

**ORIGINAL**Decision No. 64153

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of M.G.R.S., Inc., )  
 a corporation, for authority )  
 to adjust rates. )

Application No. 44416

(Filed May 4, 1962)

James H. Lyons, for applicant.James H. Radcliffe, for Avalon Navigation Company, interested party.Robert L. Russell (by Paul L. Garver), for the Department of Public Utilities & Transportation, City of Los Angeles, interested party.Henry E. Jordan, for the Bureau of Franchises and Public Utilities, City of Long Beach, interested party.Timothy J. Canty, for the Commission's staff.O P I N I O N

M.G.R.S., Inc., is engaged in the common carriage of persons and baggage by vessel between Avalon, Santa Catalina Island, and Wilmington. It operates in scheduled service between May 1 and Labor Day of each year pursuant to authority granted by Decision No. 59710 dated February 23, 1960. It also provides nonscheduled service under so-called "charter" arrangements during other times of the year. By this application it seeks authority to establish increased fares for its scheduled service and to cancel its rates for stateroom accommodations. No change is proposed in the charges for nonscheduled service.

Public hearings on the application were held before Examiner C. S. Abernathy at Avalon on June 25, 1962, and at Los Angeles on June 27, 28, and 29, 1962. Evidence in support of the application was presented by four witnesses for applicant -- its president, its controller, its attorney in charge of labor relations, and by the chief accounting officer of Catalina Island Sightseeing Lines. Evidence in opposition to the application was presented by an engineer of the Commission's staff. Representatives of the Cities of Long Beach and Los Angeles participated in the hearings as interested parties. The matter was taken under submission on July 5, 1962, upon the receipt of a late-filed exhibit.

Applicant's present and proposed fares per one-way ride and its rates for stateroom accommodations per one-way trip are as follows:

|                        | <u>Present</u> | <u>Proposed</u> |
|------------------------|----------------|-----------------|
| <u>Fares</u>           |                |                 |
| Adult                  | \$ 3.41        | \$3.75          |
| Child                  | 1.70           | 1.86            |
| Commute                | 1.50*          | 1.50*           |
| <u>Stateroom Rates</u> |                |                 |
| Small stateroom        | 3.25           | -               |
| Deluxe suite           | 15.00          | -               |

\*Based on purchase of 10-ride commute book of tickets for \$15.00.

Applicant alleges that increases in its fares are necessary to overcome operating losses with which it is confronted as a consequence of declining patronage of its services and increases in its operating costs. According to the testimony of applicant's

witnesses, the patronage of applicant's services is declining at the rate of about 7 percent a year. Applicant has recently been subjected to increased wage costs, retroactive to October 1, 1961, which total \$34,500 on an annual basis. Pensions, welfare, and payroll tax costs for the present year will exceed those for 1961 by \$13,000. Terminal rental costs for the present year have been increased by almost \$13,000, and the annual rental which applicant pays for the S.S. CATALINA, the vessel which applicant uses in its operations, have been increased by \$20,000.

Much of the evidence which applicant's witnesses submitted was designed to show the effect of the decreasing patronage and the increased costs upon applicant's financial results of operations for the year ending with April, 1963. The showings of the witnesses were developed on two bases: (a) assuming that the present rates are maintained throughout the year, and (b) assuming that the proposed fares have been in effect throughout the year. Evidence in a similar vein was also submitted by the Commission engineer. The data which were so presented are summarized in Tables Nos. 1 and 2 below:

TABLE NO. 1

Estimated Financial Results of Operations  
Under Present Fares  
For Year Ending April 30, 1963

|                        | <u>Applicant</u>   | <u>Commission<br/>Engineer</u> |
|------------------------|--------------------|--------------------------------|
| Revenues               | \$1,268,657        | \$1,357,890                    |
| Expenses               | <u>1,363,150</u>   | <u>1,239,930</u>               |
| Net Operating Revenues | <u>(\$ 94,493)</u> | \$ 117,960                     |
| Income Taxes           | <u>100</u>         | <u>58,010</u>                  |
| Net Income             | <u>(\$ 94,593)</u> | \$ 59,950                      |
| Operating Ratio        | 107.46%            | 95.6%                          |

