

ORIGINALDecision No. 51182

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Star and Crescent)
 Boat Co. for a Certificate of)
 Public Convenience and Necessity)
 for the operation of an excursion) Application No. 36459
 and sightseeing service by vessel)
 upon San Diego Bay,)

Lillick, Geary and McHose, by John C. McHose, for
 applicant.

Vaughan, Paul and Lyons, by Reginald L. Vaughan, for
 Harbor Tours, Inc., and Golden Gate Scenic
 Steamship Lines, Inc., Interveners.

O P I N I O N

Star and Crescent Boat Co., applicant herein, received authority from this Commission to render service as a common carrier of persons, by boat, between North Island and San Diego (Decision No. 14876, dated May 1, 1925, in Application No. 10976, 26 C.R.C. 401), and of freight between points on the shores of San Diego Bay and vessels anchored therein (Decision No. 15307, dated August 18, 1925, in Application No. 11270, 26 C.R.C. 926). Its freight certificate was subsequently canceled (Decision No. 44405, dated June 20, 1950, in Application No. 31484). It has received authority to transfer its passenger carrier rights to Star and Crescent Ferry Company (Decision No. 44450, dated June 27, 1950, in Application No. 31483).

By the application herein, filed on December 2, 1954, Star and Crescent Boat Co., requests that it be granted a certificate of public convenience and necessity for the operation of an excursion and sightseeing service by vessel upon San Diego Bay, the trip to originate at a point at the foot of Broadway, or thereabouts, in the City of San Diego, and to terminate at the point of origin, without stopping or touching at any other point enroute.

A public hearing on the application was held in San Diego on February 3, 1955, before Examiner Kent C. Rogers. There were no protestants. Harbor Tours, Inc., and Golden Gate Scenic Steamship Lines, Inc., were permitted to appear as interveners upon their attorney's representation that they are rendering services in San Francisco Bay similar to that rendered by the applicant herein and for which it now seeks a certificate; that they have no authority of any type from this Commission; and that it is their contention that neither they nor the applicant herein are subject to the jurisdiction of the Commission for the reason that the type of operation applicant proposes and they render is not a service "between points" as required by Section 1007 of the Public Utilities Code of California.

The interveners' attorney argued at length in support of their contentions, and cited several cases allegedly to the effect that the language "between points" means that there must be a point of origin which is not identical with the point of destination. Suffice to say that we disagree with the interveners' contentions. It is our interpretation of Section 1007 of the Public Utilities Code that the phrase "between points in this State" refers to the territorial extent of the operation, and does not mean that there must be two or more separate termini.

The evidence presented by the applicant shows the following facts:

Applicant has been rendering the service for which it seeks a certificate for about 40 years in San Diego harbor. It has one landing at the foot of Broadway, the rights to which are leased from the Port of San Diego. During this 40-year period, except during wartime and periods of unusual weather which rendered the operation unsafe, it has made two trips per day, seven days per week. Trips take approximately two hours and are scheduled so that one leaves the Broadway landing at 10:00 a.m. and one leaves that landing at

2:00 p.m. Applicant has one boat, known as the Silvergate, which is 64 feet, 10 inches in length, and 22 feet in width, with a seven foot draught. This ship will carry 296 passengers, and applicant renders the service as scheduled with any number of passengers from one to capacity. An average of 50,000 persons per year use the applicant's services as proposed herein. There is no similar service in San Diego harbor. If applicant is granted the requested certificate it will continue to render the service as at present, using the same equipment.

Applicant's present and proposed fares are as follows:

	<u>Fare</u>	<u>Tax</u>	<u>Total</u>
Full fare	\$1.8182	.1818	\$2.00
Children, 5 to 12 years old, inclusive	1.00	.10	1.10
Children, under 5 years old, accompanied by adult	Free		
Students, in groups of 20 or more:			
Grade school students	.6818	.0682	.75
High School and College students	1.00	.10	1.10

Applicant is operating at a profit and has the financial ability to continue to render the proposed services (Exhibit B in the application).

The manager of the San Diego Convention Bureau testified that this applicant's public services are a very important factor in the promotion of the City of San Diego.

The traffic manager of the Port of San Diego testified that applicant's services are very important to the City of San Diego and contribute to the public's convenience.

The Commission has reviewed the record herein, and is of the opinion and finds that public convenience and necessity require the operation by applicant of a service for the transportation of persons by vessel over the inland waters of this State as set forth in the order herein.

Star and Crescent Boat Co., 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 as to the number of rights which may be given.

O R D E R

Application as above entitled having been filed, a public hearing having been held, the matter having been submitted and the Commission being fully advised in the premises,

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 Star and Crescent Boat Co., a corporation, authorizing the establishment and operation of a service as a common carrier for the transportation of persons by vessel from a landing at the foot of Broadway in the City of San Diego via a route approximately as shown on the map, Exhibit A in the application herein, and returning to the point of origin.

(2) That in providing service pursuant to the certificate herein granted, applicant shall comply with and observe 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 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 8th day of March, 1955.

Robert E. Mitchell
 President

Justin F. Cramer

Raymond L. Lintner

William J. Hooley

Commissioners