

Decision No. _____

61836**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southland Harbor
Cruises, Inc., a corporation,
for authority to change routes,
modify its schedules and increase
rates.

Application No. 42608

(Filed August 24, 1960;
amended January 27, 1961.)

James H. Lyons, for Southland Harbor Cruises,
Inc., applicant.

Henry E. Jordan, for the City of Long Beach,
interested party.

Glenn E. Newton and W. F. Hibbard, for the
Commission staff.

O P I N I O N

Southland Harbor Cruises, Inc., is a California corporation operating as a common carrier of persons by vessel in and about the Long Beach and the Los Angeles harbors. By this application it seeks authority to revise its routes and to increase its fares and rates.

Public hearing on the application was held before Examiner C. S. Abernathy at Los Angeles on January 20, 1961. Evidence was presented by applicant's president, by its office manager, and by a Commission engineer. A representative of the City of Long Beach and a member of the Commission's staff also participated in the development of the record. On January 27, 1961, the matters involved were taken under submission for decision with the filing of an amendment to the original application.

Applicant's operations are primarily of a sight-seeing nature. Persons are transported in scheduled service via specified routes within the Los Angeles and Long Beach harbors to view the principal points of interest therein located. Applicant also provides trips on an on-call basis.

In general, applicant's present sight-seeing tours are as follows:

- a. A tour of the inner and outer harbor of the Port of Los Angeles;
- b. A tour of the inner and outer harbor of the Port of Long Beach;
- c. A tour of the eastern portion of the outer harbor of Long Beach and of a portion of Alamitos Bay.

In addition applicant provides a limited or shortened tour between Long Beach and San Pedro via the Los Angeles and Long Beach outer harbor areas. Moreover, it is authorized to provide a sight-seeing service by glass-bottomed boat along the Long Beach breakwater.¹

Applicant's tours of the inner and outer harbor areas of Los Angeles and Long Beach are in effect divisions of what was formerly operated as a single tour by a predecessor company, Shearwater, Inc., until about June, 1957, when the channel between the Los Angeles and Long Beach inner harbors was closed by construction and the

¹ Authority for the present routes through the inner and outer harbors of Los Angeles and of Long Beach, including the Alamitos Bay route, is that contained in Decision No. 48806, dated July 7, 1953, as amended by Decision No. 55303 dated July 22, 1957. The limited tour between Long Beach and San Pedro was authorized by Decision No. 60694 dated September 6, 1960, and the service by glass-bottomed boat was authorized by Decision No. 53849 dated October 1, 1956.

present tours were inaugurated as a consequence. Said channel has since been reopened. By its proposals herein applicant seeks to re-establish the combined tour of the two harbors, and to provide such tour in lieu of the present separate tours of the respective areas. Also, it seeks authority to serve Pacific Landing, Long Beach, and Norm's Landing, San Pedro, as additional points of beginning and ending of the combined tour, and to serve Pacific Landing, Long Beach, as an additional point of beginning and ending of the tour of the eastern portion of the Long Beach outer harbor and Alamitos Bay. According to applicant's president, these changes are sought in order to make the tours more attractive to the public, and thereby to result in increased patronage of applicant's services. Applicant also asks that in the operation of these tours, it be permitted to operate any of its vessels in either direction over the authorized routes and to start and end at any one of the points of loading as weather and harbor conditions require.²

The fare increases which applicant proposes are sought on the grounds that they are needed to overcome operating losses that are being experienced under present fares. Figures were submitted by applicant's witnesses to show that the operations for the twelve months through October, 1960, resulted in a loss of \$9,585 with an equivalent operating ratio of 114.6 percent. Applicant states, moreover, that the fare increases are needed to provide a basis upon

² A further change which is sought in applicant's operating authority is the designation of the Navy Landing, Long Beach, instead of Magnolia Pier, Long Beach, as a point for the embarkation and discharge of passengers. The record shows that the Navy Landing is a recently constructed facility and that the Magnolia Pier, in the same general area, has been razed.

which its services can be developed in the future. In this respect applicant's president testified at length concerning steps which are taken to expand and to improve the services.

