

ORIGINALDecision No. 66113

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of MARE ISLAND FERRY
COMPANY for an order authorizing
an increase in fares.

Application No. 45274

McCutchen, Doyle, Brown, Trautman and Enersen,
by Gerald H. Trautman and Frederick O. Koenig,
for applicant
A. C. Porter and Elmer J. Sjoström, for the
Commission staff.

O P I N I O N

On August 6, 1962, applicant filed Application No. 44680 for authority to increase fares. It proposed to increase its cash fare from 15 to 25 cents, token fare from 10 to 15 cents and its portion of joint bus-boat fare from 7-3/4 to 12-3/4 cents. After hearing, applicant was granted a 2-cent per ride increase in the token fare by Decision No. 64686. Applicant's petition for rehearing was denied on March 6, 1963 and on March 26 this application was filed. It repeats the fare request in Application No. 44680.

Public hearing was held at San Francisco on April 25 and 26, 1963 and the matter was submitted subject to the briefing of a motion to dismiss for want of jurisdiction which applicant made during the course of the hearing. These briefs have been received and both the rate and legal issues are ready for decision. Applicant's witnesses were its president and a consulting engineer. Two transportation engineers testified for the staff. Five exhibits were received.

Decision No. 64686 contained a history of this company which need not be repeated here. The function of this company is

to transport workers to and from the Mare Island Naval Shipyard, a distance of $\frac{1}{2}$ mile across Mare Island Strait. Applicant operates for three periods per day of approximately two hours each which coincide with the shift breaks at approximately 8:00 a.m., 4:30 p.m. and midnight and therefore the operation has no problem of poorly patronized service during a base period.

The service does have competition. There is a causeway leading to the island and a government supplied parking lot. The Navy provides free transportation from the parking lot to the shipyard but many prefer to park on the mainland and take the boat. The landing float on Mare Island is at the shipyard. There is a parking lot in the vicinity of applicant's Vallejo terminal.

The service is rendered by four boats of 175-passenger capacity. However, never more than two of the boats are in service at one time and, for one hour in the morning and one hour in the evening, only one boat is in service at one time.¹

A comparison of staff and company estimates of results of operations including income taxes for the test year June 1, 1963 to May 31, 1964 is as follows:

Table No. 1

| | <u>Present Fares</u> | | <u>Proposed Fares</u> | |
|----------------------|----------------------|--------------|-----------------------|--------------|
| | <u>Applicant</u> | <u>Staff</u> | <u>Applicant</u> | <u>Staff</u> |
| Operating Revenues | \$ 55,180 | \$58,130 (a) | \$ 64,600 | \$68,600 (b) |
| Operating Expenses | 71,437 | 51,990 | 71,437 | 55,530 |
| Net Operating Income | (16,257) | 6,140 | (6,837) | 13,070 |
| Operating Ratio | 129.5% | 89.4% | 113.2% | 80.9% |

(Red Figure)

(a) Includes \$2,540 State and Federal Income Taxes.

(b) Includes \$6,080 State and Federal Income Taxes.

¹ Decision No. 64686 required the provision of a third boat during the afternoon peaks for one hour. All the estimates of applicant and staff include a provision for this but the third boat had not been added up to the date of hearing.

Since the applicant and staff are so far apart it is necessary to analyze the estimates in a little more detail. Such an analysis follows:

Table No. 2

Mare Island Ferry Company
Comparison of Expenses
As Estimated by Applicant and Staff
For Rate Year Ending May 31, 1964