           Indicates Loss

TABLE NO. 2

Estimated Financial Results of Operations  
Under Proposed Fares  
For Year Ending April 30, 1963

|                        | <u>Applicant</u> | <u>Commission<br/>Engineer</u> |
|------------------------|------------------|--------------------------------|
| Revenues               | \$1,391,795      | \$1,488,210                    |
| Expenses               | <u>1,369,531</u> | <u>1,255,730</u>               |
| Net Operating Revenues | \$ 22,264        | \$ 232,480                     |
| Income Taxes           | <u>8,623</u>     | <u>120,580</u>                 |
| Net Income             | \$ 13,641        | \$ 111,900                     |
| Operating Ratio        | 99.01%           | 92.5%                          |

As the foregoing tables show, the estimates of applicant's witnesses and of the Commission engineer present materially different portrayals of applicant's earning position for the rate year under consideration -- the year ending with April, 1963. Applicant contends that the figures of its witnesses clearly establish its need for the sought fare increases, and that the increases should be authorized to become effective forthwith. On the other hand, the engineer concluded from his estimates that applicant's earnings under present fares will be reasonable, and that increases in the fares are not justified.

The difference between the revenue estimates of applicant's witnesses and of the engineer is principally a result of the fact that the estimates of applicant's witnesses reflect a decline in traffic of about 7 percent, whereas the estimates of the engineer do not. The revenue estimates of applicant's witnesses were developed on a showing that the patronage of applicant's scheduled services for 1961 was about 8 percent less than that for 1960, and that

for the portion of the 1962 season from May 4 through June 21, applicant's traffic was about 16 percent less than that for the corresponding period in 1961. On the other hand, the revenue estimates of the engineer were developed on the assumption that applicant's traffic for 1962 would be at virtually the same level as that for 1961. The engineer pointed out that although the patronage of applicant's regular services for 1961 was about 7 percent below that for 1960, the total patronage was only about 2 percent less due to the fact that during the 1961 season applicant operated extra-schedules which resulted in additional traffic. With respect to applicant's comparisons of its 1961 traffic with that for 1960, the engineer declared, in substance, that such comparisons do not provide a valid measure of traffic trend for the reason that the 1960 level of traffic was abnormal. He pointed out that during the 1959 season the steamship CATALINA was not operated. Hence, he said, there was generated a pent-up demand for service to and from Catalina Island which was not satisfied until the resumption of operations the following year. Regarding the further decline in patronage which applicant has experienced during the current season, the engineer predicted that an increase in traffic during the latter part of the season would offset the decreases to date.

Although the revenue estimates of applicant's witnesses and of the Commission engineer apply to the year through April, 1963, essentially they cover only the season from May 1 through Labor Day, 1962, inasmuch as only a small part of applicant's revenues are earned after this period. At the time of the hearings in this matter almost half of the season had passed. Since the record

shows that up to the time of the hearings applicant's total traffic was about 16 percent below that for the corresponding period during 1961, it is evident that if applicant's total traffic through Labor Day is to equal that for the 1961 season, as estimated by the engineer, the volume of applicant's traffic for the remainder of the present season will have to increase substantially. Even if the lesser estimates of applicant's witnesses are to be attained, there must be an appreciable increase in applicant's traffic.

But whether applicant could realize the full benefits of such increases in traffic, should they materialize, is debatable. It appears that applicant's traffic normally approaches the carrying capacity of the steamship CATALINA as the season progresses. Hence, the ship's carrying capacity would tend to limit the extent that applicant might transport additional traffic that would offset deficiencies in traffic earlier in the season. In the circumstances and in view of the extent that applicant's traffic volume for the present season to the dates of the hearings in this matter has been below that for the corresponding period in 1961, we find that applicant's estimate of the volume of its traffic for the year through April, 1963, is the more reasonable and should be adopted for the purposes of this decision.

