

62449

ORIGINAL

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of ISLAND BOAT SERVICE, a corporation (formerly called Catalina All Year Boat Company) for Extension of its Service to Santa Catalina Island, California, and to other points.

Application No. 42511

Gibson, Dunn & Crutcher, by Max Eddy Utt, for applicant.
Frank C. Seehorn for H-10 Water Taxi Company, Ltd., interested party.
W. F. Hibbard for the Commission staff.

OPINION ON REHEARING

By the application herein filed on July 25, 1960, the applicant requested authority to extend its on call Los Angeles-Long Beach Harbor to Avalon, Santa Catalina Island (hereinafter called Catalina), service to include such service between Los Angeles, Long Beach, Alamitos Bay and Newport Bay, on the one hand, and Avalon and all other points and places on Catalina, on the other hand, plus service to the other Channel Islands, for example, San Clemente and Santa Barbara Islands. This application was protested by Island Transportation Company, H-10 Water Taxi Company, Ltd., and Avalon Navigation Company.

On December 13, 1960, the Commission denied this application, having found that . . . "there is adequate service to Santa Catalina Island being performed by water carriers certificated by this Commission".

On April 4, 1961, the Commission made its Order Granting Rehearing and the matter was set for rehearing on May 31, 1961.

On May 10, 1961, the applicant filed a First Amendment to Application. Therein for the first time applicant requests authority to transport passengers between the City of Avalon, Catalina, on the one hand, and various points and places on Catalina outside of the City of Avalon, on the other hand. This amendment also deleted the request for authority to serve the other Channel Islands and to operate from the City of Newport Beach and Alamitos Bay, and Avalon Navigation Company and Island Transportation Company withdrew their protests.

The evidence shows the following facts which we find to be true:

The Santa Catalina Island Company is the owner of all the outstanding stock of the Island Boat Service, and owns all of Catalina outside of the city limits of Avalon, which comprises an area one mile square.

Along the coast of Catalina, outside of Avalon Bay, there exist coves which, in the summer time, are primarily used for group activities by organizations such as the Boy Scouts, Girl Scouts, YMCA and the YWCA. These camp sites are owned by the Santa Catalina Island Company and leased to the various groups for periods of time during the summer months. The leases provide for the rendering of various services. Some of the agreements provide, among other things, that the Santa Catalina Island Company will furnish the lessee with cross-channel transportation at a fee specified in the agreement, which fee is not the same fee or

transportation charge provided in the applicant's proposed tariffs (Exhibit No. 26). Other agreements leave the securing of such transportation up to the tenant.

A carrier by vessel may only make a landing on Catalina outside the city limits of Avalon by permit of the Santa Catalina Island Company.

Applicant proposes to furnish on-call service, but scheduled if the need exists, between Long Beach and Los Angeles, on the one hand, and points and places on the coast of Catalina other than Avalon, on the other hand, and between the City of Avalon, Catalina, on the one hand, and points and places on Catalina, on the other hand. The service between the mainland and points on Catalina other than Avalon is to be on an individual fare basis or on group party rates. The fares between Avalon and the other points on the Island will be on a charter basis only for groups or on a time basis.

The proposed fares are as follows:

Proposed Fares Between the Mainland
and Santa Catalina Island
Points Other than Avalon

<u>One Way Adult Fare</u>	<u>One Way Child's Fare</u>	<u>Commutation Tickets</u>
\$2.74	\$1.26	10 tickets for \$12.50

Party Rates:

Groups of 40 or more . . . \$5.00 per person per round trip.

Proposed Fares Between Avalon and
Other Points on Santa Catalina Island
(Charter Party Rates Only)

<u>Vessel</u>	<u>Minimum No. Passengers</u>	<u>Maximum No. Passengers</u>	<u>Individual</u>	<u>Daily</u>	<u>Hourly</u>
Cabrillo	None	110	None	\$450	\$50
Descanso	65	81	\$5.00	330	37.50
Torqua	None	49	None	325	35
Sportsman	60	111	\$5.00	175	20
Jericho	40	46	5.00	135	15

Note: All fares or rates exclusive of transportation tax, wharfage tax or landing fees.