| :Line: :No. : | Description | : Applicant: | : Staff | : Applicant : : Minus Staff: |
|------------------|-------------------------------|--------------|---------|---------------------------------|
| 1 | Boat Hours | 2,652 | 2,362 | 290 |
| | <u>OPERATION OF TERMINALS</u> | | | |
| 2 | Depreciation | \$ 519 | \$ 520 | \$ (1) |
| 3 | Insurance | 351 | 350 | 1 |
| 4 | Repairs and Maintenance | 3,875 | 3,100 | 775 |
| 5 | Dredging | 750 | 780 | (30) |
| 6 | Supplies | 500 | 340 | 160 |
| 7 | Cashiers | 468 | 2,510 | (2,042) |
| 8 | Ticket Takers | 2,184 | 930 | 1,254 |
| | <u>OPERATION OF VESSELS</u> | | | |
| 9 | Depreciation | 381 | 340 | 41 |
| 10 | Insurance, PL and PD | 1,624 | 1,620 | 4 |
| 11 | Insurance, Hull | 1,800 | 1,800 | - |
| 12 | Repairs and Maintenance | 17,125 | 6,620 | 10,505 |
| 13 | Supplies | 600 | - | 600 |
| 14 | Fuel and Oil | 2,500 | 1,950 | 550 |
| 15 | Operators | 9,650 | 9,480 | 170 |
| 16 | Deckhands | 4,665 | 2,790 | 1,875 |
| | <u>GENERAL EXPENSE</u> | | | |
| 17 | Officers | 9,000 | 6,000 | 3,000 |
| 18 | Office Salaries | 4,325 | 1,030 | 3,295 |
| 19 | Insurance | 202 | 20 | 182 |
| 20 | Travel | 100 | 100 | - |
| 21 | Telephone and Telegraph | 570 | 540 | 30 |
| 22 | Office Expense | 150 | 280 | (130) |
| 23 | Dues and Subscriptions | 50 | 40 | 10 |
| 24 | Workmen's Compen. Ins. | 1,042 | 850 | 192 |
| 25 | Professional Services | 2,000 | 930 | 1,070 |
| 26 | Payroll Tax | 1,407 | 1,830 | (423) |
| 27 | Taxes and Licenses | 900 | 1,150 | (250) |
| 28 | Utilities | 700 | 800 | (100) |
| 29 | Advertising | 500 | 240 | 260 |
| 30 | Promotion | 1,500 | 1,200 | 300 |
| 31 | Depreciation | 818 | 120 | 698 |
| 32 | Patrol | 72 | 70 | 2 |
| 33 | Director's Fees | 300 | 150 | 150 |
| 34 | Employee's Health and Welf. | 559 | 560 | (1) |
| 35 | Supplies | 50 | 140 | (90) |
| 36 | Automobile Expense | 100 | 100 | - |
| 37 | Miscellaneous | 100 | 170 | (70) |
| | Total | 71,437 | 49,450 | 21,987 |

(Red Figure)

The record shows that the staff's estimate of boat hours was understated by 229 hours. Therefore a correction to the staff estimates is in order, as follows:

| | <u>Boat Hours</u> | <u>Cost Per Boat Hour</u> | <u>Increase in Expense</u> |
|-------|--------------------|---------------------------|----------------------------|
| | 127 ⁽¹⁾ | \$6.67 | \$ 847.09 |
| | 102 ⁽²⁾ | 7.20 | 734.40 |
| Total | <u>229</u> | | <u>1,580.49</u> |
| | | Use | 1,580.00 |

- (1) 8:00 to 8:30 a.m., each weekday, 254 days of the year.
- (2) 11:00 p.m. Saturday to 1:00 a.m. Sunday, 51 week ends per year.

The effect of this adjustment in boat hours is shown in

Table No. 3:

| <u>Item</u> | <u>Table No. 3</u> | | |
|---------------------------|----------------------|-----------------------|-------------------------------|
| | <u>Staff Exhibit</u> | | <u>Adjusted Staff Exhibit</u> |
| | <u>Present Fares</u> | <u>Proposed Fares</u> | <u>Present Fares</u> |
| Boat Hours | 2,362 | 2,362 | 2,362 |
| Adjustment | - | - | 229 |
| Adjusted Boat Hours | <u>2,362</u> | <u>2,362</u> | <u>2,591</u> |
| Operating Revenues | \$58,130 | \$68,600 | \$58,130 |
| Operating Expenses | 49,450 | 49,450 | 49,450 |
| Adjustment for Add'l Hrs. | - | - | 1,580 |
| Adjusted Operating Exps. | <u>49,450</u> | <u>49,450</u> | <u>51,030</u> |
| Income Taxes | 2,540 | 6,080 | 2,000 |
| Total Expenses | <u>51,990</u> | <u>55,530</u> | <u>53,030</u> |
| Net Operating Income | <u>6,140</u> | <u>13,070</u> | <u>5,100</u> |