In an important respect, it appears that the revenue estimate of applicant's witnesses, and of the Commission engineer as well, substantially understate the revenues to be received from the operation of the CATALINA during the year through April, 1963. In April, 1960, when the level of applicant's fares was last a subject of consideration, applicant listed as part of

its estimate of operating revenues to be received during the ensuing year an amount of \$158,845. This amount was represented as the total of the revenues to be received from concessions and a cocktail lounge aboard the CATALINA, and was adopted as a basis for the decision on the matters then involved (Decision No. 60169, dated May 24, 1960). In the present instance the estimate of applicant's witnesses of the revenues to be received from the concessions and cocktail lounge is \$27,045; the estimate of the Commission engineer is \$27,700. According to applicant's controller, who explained the estimate of \$27,045, such amount represents the anticipated receipts from Channel Concessions Corporation, which has been granted the operation of the concessions and cocktail lounge. Channel Concessions Corporation, the record shows, is a corporation separate from applicant but having the same underlying ownership as applicant. In addition to operating concessions on the S.S. CATALINA, Channel Concessions Corporation also operates the Casino at Avalon and a yacht rental enterprise.

The operation of the steamship concessions and the cocktail lounge was granted to Channel Concessions Corporation in return for payment of 15 percent of the gross revenues therefrom. On this basis and on expected payments to applicant in total amount of \$27,045, the gross receipts from operation of the concessions and cocktail lounge for the year through April, 1963, will amount to \$180,300. Estimated expenses of Channel Concessions Corporation applicable to said operation total \$109,270 (inclusive of the amount of \$27,045 to be paid to applicant).

It is evident that through the granting of the operation of the concessions and cocktail lounge to Channel Concessions Corporation, applicant has diverted away from itself a substantial segment of the revenues that are produced by the operation of the S.S. CATALINA. Applicant undertook to defend its action in this respect on the grounds that the revenues which Catalina Concessions Corporation receives as a consequence are used in the operation of the Casino, and that the operations of the Casino and of the steamship are mutually beneficial in that the Casino is the only place on Santa Catalina Island where large groups may go and be entertained. The availability of the Casino, therefore, promotes travel on the S.S. CATALINA by large groups. Assertedly, without the revenues received from the steamship concessions and cocktail lounge, Channel Concessions Corporation would not be able to operate the Casino, inasmuch as the operation would result in an annual loss of about \$97,000. As further justification for the present plan of operation applicant pointed out through its counsel that even were the revenues from the concessions and cocktail lounge to be received by applicant, rather than by Channel Concessions Corporation, applicant would not realize the full benefit therefrom since income taxes would reduce the amount of net revenues by about one-half. Applicant's counsel argued that for this reason the present arrangements should be continued in order to permit the saving in taxes to be utilized in the operation of the Casino to the advantage of applicant and of Channel Concessions Corporation alike.



In connection with applicant's arguments in justification of the arrangements with Channel Concessions Corporation it should be pointed out that by Decision No. 59710, dated February 23, 1960, we have heretofore held that the Casino is not a part of the operation of the S.S. CATALINA. In keeping with this decision it would follow that the same conclusions should prevail herein in the absence of compelling evidence otherwise. Notwithstanding the asserted benefits that accrue to applicant from operation of the Casino, we are not persuaded that the holding in Decision No. 59710 should be modified on this record. Nor should the arrangement between applicant and Channel Concessions Corporation be permitted to modify Decision No. 59710 in fact. Since applicant and Channel Concessions Corporation are under essentially the same ownership and control and are thereby substantially a unity in interests, it is evident that from a rate standpoint the arrangement between the two is a device by which costs of the Casino operations would be imposed on patrons of the S.S. CATALINA. We hereby hold that for the purposes of this proceeding -- the determination of whether increases in applicant's fares should be authorized as sought -- the arrangement between applicant and Channel Concessions Corporation should be disregarded, and the total amount of the revenues which are derived from the operation of the concessions and cocktail lounge should be considered as a part of applicant's total operating revenues. Conversely, the expenses that are reasonably applicable to the concessions and cocktail lounge should be considered as part of applicant's operating expenses. On this basis and on the basis of applicant's revenue estimates as hereinbefore discussed, we find