During 1960 applicant's operations were conducted principally by means of one vessel, the MV "SHEARWATER", of 114-passenger carrying capacity. Because of increasing demands for its services, applicant has acquired the MV "PRINCESS", a vessel of about 250-passenger carrying capacity, which is in the process of being refurbished in the decor of the "Gay Nineties." Applicant has also acquired a third vessel, the MV "STAR", of 160-passenger carrying capacity, which is being used principally as a reserve vessel to permit greater flexibility of the operations as a whole. Applicant anticipates that the addition of the "PRINCESS" and the "STAR" to its fleet will tend to stimulate the development of additional traffic and will also enable it to accept traffic which it has had to forego at times in the past because of limitations of the single-vessel operation. Under present plans it is expected that the "PRINCESS" will be put into service the early part of April of this year.

Notwithstanding the anticipated increase in traffic from the expanded operations, applicant expects to experience further operating losses if present fares are continued in effect. Its witnesses estimated that such losses for the coming year would total \$11,027, with an equivalent operating ratio of 110.2 percent. For this reason it avers that increases in its fares are essential to the preservation and maintenance of its services.

The present fares of applicant which are involved herein and the corresponding fares which are proposed are as follows:

	<u>Present Fare or Rate</u>	<u>Proposed Fare or Rate</u>
<u>I Scheduled Service</u>		
<u>A. Individual Fares</u>		
Adult, per person	\$ 1.82	\$ 2.27
Child, 12 years or older, per person	1.82	2.27
Child, 5 years or older but less than 12 years, per person91	1.14
Child, less than 5 years	No charge	No charge (a)
<u>B. Organized Parties of 25 or More</u>		
Adult, per person	\$.91	\$ 1.14
Child, 12 years or older, per person91	1.14
Child, 5 years or older, but less than 12 years, per person45	.60 (b)
<u>II On-Call Service</u>		
"SEAWATER"	\$50 per hour (c)	\$32.50 per $\frac{1}{2}$ hour or fraction thereof (d)
"STAR"	\$50 per hour (c)	\$32.50 per $\frac{1}{2}$ hour or fraction thereof (d)
"PRINCESS"	-	\$42.50 per $\frac{1}{2}$ hour or fraction thereof (e)

- (a) Per child, less than 2 years old.
 (b) Per child, less than 12 years old.
 (c) Minimum charge, \$25.00.
 (d) Minimum charge, \$97.50.
 (e) Minimum charge, \$127.50.

Percentagewise, applicant's proposals represent increases of about 25 percent in the fares for scheduled service and of about 30 percent in the basic hourly rates for on-call service. Insofar as the minimum charges are concerned, however, the increases would

be substantially greater for the "SHEARWATER" and the "STAR."³ In this connection applicant's president stated that experience under the present minimum charge (which is that for a trip of one-half hour) shows that the charge is insufficient in relation to the service required in readying the vessel for a trip and in cleaning it up thereafter. He said that for this reason and for the further reason that it is applicant's desire that its trips or tours be of sufficient duration that they are attractive to the public it was concluded that the minimum charge should be that for a trip of 1½ hours in length.

According to revenue and expense estimates which applicant's witnesses submitted to show anticipated operating results under the sought fares, the establishment of said fares would enable applicant to realize a profit of \$5,635 on its operations during the coming year. The corresponding operating ratio would be 95.7 percent and the equivalent rate of return in relation to an amount of \$93,890, which amount applicant represents to be the value of its rate base, would be 6.0 percent. These estimates were developed upon the level of operations which applicant expects to achieve for the year from the use of all of its vessels. In explaining the figures, applicant's president pointed out that since the "PRINCESS" has not been utilized in the operations heretofore, and since it is expected that the utilization of the "PRINCESS"

³ Corresponding increases would not be involved with respect to the "PRINCESS" inasmuch as this vessel has not been in operation heretofore and rates for on-call service for said vessel have not been established. The higher level of charges which are proposed for the "PRINCESS" are intended to reflect the greater capacity and value of this vessel.

will result in a substantial increase in traffic, the projections of revenues and expenses for the coming year necessarily have had to rest largely on judgment as to what results will actually be attained.

The evidence which was submitted by the Commission engineer deals principally with a study which he had made of applicant's operations. In his study the engineer undertook to develop the level of applicant's earnings under present fares and under the sought fares based on the operations of the "SHEARWATER" and "STAR." Provisions for such effect as the operation of the "PRINCESS" would have upon applicant's earnings was not included in the engineer's figures on the assumption that the results of operations of the "PRINCESS" would generally parallel the pattern of applicant's operating results otherwise, and that the expansion of service with the "PRINCESS" would at least pay out-of-pocket operating costs. In the table below are summarized the estimates which the engineer developed of applicant's operating results during the coming year under present and proposed fares, based on the two vessels presently in operation.