Income Tax Calculation

| | | | |
|---|--------------|---------------|--------------|
| Net Operating Revenue Before Income Tax | \$ 8,680 | \$19,150 | \$ 7,100 |
| Interest Expense | <u>1,180</u> | <u>1,180</u> | <u>1,180</u> |
| Taxable Income | <u>7,500</u> | <u>17,970</u> | <u>5,920</u> |
| Income Tax at 33.85% | 2,538.75 | 6,082.85 | 2,003.92 |
| USE | 2,540 | 6,080 | 2,000 |
| Operating Ratio | 89.4% | 80.9% | 91.2% |

The staff developed a rate base of \$17,270, which we find to be reasonable. Applicant's consultant developed a "net book value" of \$19,783.62. This latter sum included an automobile at \$2,796.45 less depreciation accrued of \$174.77 or \$2,621.68. He also allowed depreciation on the automobile of \$743.40 per year. The net operating income of \$5,100 would yield approximately 29.5 percent on the staff's rate base and 25.8 percent on applicant's net book value including the automobile.

The staff estimate of monthly passengers was 33,000 with two boats in operation in the afternoon. With the third boat it would be 39,000, the figure used in the staff study. The record indicates that applicant used a figure of 36,950 passengers per month. Patronage has been trending upward in this operation in recent years. Table No. 4, a comparison of two recent 6-month periods, suggests that the staff figure is more realistic.

Table No. 4

| <u>Recorded Passengers</u> | | | |
|---------------------------------------|----------|-------------|----------|
| <u>For the Months and Years Shown</u> | | | |
| <u>1961</u> | | <u>1962</u> | |
| October | 28,640 | October | 37,873 |
| November | 29,949 | November | 37,914 |
| December | 27,608 | December | 35,426 |
| <u>1962</u> | | <u>1963</u> | |
| January | 32,605 | January | 41,103 |
| February | 29,644 | February | 33,074 |
| March | 33,260 | March | 36,306 |
| Average | 30,283.3 | Average | 37,032.7 |

The staff estimate of revenue at present fares exceeds that of applicant by \$2,950. The difference is due primarily to the staff's larger estimate of passengers. The total passengers estimated by the staff for the test year was 468,000 with 445,000 estimated token-fare passengers. It should be noted that the recorded figures in Table No. 4 were attained without a third afternoon boat having been operated.

The upward trend in passengers has been continuous since the beginning of 1961. January 1961 passengers amounted to 19,356 against shipyard average employment of 9,546. January 1963 passengers amounted to 41,103 fares with shipyard employment of 10,614. Obviously the increase in yard employment does not explain this increase in passengers. The staff figures in general reveal a trend of increased patronage for which the associated yard employment figures do not account. The staff estimates of passengers and revenue appear much more accurate than applicant's figures and will be adopted as reasonable.

The staff excluded the automobile and the depreciation associated with it. The applicant's president stated that it was used in the business but specifically what it was used for, except to bring the president to work, does not clearly appear. The staff exclusions are justified and are found to be reasonable.

In general, applicant's estimates are based in part on how the operation would be conducted if a fare increase were granted, while the staff estimates are based on the operation as presently conducted.

The greatest discrepancy between the staff and applicant was in vessel repairs and maintenance. The difference between them is \$10,505. The staff based its estimate on actual experience from 1957 through 1962. This was averaged, trended and adjusted to reflect 1963 prices and wages. Applicant's engineer used an allocation of partly hypothetical salaries plus a judgment figure of \$5,000 for material. The second staff witness had several years' experience in the maintenance of vessels similar to those in use in this operation. In his opinion the staff figure of \$6,620 was reasonable. The staff method reflects actual conditions and will be adopted as reasonable.

