, California, and Avalon, California. This application requests authority to transport, during the period of any suspension granted to Catalina Island Steamship Line, passengers and freight between Wilmington and Avalon on a scheduled service, the passenger service to consist of a minimum of one round trip per day. The rates proposed to be charged for passengers are \$6.80 per person for a round trip, \$3.40 one way per person, and a commutation fare of ten rides for \$14.38. All of these fares include the tax. The freight rates proposed to be charged are those presently charged by the Catalina Island Steamship Line and published in its Local Freight Tariff Cal. P.U.C. No. 2.

A public hearing was held by Examiner Syphers in Los Angeles on September 23, 1952, at which time evidence was adduced and the matter submitted.

Testimony presented by the Catalina Island Steamship Line disclosed that this company is a wholly owned subsidiary of the Santa Catalina Island Company. This last named company has been in the same ownership for over thirty years, and during this period, it was testified, the owners have received no remuneration from either company in the form of salaries or dividends, and likewise during this period the book value of their holdings in these companies has steadily decreased.

The losses on the steamship line were attributed to the allegedly unprofitable winter operation and the unprofitable freight operation. The testimony disclosed that during the seven winter months from October through April the net loss amounts to approximately \$400,000 under present conditions, since the steamship line carries less than 20% of the total annual passengers during these seven months. Further, it was testified that the labor costs in handling the freight haul amount to almost twice as much as the gross revenue derived from this freight. Accordingly, the vice president of the Catalina Island Steamship Line stated that, in the opinion of the officials of that company, it was necessary to suspend operations temporarily so that a plan for operating on a more profitable basis could be formulated.

A certified public accountant presented studies showing the results of operations and also a forecast of estimated future results of operations. Exhibit A shows the actual results of operations for the year 1951, the results of operations for 1952 based on actual figures for the first seven months and estimated for the balance of the year, and, in addition, the estimated results of operations for the year 1953. It should be noted that in all of these the year used is from October 1 through September 30. While this exhibit shows a net profit of \$20,125 in 1951 and \$17,827 in 1952, it contains an estimate that for the year 1953 there will be a loss of \$116,578. Exhibit A-1 sets out the details of some of the items on Exhibit A. Exhibit B presents an estimate to

the effect that the decline in traffic in 1953 over that of 1952 will amount to 8.7%, and this decline is graphically illustrated in Exhibit B-1. Exhibit C is a comparison of the wage rates for the steamship operation and longshoremen utility operations for the years 1950, 1951 and 1952, and indicates that during this period there has been an average per cent of increase of 19.5%. Exhibit D shows that the operating losses for the seven winter months from October 1 to April 30 are as follows:

<u>Year</u> <u>1950-1951</u>	<u>Year</u> <u>1951-1952</u>	<u>Estimated</u> <u>1952-1953</u>
\$ 406,626	\$ 419,633	\$ 436,879

Exhibit D-1 is an analysis of the figures set out in Exhibit D.

Based upon this financial showing, the representatives of the Catalina Island Steamship Line requested that the Commission authorize a temporary but indefinite suspension of operations. It was testified that the reason for desiring such an indefinite suspension was to enable the parties concerned, including the company officials, the employees, and the citizens of Avalon, to work out a satisfactory solution. There was also introduced into evidence a resolution of the City Council of the City of Avalon, No. 948, whereby that council favored the proposed suspension. A similar resolution of the Chamber of Commerce of the City of Avalon was likewise presented.

As an alternative to the steamship service during the suspension period, it was pointed out that there is presently available an airline service, and, further, that the

Harbor Water Taxi Co. is ready, willing and able to transport the passengers and freight during the period of the temporary suspension.

Additional testimony was presented by a resident of Catalina Island who objected to an indefinite suspension of the service, and also wanted some assurance as to what future transportation would be furnished by Catalina Island Steamship Line. He contended that the actions of the Chamber of Commerce and the City Council, as indicated in the resolutions previously mentioned, were not representative of the people living on Catalina Island.

The regional director of the International Longshoremen's and Warehousemen's Union testified that his organization was concerned about a temporary indefinite suspension of service. In relation to the labor costs of the company, he pointed out that the longshoremen's percentage share of labor costs amounts to about 15%, and that the men are required to be available at all times and on call in case of any emergency.

The Harbor Water Taxi Co. presented testimony that it has hauled passengers in water taxis for the past five years in a regular summer schedule supplementary to the steamship service. It was also testified that this company has hauled freight during the winter of 1948 and 1949, and also during a period in 1951 when the Catalina Island Steamship Line was shut down for overhauls to its boat.

The Harbor Water Taxi Co. presently operates a 20-ton all-steel water taxi which will be used in hauling freight, and five smaller water taxis which are used to haul passengers. Exhibit A is a financial statement dated September 15, 1952.

Upon cross examination relative to the type of boats to be used, the representative of the Harbor Water Taxi Co. testified that it is now in the process of putting wooden tops on its boats instead of canvas covers formerly used. This, in the opinion of the witness, will provide watertight covers so that the passengers will not be subject to water from the waves and the spray. Applicant proposes a scheduled operation consisting of at least one trip daily. The owner of applicant company testified that, in his opinion, the ability of the water taxis to get through to the island in rough weather is about the same as the ability of the steamer.

After a consideration of this record, we hereby find it to be in the public interest to permit the Catalina Island Steamship Line to temporarily suspend operations. It is not in the public interest, however, to permit an indefinite suspension with no time limit or indication as to when operations will be resumed. Therefore, the Catalina Island Steamship Line will be permitted to temporarily suspend operations for a period to expire not later than April 30, 1953. We further find that during the period of this suspension public convenience and necessity require the operations proposed by the Harbor Water Taxi Co.

Bryan Bayly 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

Applications as above entitled having been filed, public hearings having been held thereon, the Commission being fully advised in the premises and finding that public interest and public convenience and necessity so require,

IT IS ORDERED:

(1) That the Catalina Island Steamship Line be, and it hereby is, authorized to temporarily suspend all freight and passenger operations between Wilmington, California, and Santa Catalina Island, California, for a period to end not later than April 30, 1953.

(2) That the Catalina Island Steamship Line shall advise this Commission and the public by not less than five (5) days' notice, of the date when the above-authorized temporary suspension shall commence and, by similar notice, as to the date when the service shall be resumed.

IT IS FURTHER ORDERED:

(1) That a certificate of public convenience and necessity, as provided in Section 1007 of the Public Utilities Code, be, and it hereby is, granted to Bryan Bayly, doing business as Harbor Water Taxi Co., authorizing the establishment and operation of a service as a common carrier for the transportation of persons and property by vessel between Wilmington in the City of Los Angeles and Avalon on Santa Catalina Island.

(2) That the foregoing certificate is granted subject to the following conditions and service regulations:

- (a) That the authority herein granted shall terminate on April 30, 1953.
- (b) Within thirty (30) days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted.
- (c) Within sixty (60) days after the effective date hereof, and upon one (1) day's notice to the Commission and the public, applicant shall establish the service herein authorized and file in triplicate and concurrently make effective tariffs and time schedules satisfactory to the Commission.

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

Dated at San Francisco, California, this 14th day of October, 1952.

[Signature]
President

[Signature]

[Signature]

[Signature]

[Signature]
Commissioners