that the following are reasonable estimates of the levels of applicant's revenues under present and proposed fares for the year ending with April, 1963:

|                                  | <u>Under Present<br/>Fares</u> | <u>Under Proposed<br/>Fares</u> |
|----------------------------------|--------------------------------|---------------------------------|
| Passenger revenues               | \$1,231,388                    | \$1,354,526                     |
| Miscellaneous voyage<br>revenues | 189,800                        | 189,800                         |
| Other revenues                   | <u>5,000</u>                   | <u>5,000</u>                    |
|                                  | <u>\$1,426,188</u>             | <u>\$1,549,326</u>              |

In the matter of the costs of applicant's operations for the year through April, 1963, the cost or expense estimates of applicant's witnesses exceed those of the engineer by approximately \$120,000. About half of this difference is in the estimates for the rental of the S.S. CATALINA and of the terminal facilities which applicant uses at Avalon. Applicant owns neither of these properties, but leases them from the Catalina Island Sightseeing Lines which formerly operated the steamship in common carrier service between Avalon and Wilmington. The rental costs of the steamship and of the Avalon terminal, as estimated by applicant's witnesses and the Commission engineer, are as follows:

| <u>Rental Costs</u>         | <u>Applicant</u> | <u>Commission<br/>Engineer</u> |
|-----------------------------|------------------|--------------------------------|
| S.S. Catalina               | \$67,100         | \$15,180                       |
| Terminal facilities, Avalon | 51,550           | 41,900                         |

Although designated as rental costs, these figures include certain other items than remuneration for the use of the properties involved. For example, the rental for the CATALINA includes a charge of about \$13,000 for hull insurance. Insofar as direct

rental amounts are concerned, the estimates of applicant's witnesses are based on, and reflect, applicant's commitments to Catalina Island Sightseeing Lines under the lease. Those of the engineer are based on the depreciated costs of the steamship and the terminal facilities. The direct annual rental allowance which was thus developed by applicant's witnesses for the steamship is about \$53,000, whereas the corresponding allowance of the engineer is \$1,200.

In order to show the reasonableness of their rental estimate for the steamship, applicant's witnesses submitted evidence to the effect that the insured value of the ship is approximately \$1,000,000 and that a rental of \$70,000 and \$85,000 annually would be consistent with the valuation of the ship based on the remaining economic service life thereof.

The rental estimates which will be adopted herein as reasonable for the purposes of this proceeding are those of the Commission engineer. As stated above, the engineer's estimates were developed on the depreciated costs of the steamship and terminal facilities. They conform to a condition upon which the lease of the CATALINA to applicant by the Catalina Island Sightseeing Lines was approved. Applicant's estimates apparently overlook or disregard this condition. As set forth in Decision No. 59710 said condition provides

"that the rental allowed in any future rate proceeding for the use of the steamer S.S. Catalina shall be based upon the original cost less depreciation."

Applicant acquiesced to this condition in Decision No. 59710 in its acceptance of the initial lease of the CATALINA for the two-year period through December, 1961. No modification of this

condition was made when the lease was subsequently extended through December, 1962, pursuant to authority granted by Decision No. 63629 dated May 1, 1962.<sup>1</sup> In the circumstances we hold that to the extent that applicant is seeking in this proceeding a modification of said condition applicant's efforts come too late. Our conclusions are the same with respect to the rental to be adopted for the Avalon terminal, inasmuch as the same underlying considerations apply thereto.

The other of the principal differences between the cost estimates of applicant's witnesses and of the Commission engineer, are set forth below. The amounts shown are those by which applicant's estimates exceed those of the engineer.

|                                |              |
|--------------------------------|--------------|
| Salaries                       | \$18,500     |
| Advertising                    | 13,000       |
| Travel and Entertainment       | 6,800        |
| Charter of Other Boats         | 10,500       |
| Law Expense                    | 6,300        |
| Wharfage, Los Angeles          | 2,500        |
| Outside Audit, Dues, Donations | <u>3,100</u> |
| Total                          | \$60,700     |

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Nor was any modification of said condition proposed by applicant in seeking extension of the lease to December, 1962. The rentals as set forth in applicant's estimates herein are recited in the application for extension -- Application No. 44322. In this application the Catalina Island Sightseeing Lines and applicant both allege

"That the approval of the Commission to the extension agreements ... will permit the continued operation of the S.S. CATALINA by MGRS under substantially the same terms and conditions heretofore approved by the Commission. The rights and interests of the traveling public ... will not be affected by an order of this Commission authorizing the agreements..."

