

**ORIGINAL**Decision No. 48686

## 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 execute and perform contract )  
for sale of operating property )  
and termination of service. )

Application No. 33942

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, Marion B. Plant and F. M. McAuliffe,  
for Richmond & San Rafael Ferry & Transportation Co.,  
applicant.  
Robert E. Reed, for State Department of Public Works, interested  
party.  
C. J. Simpson, for National Labor Bureau.

O P I N I O N

The factual situation concerning this proceeding appears  
in our previous decisions herein. We shall not restate such matters  
in this decision.

By our interlocutory opinion and order (Decision No. 48315)  
rendered herein on February 27, 1953, the parties were given an  
opportunity to negotiate, if they be so advised, for such dismissal  
benefits as might be appropriate in the circumstances. This action  
on the part of the Commission was calculated to enable the parties  
to reach an amicable settlement with regard to dismissal benefits so  
as to make it unnecessary for this Commission to compulsorily pre-  
scribe such benefits. It was the hope of the Commission that the  
parties might be able to agree upon reasonable dismissal benefits  
and present the same to the Commission for its consideration and  
approval. However, this desirable circumstance has not eventuated  
and the issue, and the only issue, before the Commission is the

prescription by it of dismissal benefits which will reasonably satisfy the public interest involved in this proceeding.

We have made it clear heretofore and we desire to make it clear again that this Commission is not concerned in any way whatsoever with current wage negotiations or wage negotiations addressed to the future. All this Commission can be concerned with in this proceeding is the question of reasonable dismissal benefits to be paid at the time of the abandonment of public utility service by this utility if authority to abandon such service should be granted by this Commission. Therefore, the single issue to be determined is the reasonable dismissal benefits to be paid by the utility. Heretofore, we have determined that the authority to abandon is not contrary to the public interest provided reasonable dismissal benefits are taken care of by the utility.

The report by the utility filed in this proceeding, which sets out the facts concerning the negotiations between it and the labor unions, embodies two plans. Plan No. II, obviously, is not a dismissal benefits proposal but rather a proposal that addresses itself to current and future wages. Such plan could not receive the consideration of the Commission. Plan No. I, in the main, addresses itself to dismissal benefits but it has therein a condition relating to future wages and prescribes a restriction with regard to wage increases. We cannot concern ourselves with that type of a condition in any provision for reasonable dismissal benefits because such a condition is a part and parcel of current or future wage negotiations over which this Commission would not undertake to exercise jurisdiction.

Evidence was adduced at the hearing on this report filed by the utility where representatives of the labor unions testified as to the reasonableness of the provisions of Plans Nos. I and II.

The utility took the position that it supported either of these plans as being reasonable. One of the labor union representatives, who had participated in the negotiations out of which these two plans resulted, testified that the dismissal benefits provided in Plan No. I, in his estimation, are reasonable but he objected to the condition embodied in said plan with regard to the restriction upon future wage increases.

The issue presented herein is one which must be determined by the exercise of sound discretion on the part of the Commission based upon the evidence of record. All parties to this proceeding have been given ample opportunity to present their views and to offer evidence in support thereof. Without meaning to criticize, the Commission desires to point out that the parties could have been more helpful to it than they have been in bringing about a solution of the problem involved herein which is, admittedly, a difficult one. After careful consideration of the record in this proceeding, we are of the opinion and do hereby find that the dismissal benefits provided for in Plan No. I reasonably meet the requirements of the public interest. The restriction as to future wage increases, contained in said Plan No. I, in our opinion, should not be a condition imposed upon the payment of these dismissal benefits. Such matter is one to be left to the process of collective bargaining between the utility and its employees or their representatives. We shall, therefore, prescribe as a condition to the authority granted to this utility to abandon its public utility service that it pay to its employees the schedule of dismissal benefits set out and embodied in Plan No. I contained in the utility's report filed with this Commission. Furthermore, we shall require as a condition that the utility file in the records of this proceeding

its acceptance of the authority herein granted together with said condition as a prerequisite to the effectiveness of the decision rendered herein.

