

ORIGINAL

Decision No. 59719

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of CATALINA ISLAND SIGHTSEEING LINES, a California corporation, for authority to enter into a Bareboat Charter Party Agreement as to the SS Catalina and Certain Other Agreements and to Suspend Certain Passenger Operations.

Application No. 41589

Application of M.G.R.S., INC., a corporation, for authority to operate a passenger service by vessel between Wilmington, California, and Avalon, Santa Catalina Island, California.

Application No. 41613

Gibson, Dunn & Crutcher, by Max Eddy Utt, for Catalina Sightseeing Lines, and interested party in Application No. 41613.  
Vaughan, Brandlin & Baggot, by James H. Lyons, for M.G.R.S., Inc., and interested party in Application No. 41589.  
Bill Krug, in propria persona, protestant.  
Henry E. Jordan, Chief Engineer-Secretary, Bureau of Franchises and Public Utilities, for the City of Long Beach; Leslie Thuet and Howard Thuet, for Avalon Navigation Company; Mayor Harvey Cowell, for the City of Avalon; and Robert Ellis, for Avalon, Catalina Island Chamber of Commerce; interested parties.  
Cyril M. Saroyan, for the Commission staff.

INTERIM OPINION

Public hearings were held in these matters before Examiner Grant E. Syphers in Los Angeles on December 10, 1959 and January 13, 1960. On these dates evidence was adduced and on the last-named date the matter was submitted subject to the filing of statements of position by the parties. These statements now have been filed and the matter is ready for decision.

The Catalina Island Sightseeing Lines and its predecessor companies have, for many years last past, operated steamship service between Wilmington and Santa Catalina Island. This service has consisted of the hauling of both passengers and freight.

In recent years this steamship service has been limited to the summer season and the company has operated other boats during the winter.

The last year in which the steamer operated was 1958. During this year the steamer SS Catalina ran from April 12 to October 12, carrying both passengers and freight. On October 13 the steamer service was replaced by motor cruiser service and on December 18, 1958 an arrangement was made whereby freight was transported to the island by Pacific Motor Trucking Company freight trailers, being carried on barges towed by the H-10 Water Taxi Company.

During the 1959 season the Catalina Island Sightseeing Lines did not do any passenger service allegedly due to a labor dispute which arose in connection with the freight service. Accordingly, the steamer SS Catalina has not been operated since October 12, 1958.

M.G.R.S., Inc., is a new corporation which has been formed for the specific purpose of taking over the steamer operations. It is composed of five individuals, each of whom intends to advance \$40,000 in cash to make a total capitalization of \$200,000.

In the instant applications authority is sought for the approval of six agreements which were received in evidence as Exhibits Nos. 1 to 6, inclusive. Exhibit No. 1 is an agreement for the charter of the SS Catalina to M.G.R.S., Inc., and Exhibit No. 2

is a bareboat charter party covering the lease of this vessel. In substance, it is proposed to lease this vessel for a period of two years commencing January 1, 1960. The proposed rental would be \$45,900 per year and during the period of this lease the Catalina Island Sightseeing Lines requests authority to suspend its passenger service.

Exhibit No. 3 is a proposed lease of the Wilmington Terminal whereby the lessee, M.G.R.S., Inc., proposes to make all the payments required to be made to the Board of Harbor Commissioners of the City of Los Angeles in connection with the Wilmington Terminal. Exhibit No. 4 is an agreement of lease for the Avalon Pier Terminal at a proposed rental of \$41,000 per year, and Exhibit No. 5 is an agreement of lease for the Casino Ballroom at a proposed rental of \$30,000 per year. Exhibit No. 6 is a copy of escrow instructions and agreement under the terms of which M.G.R.S., Inc., agrees to deposit in escrow, \$200,000, which sum is to be used for the reconditioning of the steamer and the operation under the lease agreements.

The M.G.R.S., Inc., proposes to undertake the operation of the steamer, including the piers and certain property connected therewith, and the Casino in Avalon, and to operate these facilities in the hauling of passengers. It does not propose to transport any freight.

