

ORIGINALDecision No. 50474

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 CLIPPER TRANSPORTATION CO., INC.)
 to operate vessel for transportation) Application No. 35550
 of passengers and baggage between)
 Long Beach and Avalon, and to estab-)
 lish fares.)

Harry L. Blodgett for applicant. Clyde Thomas,
 for Bryan Bayly, doing business as Harbor Water Taxi
 Co. and H-10 Water Taxi Co., and W. A. Nott for
 Pierpoint Landing, protestants. Henry E. Jordan, for
 Bureau of Franchises and Public Utilities, City of
 Long Beach, and E. F. Manning, Traffic Manager for
 Port of Long Beach, interested parties.

O P I N I O N

Applicant herein is a California corporation whose articles of incorporation were filed with the Secretary of State on June 17, 1954, it being formed for the purpose of "operating and maintaining a public transportation system by water throughout Southern California waters." In the instant application authority is requested to conduct a service as a common carrier by vessel between Long Beach, California, and Avalon on Santa Catalina Island, California. A public hearing was held on July 21, 1954, in Avalon, before Examiner Grant E. Syphers, at which time evidence was adduced and the matter submitted.

At the hearing witnesses testified as to the proposed operation, pointing out that it would be conducted from Magnolia Pier in Long Beach to a pier in Avalon. The applicant company has

a permit from the City of Long Beach for the use of Magnolia Pier, contingent upon the granting of this application.

The boat proposed to be used is a new vessel, the construction of which was completed about June 1, 1954. It is called the "Catalina Clipper" and allegedly is designed for the proposed service. It was described as a vessel 63 feet in over-all length and 58 feet in length at the water line, having a width of 17 feet 5 inches in the beam and a displacement of 14 tons gross and 11 tons net. It is of steel construction, powered by a 1350 hp Packard gasoline motor with a 110 hp Kermath auxiliary motor for emergencies and carries 2-way radio communication equipment, life jackets, and a fire extinguishing system.

The vessel, which is capable of carrying 100 passengers, is presently equipped with seats for approximately 80 passengers. It has two rest rooms, drinking fountains, and sufficient deck space to permit the passengers to walk around. It was testified that this boat is capable of making the run between Long Beach and Avalon in about one and one-half hours.

The fares proposed to be charged are set out in the application, and generally are as follows:

| | |
|---------------------------------------------|----------|
| One-way fare, including tax | \$3.26 |
| Round-trip fare, including tax | 6.52 |
| Children 5 to 12 years old, including tax.. | 1/2 fare |
| Children under 5 years | free |
| 10 one-way commuter tickets | \$13.78 |

The applicant proposes to carry up to 50 pounds of hand baggage per passenger without charge. It does not propose to carry baggage in amounts greater than this.

The applicant proposes a scheduled operation during the period from June 1 through Labor Day of each year, making daily trips leaving Magnolia Pier at 10 a.m. and leaving Avalon at 5 p.m. During the balance of the year an "on-call" service is proposed.

The financial condition of the company is set out in a giving effect balance sheet as of June 17, 1954, and in this connection it was testified that cash in the amount of \$3,500 would be placed in the company if the application herein is granted. The boat itself is listed at a value of \$25,531.77, and has been surveyed at \$30,000 for insurance purposes.

Testimony was presented as to the experience of the personnel who will operate the vessel, and it was stated that the captain has had twelve years' experience with this type of boat on this coast. The proposed crew will consist of a captain, a deck hand, and, on occasions, a stewardess.

Additional testimony showed that this boat was similar to a boat known as the "Island Lady" which is now operated by the Island Transportation Company between Newport Beach and Avalon. Exhibit 4 is a photograph of the "Catalina Clipper" and Exhibit 5 is another photograph showing the seating arrangement.

In support of the application, the chief engineer of the Bureau of Franchises and Public Utilities testified that his bureau has passed a resolution recommending to the city of Long Beach that a permit be issued to applicant subject to the conditions that authority for such operation be obtained from this Commission, and that certain conditions as to the use of Magnolia Pier be set up. Further conditions prescribed in this resolution

relate to the filing of operating schedules and tariffs, an annual inspection of the vessel, and a condition that the "Clipper" be modified to prevent exhaust fumes and spray from entering the rear end of the vessel. On June 15, 1954 the city council of Long Beach recommended that a revocable permit be issued to this applicant contingent upon the obtaining of a certificate from this Commission.

The mayor of the city of Avalon presented Exhibit 1, a resolution of the city council in support of the proposed operations. This witness also presented a letter, dated July 19, 1954, to the Harbor Water Taxi Company, a protestant herein, commending that company for its service to the city of Avalon. This letter was received as Exhibit 2.

Exhibit 3 is a letter from the chairman of the Transportation Committee of the City of Avalon recommending approval of the instant application. Various residents and businessmen of the city of Avalon appeared in support of the application, and a witness for the Catalina Island Steamship Line stated that his company has no objections.

In opposition to the proposal the Harbor Water Taxi Company presented testimony to the effect that that company has a certificate from this Commission authorizing operations between Long Beach and Avalon, Decision 48617, dated May 19, 1953. This company now operates five vessels and has an agreement with the H-10 Water Taxi Company and the Deluxe Water Taxi Company for additional vessels, should they be required. The witness for this company further testified that during the period July 1, 1953

through September 15, 1953, the company suffered an operating loss of \$2,260.98. During the period from April 20, 1954 to July 18, 1954 the company made an operating gain of only \$39.65. It was contended that applicant's proposal will duplicate service which now is being conducted by the Harbor Water Taxi Company. It was noted that the protestant has been conducting operations from Pierpoint Landing in Long Beach and did not commence operations from Magnolia Pier until the morning of July 21, 1954, the date of the hearing herein. Exhibit 6 is a photograph of protestant's boat, the "Sportsman", while Exhibit 7 is a photograph of the "Thunderer", which is a boat leased by protestant for the service from Magnolia Pier. A newspaper clipping describing the inauguration of the operations from Magnolia Pier on July 21, 1954 was received as Exhibit 8. Additional testimony was presented by an official in charge of the operations from Pierpoint Landing describing the number of trips and passengers carried by protestant. In the opinion of this witness there was no need for an additional boat service from that landing.

After a consideration of all of this evidence we now conclude that the application should be granted. While protestant contends that it will be a duplicating service it cannot be overlooked that protestant's operations did not commence from Magnolia Pier in Long Beach until July 21, 1954, the morning of the hearing in the instant application. Furthermore, one of the boats proposed to be used by protestant, and around which most of the testimony in this connection was centered, the "Thunderer", is not owned by protestant but is under a lease arrangement which

was not satisfactorily explained at the hearing. In the light of these facts it appears that the protest must fail and that the expressed needs and desires of the public witnesses who did testify, coupled with the testimony of applicant, must be considered as having met the requirement of public convenience and necessity. Applicant 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

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

IT IS HEREBY 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 Clipper Transportation Company, Inc., a California corporation, authorizing the establishment and operation of a service as a common carrier for the transportation of persons and their hand baggage, not in excess of 50 pounds, between Magnolia Pier in Long Beach and Avalon on Catalina Island.

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

- (a) That the common carrier service herein authorized shall be performed on a scheduled basis during the period from June 1st through Labor Day of each year and on an "on-call" basis for the remainder of each year.

- (b) Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed thirty days from the effective date hereof.
- (c) Within sixty days after the effective date hereof, and upon one 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 days after the date hereof.

Dated at San Francisco, California,
this 24th day of August, 1954.

John E. Mitchell
President

Genevieve Lottel

Genevieve Lottel

Commissioners

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