

ORIGINAL

Decision No. 50572

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 DE LUXE WATER TAXI COMPANY, a)
 California corporation, in connection)
 with the Certificate of Public Conven-)
 ience and Necessity to operate vessels)
 for the transportation of freight and)
 passengers for compensation between)
 points, and to modify, and extend)
 present existing operating authority)
 pursuant to said Certificates, Decision)
 No. 26214, Application No. 18774 and)
 Decision No. 34510, Application)
 No. 23653, now held by Applicant here-)
 under, and for authority to increase)
 present fares.)

Application No. 35287

Robert R. Hurwitz and Patrick D. Watson for De Luxe Water Taxi Company, applicant.

A. Maxson Smith, for Shearwater, Inc., protestant.

Henry E. Jordan, Chief Engineer, Bureau of Franchises and Public Utilities, City of Long Beach, interested party.

Glenn E. Newton and Norman Haley, for the Commission's staff.

O P I N I O N

Applicant has a certificate of public convenience and necessity authorizing it to operate motor boats and vessels for the transportation of passengers and freight between piers and landing places in the City of Long Beach and vessels of the United States Navy and other merchant vessels that may be anchored in

Long Beach-Los Angeles Harbor, ⁽¹⁾ and between the Pico Street Navy landing in Long Beach and the Bethlehem Shipyards on Terminal Island. ⁽²⁾

By this application, as amended, authority is sought:

- (a) To provide an on-call service as required by public convenience and necessity between landing points in Long Beach and all vessels when anchored in the Long Beach-Los Angeles Harbor.
- (b) To provide an on-call service as required by public convenience and necessity between landing points in Long Beach and points on all off-shore islands.
- (c) To provide an on-call service as required by public convenience and necessity between landing points in Long Beach and all points within and about Long Beach-Los Angeles Harbor.
- (d) To provide an on-call service as required by public convenience and necessity between all other points south of Point Conception and north of Oceanside, California, and such

(1) Decision No. 26214, dated August 7, 1933, on Application No. 18774; Decision No. 34510, dated August 19, 1941, on Application No. 23653. It should be noted that applicant's filed passenger tariff (Local Passenger Tariff No. 1 of De Luxe Water Taxi Co., Inc., CRC No. 1) purports to establish a rate of 50 cents per hour with a minimum of 10 passengers for sightseeing trips in and about the harbor. Applicant has no authority to render such service.

(2) Decision No. 34242, dated May 27, 1941, on Application No. 24093.

(d)(Cont'd)

other services as may be required and necessary to accommodate and serve the traffic in an efficient and effective manner.

A public hearing was held in Long Beach on August 9, 1954, before Examiner Kent C. Rogers, evidence was presented and the matter was submitted. It is ready for decision. Prior to the hearing applicant posted and published notices as required by this Commission.

Four witnesses testified in support of the application. Two of these witnesses were respectively an officer and an employee of the applicant corporation.

The Director of Publicity for the Los Angeles Harbor Department testified that the department uses the applicant's boats several times per month to make harbor inspections and surveys. These services are paid for on an hourly basis. In addition, the department conducts harbor tours for fraternal and other organizations. These tours are also paid for by the Harbor Department. They may occur daily and go to any point or points in the harbor the particular group is interested in. Applicant's boats are used for small groups and the Shearwater (referred to subsequently herein) is used for the larger groups. During a recent week (World Trade Week) the Harbor Department sent 1,500 visitors on the Shearwater, and 3,000 on the various boats of the applicant. De Luxe's boats are used when the Shearwater is not available. Applicant's services are used on an average of one to one-and-one-half times per month on such conducted publicity tours. The witness further stated that Shearwater is used three

to four times a month for publicity purposes; that its services meet the public need and convenience; that when calls for boats come in on short notice the Harbor Department cannot always get the Shearwater and it then uses applicant's services; that some people want the Shearwater which is larger than the applicant's taxis, has a snack bar and room for passengers to walk around. When the Shearwater is used, the Harbor Department buys out a regular run. The De Luxe boats are used for groups of 10 or 15 persons, and are not always available.

The second public witness called by applicant was the owner of a boat rental service. Since 1931 this man has been furnishing special boats; e.g. replicas of Civil War vessels, for motion picture companies. To date he has furnished boats for over 2,000 pictures. The pictures are made at such points as Catalina, San Clemente and Santa Rosa islands. On one picture, nine of applicant's boats were used for several days. He calls the applicant on short notice for boats and finds its services satisfactory. He pays applicant 15 dollars per hour per boat and when sea pictures are being made he uses all available boats.

In addition to the two witnesses referred to above, applicant presented four letters which were received into evidence by stipulation (Exhibit No. 5). Two of them refer to the type of service applicant is presently authorized to render (letter of National Metal and Steel Corp. and letter of States Marine Corporation), one of them fails to designate any destination point and hence is valueless (letter of J. H. Baxter and Company), and one of them (Pasadena Y. M. C. A. Camps) states that applicant

transports approximately 125 campers each week to White's Landing at Santa Catalina Island and that applicant's services are necessary for the reason that larger boats cannot get to the landing to load or unload passengers.

