

Decision No. 48345**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 RICHMOND & SAN RAFAEL FERRY &)
 TRANSPORTATION CO. for authority to) Application No. 33942
 execute and perform contract for sale)
 of operating property and termination)
 of service.)

John Robertson, for Marine Engineers' Beneficial Association, Local No. 97, C.I.O., Masters, Mates and Pilots, Local No. 40, A.F. of L., and Inlandboatmen's Union of the Pacific, San Francisco Division, A.F. of L., protestants.
Brobeck, Phleger and Harrison and Heller, Ehrman, White and McAuliffe by Howard Finn, for Richmond & San Rafael Ferry, applicant. Norris J. Burke, for Department of Public Works of the State of California, applicant.
C. J. Simpson, for National Labor Bureau.

INTERLOCUTORY OPINION AND ORDER

Applicant is a common carrier operating a ferry service between Point San Quentin and Castro Point. Ex parte Decision No. 48045, issued on December 16, 1952, authorized applicant to execute a certain agreement with the State of California and to sell to the state certain property used in applicant's utility service. Applicant was also authorized to abandon its ferry service upon the opening to public traffic of a steel bridge to be constructed by the state between Point San Quentin and Castro Point, generally paralleling applicant's present ferry route. By the terms of the agreement applicant will sell to the state for the agreed sum of \$1,000,000 certain properties at Point San Quentin including the causeway, pier and ferry slips now used by applicant in providing ferry service and will accept a leasehold interest in such properties until December 31, 1956 or until the opening of the bridge, whichever is earlier, at a total rental of \$1.00, and will terminate its ferry service within 5 days after notice that the bridge is open to public traffic.

On December 24, 1952 a petition for rehearing was filed by the Marine Engineers' Beneficial Association, Local No. 97, C.I.O., the

Masters, Mates and Pilots, Local No. 40, A.F. of L., and the Inland-boatmen's Union of the Pacific, San Francisco Division, A.F. of L. The petition alleged in part that such labor organizations had currently effective collective bargaining agreements with applicant and that such agreements do not provide any dismissal benefits for employees, although such provisions have been negotiated under similar circumstances in the past when bridges have supplanted ferry operations on San Francisco Bay. Petitioners alleged that the order of December 16, 1952 was erroneous in that the order is not in the public interest, and that petitioners were not given an opportunity to intervene and be heard.

An order granting rehearing was issued on December 30, 1952 and a public hearing was held before Commissioner Potter and Examiner Silverhart at San Francisco on January 9, 1953.

Counsel for petitioners stated that the unions do not oppose the construction of the proposed bridge or object to the transfer of the utility properties so long as provision is made for the protection of applicant's employees, particularly with respect to dismissal benefits. The record shows that no such provision has been made.

In transfer or abandonment proceedings the function of the Commission is to protect and safeguard the interests of the public. (Hanlon v Eshleman, 169 Cal. 200; Henderson v Oroville-Wyandotte Irr. Dist., 213 Cal. 514.) The Supreme Court of the United States has decided that the dismissal of employees in situations involving the consolidation, merger or abandonment of public utility operations is a vital part of the public interest. (U.S. v Lowdon, 308 U.S. 225, 84 L. ed. 208; Interstate Commerce Commission v Railway Labor Executives' Ass'n., 315 U.S. 373, 86 L. ed. 904; Railway Labor Executives' Ass'n. v U.S., 339 U.S. 142, 94 L. ed. 721.)

In order that the parties may have the opportunity of negotiating, if they be so advised, for such dismissal benefits as may be

appropriate under the circumstances, it is clear that for that purpose the public interest requires that Decision No. 48045 be vacated and set aside and that action on the application be deferred. Any petition for further consideration should set forth the results of any dismissal benefit negotiations between the parties. For the reasons indicated, IT IS ORDERED that Decision No. 48045 is hereby vacated and set aside, such action being without prejudice to the filing of a petition for further consideration in Application No. 33942.

Dated, San Francisco, California, this 27th day of February, 1953.

A. E. Anderson
 President

Harold D. Kula

Committee Secret
John E. Mitchell

Commissioners

Commissioner Justus E. Graemor, being necessarily absent, did not participate in the disposition of this proceeding.