

ORIGINAL

Decision No. 63974

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
THE HARBOR TUG AND BARGE COMPANY, a)
corporation, for a certificate of)
public convenience and necessity)
authorizing an extension of its)
operating authority so as to)
authorize it to operate vessels)
"on schedule" as a common carrier)
of passengers between San Francisco)
and Tiburon.)

Application No. 44268

Vaughan, Paul and Lyons, by Reginald L. Vaughan
and John G. Lyons, for applicant.
William T. Meinhold, for The Greyhound Corporation
(Western Greyhound Lines Division); Graham,
James and Rolph, by Boris H. Lakusta, for Bay
and Ocean Cruises, Inc., and Marin Marine
Commute Club; Warren P. Marsden, for State
of California, Department of Public Works,
interested parties.

O P I N I O N

Public hearing was held before Commissioner Peter E. Mitchell and Examiner Power at San Francisco on May 23 and June 21, 1962 and the matter was submitted on the latter date.

For many years ^{1/} applicant has operated boats on San Francisco Bay for towage and for the transport of persons and property. It presently operates on-call and sight-seeing services for passengers. Thus, it has substantial experience both with the boats and the operating personnel. By the instant application it seeks authority to transport persons in scheduled service between Tiburon and San Francisco.

^{1/} The operating rights of applicant are "grandfather" rights, dating from prior to August 17, 1923.

Applicant proposed fares as follows:

One way	\$.80
Round trip	1.50
Children under 5 years	Free
(1) Commuter	27.00
(1) Authorizes 20 round trips within a time limit of 45 days.	

The proposed schedule provides for two round trips in the morning and two in the evening on week days. One round trip in the morning, and one in the afternoon will be operated on Saturday and Sunday with no weekend service from September 11 through May 31 of each year. On-call service will be rendered on 2 hours' notice for 15 adult fares or more.

Applicant presented its president and four public witnesses in support of the application. An additional nine witnesses were proffered but since their testimony would have been cumulative it was received by a stipulation. These witnesses are now members of a club that presently utilizes applicant's equipment under a charter through Showboat Transportation Co. Showboat utilizes applicant's equipment and will withdraw its service if and when this application is granted.

There were no protests to the application. There are no competitive vessel services certificated. The Greyhound Corporation has passenger stage rights between Tiburon and San Francisco but elected to appear as an interested party.

The State Department of Public Works appeared in connection with its powers and duties under Sections 30800 and following of the Streets and Highways Code. These sections define the Department's authority over toll bridges, toll roads, toll ferries and constructed fords. Discussion is continuing between applicant and the State Department of Public Works concerning the necessity of a franchise from that Department. The applicant shall notify the Commission upon the resolution thereof.

The Commission finds that:

1. Public convenience and necessity require that the certificate applied for be granted.

2. The Harbor Tug and Barge Company, a corporation, has the finances, experience, personnel and equipment to institute and continue the proposed service.

3. The fares set forth above in this Opinion are fair and reasonable.

Applicant 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.

The following order will be made effective upon its date. The facts justifying such accelerated effectiveness are these: (1) the service is now in operation on a charter basis; (2) the long experience of applicant in operating these specific vessels on the waters of San Francisco Bay; (3) the absence of protest. The grant herein will take the form of an amendment to applicant's present certificate which authorizes service between San Francisco and Angel Island State Park.

O R D E R

Public hearing having been held and based upon the evidence therein adduced:

IT IS ORDERED that:

1. A certificate of public convenience and necessity be, and it hereby is, granted to The Harbor Tug and Barge Company, 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 more particularly set forth in Appendix A attached hereto and hereby made a part hereof.

2. 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. 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 the public, applicant shall establish the service herein authorized and file in triplicate, and concurrently make effective, tariffs satisfactory to the Commission.

3. Appendix A of Decision No.60037, as amended, is further amended by incorporating therein Second Revised Page 1, attached hereto, in revision of First Revised Page 1.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 17th day of July, 1962.

George G. Grover
President

[Signature]

[Signature]

[Signature]

Frederick B. Hallock
Commissioners

- A. 1. The Harbor Tug and Barge Company, a corporation, by the certificate granted by the decision noted in the margin, is authorized to transport persons by vessel between San Francisco, on the one hand, and Angel Island State Park, on the other hand.
2. The Harbor Tug and Barge Company shall provide in its tariff and timetable for at least one trip per day each direction during the period between June 1 through September 10 of each year. In addition, applicant is authorized to provide in its tariff and timetable for an on-call service, on one hour's notice, for three or more passengers between the period September 11 through May 31 of each year.
- B. 1. The Harbor Tug and Barge Company, a corporation, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to transport persons between Tiburon, on the one hand, and San Francisco, on the other hand, over the waters of San Francisco Bay.
2. The Harbor Tug and Barge Company shall provide in its tariff and timetable for at least two trips per day each direction during the period between June 1 through September 10 of each year. In addition, applicant is authorized to provide in its tariff and timetable for an on-call service, on two hours' notice, for 15 or more adult passengers between the period September 11 through May 31 of each year.

Issued by California Public Utilities Commission.

Decision No. 63974, Application No. 44268.