These differences will be considered briefly as follows:

Salaries: In the development of the engineer's estimate, some salaries properly chargeable against applicant's operations apparently were overlooked. We find applicant's estimate to be reasonable; it should be adopted.

Advertising: Applicant's estimate reflects an asserted policy of spending 10 percent of its gross revenues for advertising purposes. The lower estimate of the engineer results from an analysis which he made of applicant's advertising expenditures for 1961 from which he concluded that about 10 percent thereof covered advertising for the Casino. However, applicant's advertising expenditures for 1961 were at a higher level -- about 13 percent of gross revenues -- than those which are estimated for 1962. Thus, even though Casino advertising were included in applicant's advertising for 1961, we conclude that that fact does not disprove applicant's asserted policy with respect to advertising of the steamship operations. Applicant's estimate will be adopted as reasonable.

Travel and Entertainment, Charter of Boats: The principal difference in the estimates for these items is in the fact that applicant's estimates include an allowance of \$10,000 for the charter of a yacht whereas the engineer's estimates do not. The record shows that the yacht is used by applicant to transport tour directors of groups to and from Avalon and to entertain them otherwise in the expectation that sales of passage for the groups to Avalon and return via the S.S. CATALINA will result. The allowance of \$10,000 was developed on the basis that the yacht would be used for about 33 round trips to Avalon at a cost of about \$300 per trip.

Notwithstanding the use of the yacht by applicant for the generation of business, we are not persuaded that the charter of the yacht is a reasonable and necessary adjunct to the operation of the S.S. CATALINA. The amount which applicant claims for this purpose will not be allowed. In other respects, however, it appears that applicant's estimates for travel and entertainment expense are reasonable and should be adopted. Since applicant's operations are mainly amusement in character, we conclude that such fact justifies a higher level of travel and entertainment expense for the purpose of developing business than would be the case otherwise. The total amount which is included in applicant's estimates for travel and entertainment is \$10,500. We find this amount to be reasonable in view of the nature of applicant's operations and in view also of the disallowance of the yacht rental. Such amount will be allowed.

Law Expense: The amount which was estimated by applicant's witnesses is \$7,500. The corresponding estimate of the engineer is \$1,200. On this record we are not persuaded that a reasonable allowance for law expense of applicant for 1962 is as much as that estimated by applicant's witnesses or as little as that estimated by the engineer. The amount which will be adopted herein as a reasonable estimate is \$2,500.

Wharfage, Los Angeles: The higher estimate of applicant includes provision for a recent increase in wharfage costs imposed by the City of Los Angeles. The engineer did not have knowledge of this increase at the time his figures were prepared. Applicant's estimate is reasonable and will be adopted.

Outside Audit, Dues, Charitable Contributions: The estimate of the engineer was developed in conformity with the policy of the Commission, as expressed in Decision No. 60583, regarding dues and charitable contributions that reasonably may be charged to operating expense.<sup>2</sup> Applicant's estimate includes provision for other dues and charitable contributions as well. The engineer's estimate will be adopted as reasonable, subject to an additional allowance of \$500 to cover outlays which applicant makes towards the maintenance of a Mariachi orchestra in Avalon during the summer season and for fireworks in connection with Fourth of July festivities at Avalon. These outlays appear to be of the same nature as certain of those which have been approved by Decision No. 60583. The additional allowance of \$500 which is made herein represents 50 percent of applicant's outlays for the items in question.