The utility and the State Department of Public Works have requested that the decision of the Commission herein set aside its prior interlocutory opinion and order and affirm its original decision herein. We shall not adopt such procedure for the reason that it is unnecessary and would be contrary to the usual procedure followed by the Commission under the provisions of the Public Utilities Code. The following order will grant authority to the utility to abandon its public utility operations in accordance with the contract existing between it and the State of California and will provide as a condition to such authority that the utility pay to its employees the schedule of dismissal benefits set out in Plan No. I, divorced of the condition and restriction contained in said plan with regard to future wage increases. We hereby find said Plan No. I, except for such condition and restriction, is in the public interest. ✓

O R D E R

A public hearing having been held and based upon the evidence therein adduced,

IT IS ORDERED that:

(1) Richmond & San Rafael Ferry & Transportation Co., pursuant to the terms of an agreement dated December 26, 1952 and filed in this proceeding January 5, 1953, may sell to the State of California the properties referred to therein and may perform such other acts as are required by the terms thereof.

(2) Richmond & San Rafael Ferry & Transportation Co., upon the opening of the bridge referred to in said agreement, is granted authority to abandon its ferry service and to release and

assign to the State of California any and all lands, leaseholds, other operating properties and facilities and its franchises, all as referred to in said agreement.

(3) The action taken herein shall not be construed to be a finding of the value of the properties referred to herein.

(4) Richmond & San Rafael Ferry & Transportation Co. shall file with the Commission a conformed copy of the deed or deeds of conveyance as actually executed under the authority herein granted, such filings to be made within thirty days after the dates of said documents.

(5) The authority herein granted is subject to the condition that Richmond & San Rafael Ferry & Transportation Co. pay its employees dismissal benefits in the manner and amount set forth in Appendix A attached hereto and made a part hereof.

(6) The authority herein granted shall lapse and be of no effect unless Richmond & San Rafael Ferry & Transportation Co., within five days after the effective date of this order, shall file herein its written acceptance of such authority coupled with the condition hereinabove set forth in paragraph (5).

The effective date of this order shall be ten days after the date hereof.

Dated at Los Angeles, California, this 9<sup>th</sup> day of January, 1953.

[Signature]  
President

[Signature]

[Signature]

[Signature]  
Commissioners

## APPENDIX A

Plan No. I

The existing contract to be modified as follows:

1. Full time employees on the payroll as of March 1, 1953, who remain continuously employed until termination of ferry boat operations due to construction of the proposed bridge, will be paid upon termination of employment severance pay computed by allowing a sum for each completed year of continuous employment up to and including 25 years as set forth in the following schedule:

<u>Rating</u>	<u>Amount Payable for Each Year of Employ- ment To and Including 25 Years</u>
Captains	\$125.00
Mates	100.00
Chief Engineers	115.00
Ass't. Chief Engineers	109.00
Skilled Maintenance Men	100.00
Firemen-Oilers	75.00
Deck Hands	70.00
Night Watchmen	62.50
Cooks	52.50
Waitresses	40.00

2. Continuity of employment shall not be deemed interrupted by a temporary layoff or leave of absence. However, the men who were on leave of absence on March 1, 1953 (W. Hobson, T. Wees and J. Brazil) will be treated as having been on the payroll as of March 1, 1953, if, and only if, they should hereafter return to work for a period of not less than three months.

A full time employee on the payroll as of March 1, 1953, who thereafter and prior to termination of ferry boat operations is forced by ill health or physical disability to retire and who does not thereafter accept other employment will receive, payable as of the date of termination of ferry boat operations, a sum equal to 1/48th for each full month of employment after March 1, 1953, of what his severance pay would have amounted to computed as above, but not exceeding in toto 42/48ths thereof.