

ORIGINAL

Decision No. 65450

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 authorization
to sell and transfer, and of
HARBOR CARRIERS, INC., a corporation,
for authorization to purchase and
acquire, prescriptive operating
rights, certificates of public
convenience and necessity, and
operating equipment as a common
carrier by vessel; and of
HARBOR CARRIERS, INC., for
authorization to issue stock.

Application No. 45275
Filed March 26, 1963

O P I N I O N

This is an application for an order authorizing
The Harbor Tug and Barge Company to sell and transfer operative
rights and equipment to Harbor Carriers, Inc., and authorizing
Harbor Carriers, Inc., to issue \$75,550 par value of common
stock.

The Harbor Tug and Barge Company is a California
corporation engaged in transporting passengers and property
between points on San Francisco, San Pablo and Suisun Bays
under prescriptive operative rights defined by the Commission
in Decision No. 29778, dated May 24, 1937, and certificates
of public convenience and necessity granted by the Commission
by Decision No. 60037, dated May 3, 1960 and Decision
No. 63974, dated July 17, 1962.

The application shows that The Harbor Tug and Barge Company also engages in nonutility activities, that it desires to separate its common carrier operations from its nonutility operations, and that it has organized Harbor Carriers, Inc., and proposes to transfer to that corporation the prescriptive and certificated operative rights it now owns and the four vessels it uses in its common carrier operations, together with \$25,000 in cash. The transfer of the equipment will be made at the depreciated book values of \$50,550. No value is ascribed to the operative rights for the purpose of the proposed transfer.

Harbor Carriers, Inc., proposes and asks authorization to issue \$75,550 par value of its common stock to The Harbor Tug and Barge Company in consideration of the transfer of the rights and equipment and the cash.

We have considered this matter and are of the opinion, and find, that the proposed transfer will not be adverse to the public interest; that the money, property or labor to be procured or paid for by the issue of the stock herein authorized is reasonably required for the purpose specified herein; and that such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income. A public hearing is not necessary.

In making our order herein, we place Harbor Carriers, Inc., 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, 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 authority herein granted shall not be construed as a finding of value of the operative rights and equipment herein authorized to be transferred nor as indicative of amounts to be included in future proceedings for the purpose of fixing just and reasonable rates.

O R D E R

IT IS ORDERED that:

1. On or before December 31, 1963, The Harbor Tug and Barge Company may sell and transfer and Harbor Carriers, Inc., may purchase and acquire the operative rights and property referred to in this application and Harbor Carriers, Inc., may issue not to exceed \$75,550 par value of common stock, at par, to The Harbor Tug and Barge Company in consideration for such transfer and for working cash.

2. Within thirty days after the consummation of the transfer herein authorized Harbor Carriers, Inc., shall notify the Commission, in writing, of that fact and within said period shall file with the Commission a true copy of any bill of sale or other instrument of transfer which may be executed to effect said transfer.

3. Harbor Carriers, Inc., shall amend or reissue the tariffs and timetables on file with the Commission, naming rates, rules and regulations governing the common carrier operations herein to show that it has adopted or established, as its own, said rates, rules and regulations. The tariff and timetable filings shall be made effective not earlier than ten days after the effective date of this order on not less than ten days' notice to the Commission and the public, and the effective date of the tariff and timetable filings shall be concurrent with the consummation of the transfer herein authorized. The tariff and timetable filings made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of tariffs and timetables set forth in the Commission's General Orders Nos. 87 and 117.

4. Harbor Carriers, Inc., shall file a report as required by General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

5. The authority herein granted shall become effective twenty days after the date hereof.

Dated at San Francisco, California,
this 27th day of MAY, 1963.

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

Frederick B. Holboff Acting President

Arthur E. Mitchell Acting President

William W. Brunet

Commissioner Everett C. McKeage, being necessarily absent, did not participate in the disposition of Commissioners