The remaining expenses to be considered are those that are incurred in connection with the operation of the concessions and the cocktail lounge on the S.S. CATALINA. The record shows that under present arrangements applicant bears a part of these expenses in that the concessions and cocktail lounge are operated by applicant's employees, and the purchasing of necessary supplies

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<sup>2</sup> Decision No. 60583, dated August 16, 1960, In re fares San Diego & Coronado Ferry Company, lists various dues and charitable contributions which may be treated in part, for rate purposes, as operating expenses. These dues and contributions include chamber of commerce dues, trade associations dues, and contributions for charitable organizations such as the Red Cross and Community Chest. The decision provides that one-half of said dues and contributions may be considered as operating expenses.

is also performed by an employee of applicant. Other expenses which are involved are as follows:

|  |          |
|--|----------|
| Supplies   | \$51,100 |
| Administration   | 10,000   |
| Other Expenses -<br>taxes, advertising,<br>telephone, travel,<br>legal and profes-<br>sional taxes, etc. | 21,125   |

Other than with respect to the charge of \$51,100 for supplies there appears to be substantial question relative to the propriety of charging these expenses against the concessions and cocktail lounge. The amount of \$10,000 which is shown as the charge for administration is paid to a former officer of Channel Concessions Corporation who is no longer active in the company. Assertedly, his functions are performed by another officer of the company who also is engaged in the operation of an automobile sales agency and who apparently devotes no more than a small portion of his time at the most to the concessions and cocktail lounge on the CATALINA. On the showing here made we conclude that the administration of the concessions and cocktail lounge is performed mainly by applicant's own officers and employees, and that the charge of \$10,000 for administration which is shown above is not justified. This charge should be disallowed.

The remaining amount of \$21,125 represents outlays assertedly made by Channel Concessions Corporation in the operation of the concessions and cocktail lounge for such items of expense as personal property taxes, advertising, telephone, stationery and printing, travel, and administrative expense. Applicant's witnesses were unable or were unprepared to supply details concerning



the charges to the individual items. Thus, the evidence in support of the total of the involved expenses is not as specific as it might have been. Nevertheless, the record is clear that substantial expenditures were made in connection with these particular items. We find that for rate-fixing purposes an amount of \$10,000 to be a reasonable allowance for said items. Such amount will be allowed.

Reconciliation of the expense estimates of applicant's witnesses and of the Commission engineer to give effect to our conclusions above, and to reflect an adjustment in traffic agents' commissions to conform to the level of passenger revenues adopted herein, results in the following estimates of expenses for the year ending with April, 1963, which estimates we find to be reasonable:

|                    | <u>Under Present<br/>Fares</u> | <u>Under Proposed<br/>Fares</u> |
|--------------------|--------------------------------|---------------------------------|
| Estimated Expenses | \$1,338,474                    | \$1,344,855                     |

Restatement of the estimates of operating results which are shown in Tables Nos. 1 and 2 above to the basis of the revenues and expenses herein found to be reasonable produces the following data:

TABLE NO. 3

Adjusted Estimates of Financial Results of Operations  
Under Present and Proposed Fares  
For Year Ending April 30, 1963

|                        | <u>Under Present<br/>Fares</u> | <u>Under Proposed<br/>Fares</u> |
|------------------------|--------------------------------|---------------------------------|
| Revenues               | \$1,426,188                    | \$1,549,326                     |
| Expenses               | <u>1,338,474</u>               | <u>1,344,855</u>                |
| Net Operating Revenues | \$ 87,714                      | \$ 204,471                      |
| Income Taxes           | <u>42,427</u>                  | <u>106,223</u>                  |
| Net Income             | \$ 45,287                      | \$ 98,248                       |
| Operating Ratio        | 96.8%                          | 93.7%                           |