Estimated Results of Operation for Year 1961

	<u>Under Present Fares</u>	<u>Under Proposed Fares</u>
Revenues	\$ 66,300	\$ 78,280
Expenses	<u>67,950</u>	<u>69,350</u>
Net Operating Revenues	\$ <u>(1,650)</u>	\$ 8,930
Income Taxes	\$ <u>100</u>	\$ <u>2,210</u>
Net Income	\$ <u>(1,750)</u>	\$ 6,720
Rate Base	\$ 40,100	\$ 40,100
Rate of Return	-	16.8%
Operating Ratio	102.6%	91.4%

(Red Figure)

It is evident from the record herein that applicant is confronted with a need for increased revenues to sustain its operations. Viewed from either standpoint -- from the level of applicant's services as they have been performed during the past year, or from the level of the services which applicant proposes to furnish during the coming year with the addition of the "PRINCESS" to its fleet -- it appears that applicant's revenues under present fares and rates are insufficient to return the costs incurred or to be incurred in providing the services involved. Clearly, increases in the present fares and rates are necessary to the preservation of the services.

Inasmuch as applicant is materially expanding its operations during the coming year, the additional revenues which it would realize from establishment of the sought fares and rates is dependent to a large degree upon the public's response to its increased offering of service. Although it appears that what this response will be must be largely speculative at this time, we are of the opinion that applicant's estimates of gross revenues and net earnings under the sought fares are reasonable, and that they may be accepted as a basis for our conclusions hereinafter.

On the basis of the estimate of net earnings it appears that the revenue results of establishment of the sought fares and rates would be reasonable in total. However, the sought fares and rates should not be approved without reference to the propriety of the specific fare and rate adjustments that are proposed. In this connection it is noted that although applicant is proposing increases of about 30 percent in the hourly rates for the "SHEARWATER"

and the "STAR" and the establishment of an hourly rate of \$85 for the "PRINCESS", the effective rates would be greater, inasmuch as applicant would assess charges on periods of $\frac{1}{2}$ hour or fraction thereof. For example, the charge for an engagement of the "SHEAR-WATER" of two hours and five minutes duration would be that for two hours and thirty minutes, or an amount of \$162.50 instead of \$135.42, the amount that would accrue at the proposed hourly rate of \$65. In view of such results, which appear to be unreasonable, we conclude that as applied to applicant's operations the proposed $\frac{1}{2}$ -hour periods would be excessive as units for the computation of charges, and should not be approved. An alternative basis of charges which would produce reasonable results and which may be authorized herein, is that whereunder charges for fractional hours would be computed on the basis of the nearest $\frac{1}{2}$ -hour period. To this extent applicant's proposals to depart from a straight time basis in connection with the computation of charges under its hourly rates should be granted.

The changes which applicant would make in its fares for children also should not be authorized. At the present time children who are less than 12 years of age are transported at one half of the applicable adult fares, except that children of less than 5 years of age are transported without charge. Insofar as its fare structure for individuals is concerned, applicant would extend the application of the half-fare provisions to children of less than 5 years but not less than 2 years. All children of less than 12 years would be made subject to fares slightly higher than one half of the adult fares when transported as part of organized groups of 25 persons or more. Applicant did not undertake to submit evidence in support of these specific adjustments. On this record they may not be found justified.

Modification of applicant's proposals in the foregoing respects would, of course, result in some reduction of the additional revenues which applicant seeks to attain through increases in its fares based on the operation of two vessels presently comprising its fleet. In the following table applicant's estimates of operating results of a fleet of three vessels under the sought fares have been adjusted to give effect to such modifications:

Estimated Results of Operation under Authorized Fares
Year 1961

Revenues	\$ 130,170
Expenses	<u>122,911</u>
Net Operating Revenues	\$ 7,259
Income Taxes	<u>2,457</u>
Net Income	\$ 4,802
Rate Base	\$ 93,890
Rate of Return	5.1%
Operating Ratio	96.3%

The foregoing operating results are hereby adopted as reasonable. Based on the evidence in this matter we find and conclude that, the fares and rates predicated on such results of operation have been shown to be justified. They will be authorized accordingly.

With respect to the changes which applicant seeks to make in its routes and service, we are of the opinion and find that such changes will be of benefit to the public and that public convenience and necessity require the changes in routes and terminal points which are sought. The application in this respect will be granted. No specific approval is necessary on applicant's request to use any of the vessels hereinbefore named in performing the services herein involved.