Applicant's vice president since 1929 testified that he has not been "too active" in the company the past year. He testified that applicant's services are primarily between the harbor landings and ships at anchor and that there is some on-call or charter service for motion picture companies and contractors, and pleasure jaunts to the various channel islands. These latter services, he said, vary in frequency from season to season, and over a period of years applicant has supplied fully manned ships for trips to San Diego, Newport Beach, San Pedro, Santa Monica, Port Hueneme, Santa Barbara and Point Conception. In addition, he stated, De Luxe's services are used two to three times per week for harbor excursions for churches, educational clubs, lodges, and commercial clubs. Many charter trips have been made, the witness said to Catalina Island for groups such as churches and clubs. The witness further testified that the harbor excursion business (for which it has no authority) is considerably smaller than the ship-to-shore (certificated) business, and applicant does not intend to operate a scheduled harbor tour such as conducted by Shearwater.

It was stipulated that Mr. Harvey, applicant's president, if called as a witness and sworn would testify similarly to the vice president.

The applicant's business manager testified in support of the application. He has been with the company for one year. He testified that there is an occasional demand for service between Long Beach and the channel islands; that applicant serves between Long Beach and Los Angeles Harbor about once per week; and that it averages two to four harbor sightseeing trips per week over the course of one year. The harbor trips, he said, go where the customer desires to go, are unscheduled, about 30 percent of the time follow the Shearwater route, and constitute about 25 percent of applicant's work. The witness further testified that the applicant does not want rates set for the motion picture work referred to above as such service is all charter work and rates are agreed to between the parties. ✓

The application was protested by Shearwater, Inc., only. (3) Its protest concerned the applicant's proposed harbor service, a service which applicant has heretofore been and now is rendering. It is our opinion that the services of the protestant are not similar enough to those of applicant to be in fact competitive. Applicant's boats are so-called "water taxis", that is, open boats with seats for the individual passengers. These boats vary in length from 47 to 56 feet and carry from 72 to 100 passengers each. The protestant has one boat, the Shearwater, a double decked boat, 64 feet in length with toilets, snack bar and walking space. This boat carries 145 passengers. Applicant proposes to charge by the hour only for the harbor trips, to operate strictly "on call", and to follow the route requested by the boat user. The Shearwater operates a scheduled ✓
✓
✓

(3) Decision No. 48806 dated July 9, 1953, on Application No. 34128.

service via a regular route charging \$2.00 per passenger with a minimum of five fare paying passengers. Shearwater also serves on an hourly basis but not during scheduled trip times. The Harbor Department witness (the first witness referred to in this opinion) stated that when the Harbor Department uses the Shearwater on scheduled runs it does so by buying all of the tickets for the run.

Upon the evidence of record herein, we are of the opinion and find that applicant has justified its proposed on-call service to and from Catalina Island, exclusive of the City of Avalon, and its on-call services in the Long Beach-Los Angeles Harbor.

There is, however, no evidence which would justify any certificate for service to or between the channel islands, other than Catalina Island, as proposed by applicant. The one public witness called by applicant in support of this service leases special boats to the motion picture companies and uses applicant's boats to carry actors and employees. Applicant's business manager testified that this service was to be rendered pursuant to charters. While it is true that applicant's witness testified that it receives requests for service to the various channel islands, the record shows ⁽⁴⁾ that about 90 percent of applicant's revenue comes from its certificated ship-to-shore taxi business, and that the remainder of applicant's total revenue arises from all other services including the harbor and charter trips heretofore referred to. The record is bare of any public support for any services other than the harbor cruise and the Catalina Island service.

(4) Exhibit No. 6.

Applicant proposes to use its present equipment consisting of one gasoline-powered and five Diesel-powered water taxis.

The record shows that the applicant possesses the requisite financial ability to maintain the service hereinafter authorized. ✓

Applicant has submitted proposed fare structures in the alternative (Amended Exhibit A and Alternative Amended Exhibit A on the second Amendment to Application filed June 7, 1954). We are denying applicant authority to serve any of the channel islands with the exception of Catalina, and the proposed tariff should be amended accordingly. In addition, Amended Exhibit A, in line 17 thereof refers to rates by job contract for specialized equipment. Obviously such a provision is improper in a published tariff. Both Amended Exhibit A and Alternative Amended Exhibit A contain a statement that "this tariff applies to normal operating and weather conditions." Applicant's witness could not define normal conditions and stated that the purpose was to allow extra charges for service under abnormal conditions. This provision will necessarily have to be changed to set forth definite rates or be deleted from the tariff. In addition, the conflict in both tariffs between the charge of "\$25.00 hr., 5 hr. min." on line 14 and the \$100.00 minimum on the channel island trips must be intelligibly explained. Applicant should also correct its tariff when filed to reflect service to civilian ships as per its existing authority.

The Commission having fully considered the evidence of record finds that public convenience and necessity require that

applicant be authorized to establish and operate a service for the transportation of persons or property by vessels as herein-after set forth.