In the evaluation of these results for the purpose of determining whether increases in applicant's fares should be authorized, consideration must necessarily be given to the nature of applicant's operations. The Commission has heretofore held that vessel operations are subject to hazards which justify a somewhat higher level of earnings than those that are normally reasonable for land transportation, and has approved earnings for ferry operations as great or greater than those that would accrue to applicant under the proposed fares.<sup>3</sup> By these standards we conclude that applicant's revenues under its present fares are insufficient and that increases in said fares should be authorized. We are not persuaded, however, that fare increases as great as those sought are necessary to restore applicant's earnings to a reasonable level. We find the earnings under the proposed fares, as estimated in Table No. 3 above, to be excessive. Percentagewise, the fare increases which applicant seeks amount to 10 percent. Were increases of 5 percent to be authorized instead of those sought, the estimated results of operation under such increases are as follows:

|                        |                  |
|------------------------|------------------|
| Revenues               | \$1,487,757      |
| Expenses               | <u>1,341,660</u> |
| Net Operating Revenues | \$ 146,097       |
| Income Taxes           | <u>74,327</u>    |
| Net Income             | \$ 71,770        |
| Operating Ratio        | 95.2%            |

The foregoing operating results are hereby adopted as reasonable. Based on the evidence in this proceeding and upon the

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<sup>3</sup> Decision No. 51880, dated August 23, 1955, In re fares, Star & Crescent Ferry Company, and decisions therein cited; also Decision No. 56870, dated June 17, 1958, In re fares, San Diego and Coronado Ferry Company.

operating results which would accrue from increases of 5 percent in applicant's fares, we hereby find such increases to be justified. To this extent increases in applicant's fares will be authorized.

The cancellation of applicant's rates for stateroom accommodations on the S.S. CATALINA will also be authorized, inasmuch as it appears that such accommodations are not available on the ship.

In connection with the establishment of the increased fares, applicant asks that it be permitted to make said fares effective at the earliest possible date. In the circumstances applicant will be authorized to make the fare changes effective on five days' notice to the Commission and to the public. The Order herein will become effective 10 days after the date thereof.

One further comment which is necessary in this matter relates to the nonscheduled service which the record shows that applicant provides between Wilmington and Avalon during the period from Labor Day to the end of April. It appears that in providing this service applicant operates as a common carrier by vessel, as that term is defined in Section 211(b) of the Public Utilities Code, and that the charges which applicant assesses for the service are based on the duration of the trip or according to the group transported. Such charges are not published in applicant's tariff.

Applicant's attention is directed to the fact that the operating authority which it acquired under Decision No. 59710 is limited to service "conducted on a daily scheduled basis from May 1st to and including Labor Day of each year." Applicant's attention is also directed to Section 486 of the Public Utilities

Code which requires that "every common carrier shall file with the commission and shall print and keep open to public inspection schedules showing the rates, fares, charges, and classifications for the transportation between termini within this State of persons and property from each point upon its route to all other points thereon." Applicant apparently has overlooked the limitations upon its operating authority and the tariff requirements of Section 486 of the Public Utilities Code. If it intends to provide nonscheduled service either during the period from Labor Day through April 30 or to supplement the scheduled service authorized by Decision No. 59710, it should obtain appropriate authority to do so. Also, it should comply with the requirements of Section 486 of the Public Utilities Code with respect to fares, rates, charges and classifications for its nonscheduled service.

O R D E R

Based on the evidence of record and on the findings contained in the preceding opinion,

IT IS ORDERED that:

1. M.G.R.S., Inc., is authorized

a. To establish the following increased fares per one-way ride between Wilmington and Avalon:

Adult \$3.58

Child (5 years old or older but less than 12 years old) 1.79

Child (12 years old or older) 3.58

b. To cancel its fares or rates for staterooms.

2. Tariff publications authorized to be made as a result of the order herein may be made effective not earlier than five days after the effective date hereof on not less than five days' notice to the Commission and to the public.

3. The authority herein granted shall expire unless exercised within ninety days after the effective date of this order.

4. In addition to the required posting and filing of tariffs, applicant shall give notice to the public by posting in the S. S. CATALINA and in its terminals a printed explanation of its fares. Such notice shall be posted not less than five days before the effective date of the fare changes and shall remain posted for a period of not less than thirty days.

5. Except as is otherwise provided herein, Application No. 44416 is denied.

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

Dated at San Francisco, California, this 24<sup>th</sup> day of August, 1962.

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President

*E. L. Fox*

*Ernest A. Page*

*Fredrick B. Hallock*

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Commissioners

Commissioner George G. Crower, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.