Southland Harbor Cruises, Inc., is hereby placed on 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, such rights extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be modified or canceled 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

Based on the evidence of record and on the findings and conclusions set forth in the preceding opinion,

IT IS HEREBY ORDERED that:

1. A certificate of public convenience and necessity be, and it hereby is, granted to Southland Harbor Cruises, Inc., a corporation, authorizing it to operate as a common carrier by vessel, as defined in Sections 211(b) and 238 of the Public Utilities Code, between the points and over the routes as more particularly set forth in Appendix A attached hereto and made a part hereof.

2. The certificate of public convenience and necessity granted in paragraph 1 of this order supersedes the certificates of public convenience and necessity acquired by and granted to Southland Harbor Cruises, Inc., by Decision No. 60050, dated May 4, 1960, in Application No. 41978, and Decision No. 60694, dated September 6, 1960, in Application No. 42523, respectively, which certificates are hereby canceled and revoked, said revocation to become effective concurrently with the effective date of tariff filings required by paragraph 3(b) hereof.

3. In providing service pursuant to the certificate herein granted, Southland Harbor Cruises, Inc., shall comply 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. By accepting the certificate of public convenience and necessity herein granted, applicant is placed on notice that it will be required, among other things, to file annual reports of its operations and to comply with and observe the insurance requirements of the Commission's General Order No. 111. Failure to file such reports, in such form and at such time as the Commission may direct, or to comply with and observe the provisions of General Order No. 111, may result in a cancellation of the operating authority granted by this decision.
- b. Within one hundred twenty days after the effective date hereof and on not less than five days' notice to the Commission and to the public, it shall establish the service herein authorized, and shall file in triplicate, and concurrently make effective, tariffs and timetables satisfactory to the Commission.

4. Southland Harbor Cruises, Inc., be, and it hereby is, authorized to amend its Local Passenger Tariff Cal. P.U.C. No. 1, on not less than five days' notice to the Commission and to the public, to establish the increased fares and rates which are set forth in Appendix B attached hereto and by this reference made a part hereof.

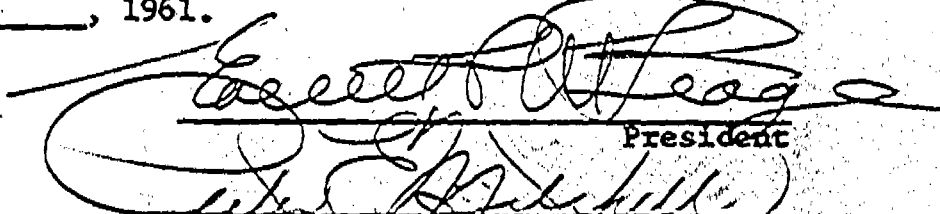
5. In addition to making the tariff filings required in connection with the establishment of the increased fares and rates herein authorized, Southland Harbor Cruises, Inc., shall notify the public of said fare and rate changes by posting a statement of said changes at its terminals and in each of its vessels. Said notice shall be posted not less than five days before the date that the changes are made effective, and shall remain posted until not less than ten days after said date.

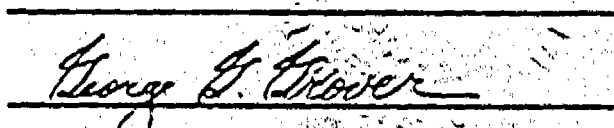
6. Except as is otherwise provided herein, the authority which applicant seeks in this proceeding to establish increased rates and fares be, and it hereby is, denied.

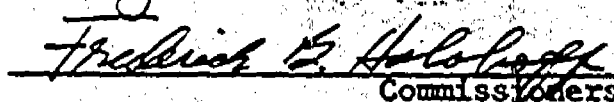
7. The fare and rate increase authority granted in the above paragraph 4 shall expire unless exercised within ninety days after the effective date of this order.

This order shall become effective twenty days after the date hereof.

Dated at San Francisco, California, this 12th
day of APRIL, 1961.