(Exhibit No. 16)

To perform the proposed services, applicant has and will use five vessels referred to above, namely, the Cabrillo, having a capacity of 110 passengers, which is 65 feet long (Exhibit No. 2); the Descanso, which is 64 feet long and carries 81 passengers (Exhibit No. 11); the Torqua, which is 64 feet long and carries 49 passengers (Exhibit No. 12); the Sportsman, which is 83 feet in length, and carries 111 passengers (Exhibit No. 13); and the Jericho, which is 50 feet in length and carries 46 passengers (Exhibit No. 14). All of these vessels are twin screw with diesel engines. The Torqua is a luxury, strictly charter vessel. The others are used in the cross-channel operations. The vessels, after making the runs from the Mainland to the Island, will generally have layover time at Catalina. Applicant proposes to use the Descanso, the Sportsman, and the Jericho to transport groups between Avalon and the various camps on Catalina during the layover period. Applicant estimates that the revenues will exceed the expenses and it will realize a net income of \$6,660 per year (Exhibit No. 21).

Two of the lessees of Santa Catalina Island Company appeared in support of the application and stated that they desire that the services as proposed by the applicant be made available, and that they prefer the better equipment used by applicant.

The H-10 Water Taxi Company, under authority from this Commission, has served a majority of the various camps located at the various coves on Santa Catalina Island. It renders this service by means of so-called water taxis which have a capacity of 49 persons, are approximately 50 feet in length, from 11 feet to 12 feet in width, and have a speed of between 12 and 14 knots.

Exhibit No. 26 herein is a copy of an agreement between the Girl Scouts and the Santa Catalina Island Company which was submitted as typical of the leases entered into relative to leased space on the Island. This agreement provides that the Santa Catalina Island Company agrees to furnish the lessee with cross-channel transportation for its normal camp change days as part of the base rental. In addition, this agreement provides that additional passengers will be carried at a specified fee. The import of the agreement would appear to be that the Santa Catalina Island Company is entering into the business of furnishing transportation. Either the Santa Catalina Island Company should secure a certificate of public convenience and necessity or should modify its contracts.

Upon the evidence of record herein, including that submitted at the original hearing and at the further hearing, the Commission is of the opinion and finds and concludes that public convenience and necessity require that applicant extend its service

as requested in the amended application, and that it possesses the equipment and ability to institute and maintain the proposed service.

Island Boat Service, a corporation, 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.

ORDER ON REHEARING

Rehearing having been granted, public hearings having been held thereon and based on the evidence therein adduced,

IT IS ORDERED:

1. That a certificate of public convenience and necessity be, and it hereby is, granted to Island Boat Service, a corporation, authorizing it to operate as a common carrier by vessel, as defined in Section 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. That the certificate of public convenience and necessity granted in paragraph 1 of this order supersedes the certificate of public convenience and necessity granted to Catalina All Year Boat Company by Decision No. 54926 dated April 30, 1957, in Application No. 38622, which certificate is hereby revoked, said revocation to become effective concurrently with the effective date of tariff filings required by paragraph 3(b) hereof.

3. As conditions for providing service pursuant to certificate herein granted, Island Boat Service 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 ten days' notice to the Commission and to the public, applicant shall establish the service herein authorized and shall file in quadruplicate and concurrently make effective tariffs and timetables satisfactory to the Commission.

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

Dated at San Francisco, California, this 22nd day of August, 1961.

Robert L. Rye
President

John J. [unclear]

E. J. Fox

George H. Grover

Fredrick B. Hallock
Commissioners

Island Boat Service, a corporation, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport passengers and their baggage on a year-round basis between the following points and places:

1. Between Long Beach Harbor and Los Angeles Harbor (Wilmington and San Pedro), on the one hand, and all points and places on the coast of Santa Catalina Island, on the other hand.
2. Between Avalon, Santa Catalina Island, on the one hand, and all points and places on the coast of Santa Catalina Island, on the other hand.

Issued by California Public Utilities Commission.

Decision No. 62449, Application No. 42511.