The applicants, through Exhibit No. 8, estimated that the Catalina Island Sightseeing Lines would realize a net income of \$15,400 per year from this lease arrangement and other business. Testimony was presented by a witness for the staff which indicated that the rental proposed was too high, based upon the original cost less depreciation concept of arriving at the value of property. The estimates of the company and the staff in this regard are as follows:

<u>Item</u>	<u>Company</u>	<u>Staff</u>
Rental SS Catalina	\$ 45,900	\$ 1,200
Insurance on SS Catalina	-	13,000
Terminal Rental	41,000	40,870
Rental of Casino	30,000	-
Administrative Expense		3,000 ✓

It will be seen from the foregoing table that the principal differences in the estimates are three: first, the company used a rental for the steamer based upon a present-day estimated value of approximately \$950,000, whereas the staff used the depreciated value of \$15,000. In other words, the steamer has been completely depreciated and there is a remaining salvage value shown on the books of \$15,000. In this instance we hold the staff's findings to be correct inasmuch as this Commission has adopted the policy of using original cost less depreciation for rate-making purposes.

A second significant difference is that the company has set up a rental of \$30,000 for the Casino and the staff has given no consideration to this item. We now hold that the Casino is not

a part of the steamer operation and for purposes of this proceeding may be termed nonoperative property. Therefore, we will make no allowance for rental of the Casino in this proceeding. If the parties desire to rent this building, that is a matter which does not come under the jurisdiction of this Commission.

The third significant difference lies in administrative and general expense. The staff has used a flat figure of \$3,000 without attempting to allocate any of this money to any particular rental item. While this figure has been computed as a result of general experience with transportation companies, we believe the situation here is unusual and that \$3,000 is not a sufficient expense allowance for this. The figures submitted by the company do not set out a specific corresponding amount. We do not now determine a reasonable allowance for this expense since there will be a further proceeding to determine rates and at that time this matter will be inquired into further.

The application was opposed by the owners of the Avalon Navigation Company which company operates a boat service from Long Beach to Avalon. It was also opposed by a resident of Catalina Island who contended that the present freight service by barge is not satisfactory and that the Catalina Island Steamship Lines has, in fact, abrogated its common carrier responsibility in permitting others to conduct this service. He also contended that the new organization is untried and inexperienced.

In the light of this record we now find that the proposed lease is justified. We are aware of the fact that M.G.R.S., Inc., is a new operator and that its capitalization is \$200,000.

The evidence also discloses that to recondition the steamer and place it in operating condition will cost more than \$50,000. Likewise, there are heavy operating expenses which will be incurred in the conduct of the operation. Therefore, the ensuing order will be conditioned upon a requirement that the Catalina Island Sightseeing Lines agree to reundertake this steamer operation should the M.G.R.S., Inc., operation not prove to be satisfactory.

We are further aware of the contentions as to the inadequacy of the present freight operation by barge. There is presently pending before this Commission, a proceeding which will inquire into that situation, Case No. 6283. Inasmuch as it is the responsibility of the Catalina Island Sightseeing Lines to transport both passengers and freight, and inasmuch as the principal vessel owned and operated by this company in the past has been the SS Catalina, it would not appear wise upon this state of the record to completely divorce this vessel from the freight hauling business. Therefore, the ensuing authority will also be conditioned upon a requirement that M.G.R.S., Inc., agree to permit the SS Catalina to be used for the hauling of freight should such a requirement be found to be in the public interest.

With these restrictions, the ensuing order will approve the proposed documents, Exhibits Nos. 1 to 4, inclusive, and Exhibit No. 6, except that we will only approve a valuation of the steamer for the purpose of the lease and for any future rate-making purposes based upon original cost less depreciation.

By Application No. 41613, M.G.R.S., Inc., requests a certificate of public convenience and necessity to permit the

operation of the vessel for passenger service between Wilmington and Avalon, and also requests the fixing of rates therefor. The ensuing order will grant such a certificate subject to the condition as to the hauling of freight hereinabove mentioned.