De Luxe Water Taxi 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. 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.

Pursuant to authority from this Commission, ⁽⁵⁾ applicant carries passengers and freight between landing places in Long Beach and boats at anchor in the Long Beach-Los Angeles Harbor. It does not request authority to increase the single passenger fares. ⁽⁶⁾ It seeks authority to increase the hourly

(5) Footnote (1) supra.

(6) Applicant's attention is directed to the fact that its authority permits service to merchant vessels. Its filed tariff recognizes this fact and sets forth a charge of 50 cents per passenger one way for trips to civilian ships off the regular routes. Applicant's proposed tariff sets forth a fare to naval vessels only. Applicant should include rates to civilian vessels in its proposed tariff in conformance with its filed tariff or secure authority from this Commission to abandon such service.

rates. Its present and proposed rates are as follows:

Present:

From \$5.00 to \$7.50 per hour according to size, speed and capacity of boat required, and nature and character of work.

Minimum charge - \$3.00

Proposed:

	<u>General rate freight and passengers</u>	<u>Harbor trips and local excursions</u>	<u>Catalina trips</u>
Vessels between 40 and 50 feet	\$12.50 hour	\$15.00 hour	\$15.00 hour
Vessels between 51 and 65 feet	\$17.50 hour	\$20.00 hour	\$25.00 hour

In support of its application applicant alleges that it has been operating on the same tariffs since 1933, despite substantial increases in the cost of equipment and operations. These increased costs as set forth in Exhibit B attached to the application are as follows:

<u>Cost of</u>	<u>1933</u>	<u>1953</u>	<u>Percent of Increase</u>
Water Taxi	\$6,000	\$30,000	462
Fuel per gallon	.045	.144	320
Labor, per man hour	.60	1.85	308
Shore boat fare (Navy)	.25	.25	none
Hourly Rate	5.00	10.00	100

A comparison of estimated results of operations under
(7)
present and proposed fares is as follows:

Item	CASE I Under Present Fares	CASE II Under Proposed Fares
<u>Revenue</u>		
Shore Boat Passenger Service	\$159,090	\$159,090
Harbor, General Commercial & Contract	8,600	19,300
	\$167,690	\$178,390
<u>Expense</u>		
Repairs to Equipment	\$ 25,180	\$ 25,180
Transportation	93,040	93,040
General Expense	36,130	36,750
Boat Rental	1,970	1,970
Total Optg. & Mtce. Expense	\$156,320	\$156,940
Depreciation	6,070	6,070
Operating Taxes	4,530	4,530
Total Expense	\$166,920	\$167,540
Operating Ratio %	99.5	93.9

Net before Income Taxes	\$ 770	\$ 10,850
State & Federal (52%) Income Taxes	220	3,530
Net Income	\$ 550	\$ 7,320
Operating Ratio after Income Taxes %	99.7	95.9

(7) Exhibit No. 6.

The estimated results of operation under the present fares by the staff indicate an operating ratio of 99.7 percent. Under the proposed fares the staff results indicate a net annual income of \$7,320.00 after income taxes, with an operating ratio of 95.9 percent.

Under the circumstances here disclosed, we are of the opinion and find that the proposed fare increase is justified and the application will be granted.

O R D E R

A public hearing having been held, the Commission being fully advised in the premises and having found that public convenience and necessity require that De Luxe Water Taxi Company be given authority to transport passengers and property by vessel as hereinafter set out in this order and that the proposed fare increase is justified,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity be and it hereby is granted to De Luxe Water Taxi Company, a corporation, authorizing the establishment and operation of a transportation service by vessel for the transportation of persons

and property (a) between landing places in the City of Long Beach, on the one hand, and points and places on Catalina Island, excepting therefrom Avalon Bay, on the other hand, and (b) between landing places in Long Beach Harbor, on the one hand, and any and all points in the Long Beach-Los Angeles Harbor, on the other hand.

(2) That in providing service pursuant to the certificate herein granted there shall be compliance with the following service regulations:

- (a) Within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted.
- (b) Within sixty days after the effective date hereof, and upon not less than five days' notice to the Commission and the public, applicant shall establish the service herein authorized and file in triplicate and concurrently make effective tariffs satisfactory to the Commission.

IT IS FURTHER ORDERED:

(1) That De Luxe Water Taxi Company is authorized to establish, on not less than twenty days' notice to the Commission and to the public, the proposed hourly rates for service between Long Beach and ships at anchor in the Long Beach-Los Angeles Harbor as hereinabove set forth.

(2) That De Luxe Water Taxi Company shall post in its terminals and water taxis a suitable explanatory notice of such increased charges continuously for at least ten days before the effective date of the rate changes.

(3) That the authority herein granted shall expire unless exercised within sixty days after the effective date of this order.

IT IS FURTHER ORDERED that except as hereinabove authorized the application of De Luxe Water Taxi Company be, and it hereby is denied.

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

Dated at San Francisco, California, this 21st day of September, 1954.

[Signature]
President

[Signature]

[Signature]

[Signature]

Commissioners

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