President




Commissioners

I. Southland Harbor Cruises, Inc., by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport persons by vessel via the following routes:

A. Long Beach-Los Angeles Harbor Cruise

From the Navy Landing, thence to Pacific Landing; thence around Pier A to Pierpoint Landing (all in the City of Long Beach); thence via Long Beach Channel, Cerritos Channel, East Basin, and Los Angeles Harbor Main Channel to the Ferry Terminal Public Landing, San Pedro; thence to Norm's Landing, San Pedro; thence around Reservation Point to Fish Harbor; thence through the Los Angeles Outer Harbor and the Long Beach Outer Harbor to Navy Landing, to Pacific Landing, and to Pierpoint Landing, Long Beach.

B. Alamitos Bay Cruise

From Pierpoint Landing, around Pier A to Pacific Landing, thence to Navy Landing (all in the City of Long Beach); thence to Belmont Pier; thence into and around Alamitos Bay (Long Beach Marina); thence around Oil Island; thence through the Long Beach Outer Harbor to Pierpoint Landing, to Pacific Landing and to and terminating at Navy Landing, Long Beach; except when persons have been picked up at Belmont Pier, in which event cruise shall continue to and terminate at Belmont Pier.

Authorized Points for the Embarkation and Discharge of Passengers

Navy Landing)	
Pacific Landing)	
Pierpoint Landing)	Long Beach
Belmont Pier)	

Ferry Terminal Public Landing**)	San Pedro
Norm's Landing)	

** Stops at Ferry Terminal Public Landing, San Pedro, for the pickup and discharge of passengers to be made only in response to special requests of civic authorities.

Cruises may be operated in either direction over authorized routes, and may be started and ended at any one of the authorized points of embarkation and discharge of passengers as weather and harbor conditions require.

Issued by the California Public Utilities Commission.

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II. Southland Harbor Cruises, Inc., by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport persons by vessel within the area hereinafter described and subject to the conditions and restrictions as herein set forth.

Area Description

Within an area in the Long Beach Harbor, bounded as follows: beginning at Pierpoint Landing thence to a point at the breakwater $1\frac{1}{2}$ miles westerly of the entrance to the Long Beach Channel, thence following the breakwater to a point $1\frac{1}{2}$ miles easterly of the said channel's entrance, thence to the Navy Landing, thence generally in a westerly direction to the point of beginning.

Applicant shall operate a regular daily scheduled service with a glass-bottom boat or boats of a type substantially as described in Application No. 37865, except at such times or on such days when weather or water conditions are unfavorable for the operation of glass-bottom boats. In addition to the regularly scheduled glass-bottom service, applicant may provide such service "on-call". Applicant may also provide an excursion service, within the said area, on regular schedules or on-call.

Issued by California Public Utilities Commission.

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III. Southland Harbor Cruises, Inc., by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport persons by vessel between Pierpoint Landing, Long Beach, California, and Norm's Landing, San Pedro, California, via the following route:

From Long Beach, California, through the outer harbor around Reservation Point into the main ships' channel of Los Angeles Harbor to Norm's Landing, San Pedro, Los Angeles, California.

The return trip shall be the reverse of the above route.

End of Appendix A

Issued by the California Public Utilities Commission.

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APPENDIX "B" TO DECISION NO. 61836Authorized Fares and RatesI Scheduled Service

A. Individual fares, per person, per trip*

Adult	\$ 2.27
Child, 12 years or older	2.27
Child, 5 years or older but less than 12 years	1.14
Child, less than 5 years	No charge

B. Organized parties of 25 persons or more, per person, per trip*

Adult	\$ 1.14
Child, 12 years or older	1.14
Child, 5 years or older but less than 12 years57
Child, less than 5 years	No charge

* Per trip: From point of embarkation and return thereto via authorized route for Long Beach-Los Angeles Harbor Cruise or for Alamitos Bay Cruise, as said routes are described in Appendix "A" of this decision.

II On-Call Service

MV "SHEARWATER"	\$65 per hour (a)
MV "STAR"	\$65 per hour (a)
MV "PRINCESS"	\$85 per hour (b)

(a) Subject to a minimum charge of \$ 97.50

(b) Subject to a minimum charge of \$127.50

Charges for On-Call Service shall be at the applicable hourly rate, subject to the minimum charges shown, except that charges for fractional hours shall be computed as follows:

Where the fractional hour is:

The applicable charge will be that for:

Less than 7 minutes
7 minutes or more but less than 22 minutes
22 minutes or more but less than 37 minutes
37 minutes or more but less than 52 minutes
52 minutes or more

No charge
 $\frac{1}{2}$ hour
 $\frac{1}{2}$ hour
 $\frac{3}{4}$ hour
1 hour

(End of Appendix "B")