In making the foregoing findings and conclusions, we are aware of the evidence introduced in these proceedings which shows that the SS Catalina, when it was in operation, handled approximately 70 percent of the passengers between the mainland and Avalon during the summer season. Therefore we find that public convenience and necessity require the operation of this vessel. We further find that this vessel should be operated on a regular daily schedule during the period from May 1st through Labor Day of each year. Furthermore, it is found that public convenience and necessity require that the operator of the vessel handle hand baggage and offer hand baggage checking privileges to the same extent as these have been offered in the past.

We also note that the Island Boat Service, which, like the Catalina Island Sightseeing Lines, is a wholly owned subsidiary of the Santa Catalina Island Company, has filed Application No. 41596 which has for its purpose the clarifying of the operative rights of that company. The Island Boat Service presently has authority to transport persons and their hand baggage on an on-call year-round basis between Wilmington and Long Beach on the one hand and Avalon on the other. While there was a motion to consolidate this application with the instant proceedings, this motion was opposed by two of the appearances and for this reason Application No. 41596 will be the subject of other hearings.

M.G.R.S., Inc., 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.

The ensuing order will be interim in nature, and further proceedings will be held to inquire into the proposed rates of M.G.R.S., Inc.

#### INTERIM ORDER

Applications as above entitled having been filed, public hearings having been held thereon, the Commission being fully advised in the premises and having made findings as above stated,

IT IS ORDERED that the Catalina Island Sightseeing Lines, a corporation, and M.G.R.S., Inc., be and they hereby are authorized to enter into and make effective, the agreements designated as Exhibits Nos. 1 to 4, inclusive, and Exhibit No. 6, subject to the conditions and restrictions hereinafter set out:

- a. That Catalina Island Sightseeing Lines, as a condition precedent to the taking effect of this order, shall file with this Commission a statement in writing agreeing to reundertake and re-establish the operation of the steamer, the SS Catalina, between Wilmington and Avalon in the event service by M.G.R.S., Inc., should be discontinued or proved to be unsatisfactory.
- b. That M.G.R.S., Inc., as a condition precedent to the taking effect of this order, shall file with this Commission, a written statement agreeing to permit the transportation of freight on the SS Catalina should such transportation become desirable in the public interest.

- c. That the rental allowed in any future rate proceeding for the use of the steamer SS Catalina shall be based upon the original cost less depreciation.

IT IS FURTHER ORDERED:

1. That a certificate of public convenience and necessity, as provided for in Section 1007 of the Public Utilities Code, be, and it hereby is, granted to M.G.R.S., Inc., authorizing the establishment and operation of a service as a common carrier for the transportation of persons and their hand baggage and for the transportation of freight by the SS Catalina between Wilmington in the City of Los Angeles and Avalon on Santa Catalina Island.

2. That the foregoing certificate is granted subject to the following conditions:

- a. That the passenger service herein authorized shall be conducted on a daily scheduled basis from May 1st to and including Labor Day of each year.
- b. That applicant shall file a written acceptance of the certificate herein granted within a period not to exceed thirty days from the effective date hereof.
- c. That within 120 days after the effective date hereof, and on one day's notice to the Commission and the public, applicant shall establish the passenger service herein authorized and file in triplicate and concurrently make effective tariffs and time schedules satisfactory to this Commission.
- d. That upon order of this Commission, applicant shall establish freight service as directed.
- e. That applicant shall provide hand baggage checking privileges in connection with its steamer operations.

The foregoing order is interim in nature and further hearings will be held to determine the rates and fares to be charged.

Pending a decision in such further proceedings, any operations

conducted under the foregoing certificate shall be at the presently existing rates published by the Catalina Island Sightseeing Lines.

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

Dated at San Francisco, California, this 23rd day of February 1960.

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 President  
*[Signature]*  
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*[Signature]*  
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 Commissioners

Commissioner Everett C. McKee, being necessarily absent, did not participate in the disposition of this proceeding.