Applicant's board of directors increased the salary of the president and general manager from \$6,000 to \$9,000 per annum in March. No justification for this large and sudden increase appears in the record. The staff employed the old salary level which we find to be reasonable.

The staff also used fewer hours for deckhands than applicant. The governing Coast Guard rules require a deckhand when there are fifty or more passengers. Basing its estimate on current operating procedure, the staff gave effect to this by having fewer deckhand hours than boat hours, while applicant had a deckhand hour for every boat hour. It appears that the staff allowance is more accurate and it is adopted as reasonable.

The staff witness allowed for only one ticket taker on duty four hours per weekday which is normal practice of the company. Applicant allowed for two ticket takers. On poorly patronized schedules the boat crew collects the tickets. The staff estimate is more reasonable in this respect and will be adopted.

In general the staff results of operation based, as they were, on historical data or present operation are more realistic than those of the applicant and are adopted as reasonable.

In support of its motion to dismiss, applicant points out in its brief that it has operated for years under a series of contracts with the shipyard. A copy of the most recent is in evidence as Exhibit No. 2.

This contract states a nominal consideration of \$1. In it the shipyard agrees to furnish floats and gangways on both sides of the strait and to maintain those on the island side. Applicant agrees to maintain the facilities on the mainland side and to operate the service. The rates are to be those "determined and established by decision of the Public Utilities Commission of the State of California....". Applicant is to have exclusive use of the facilities so long as the service is rendered in a manner satisfactory to the commander of the shipyard.

Applicant points to this contract and to the security regulations existing at the yard and contends that, as a result of these, the Commission has no jurisdiction. As to the provision in the contract concerning the Commission's regulation of rates, applicant urges that jurisdiction cannot be conferred by contract.

In City of Oakland v. Burns (1956) 46 Cal. 2d 401, 296 P 2d 533 and Kuhn v. Ferry and Mensler, 91 C.A. 2d 805, cited by applicant, the question as to whether certain streets and roads were private or public was decisive. Neither of them is in point. The City of Oakland case involved transportation of persons and the Kuhn case transportation of property. Both regulatory statutes confine the Commission's jurisdiction to transportation over public highways. The evidence showed in both cases that the roads were private.

The staff cited a number of cases, the most important of which was Penn Dairies, Inc., v. Milk Control Commission (1942), 318 U. S. 261, 87 L.ed. 748 in support of its contention that the Commission has jurisdiction of these fares. The only cases to the contrary involve charges paid from moneys appropriated by Congress. In this case the riders pay fares from their own funds.

There is no merit in applicant's motion and it will be denied.

The Commission finds that:

1. The applicant has not complied with ordering paragraph 2 of Decision No. 64686 relative to the provision of a third boat during the afternoon peak for one hour. Failure to adequately comply with an order of this Commission can subject applicant to the penalties set forth in Sections 2107, 2108, 2109 and 2113 of the Public Utilities Code.

2. With boat hours increased to 2,591 and expenses increased by \$1,500 the estimates of revenues, expenses, including taxes and depreciation as submitted by the staff for the test year ending May 31, 1964, reasonably represent the results of applicant's operations for the purposes of this proceeding. The rate base proposed by the staff is found to be reasonable.

3. Applicant has not shown that the proposed or any increase in its fares is justified.

The Commission concludes that the application should be denied.

O R D E R

IT IS ORDERED that:

1. Applicant's motion to dismiss this proceeding for the reason that the Commission has no jurisdiction over the fares of this applicant is denied.

2. Application No. 45274 be, and it is, denied.

3. Applicant shall provide the service of a third boat on weekday afternoons during the peak period as required by Decision No. 64686 in Application No. 44680.

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

Dated at San Francisco, California, this 12th day of OCTOBER, 1963.

William L. Bennett
President

George H. Trover
Commissioners

Frederick B. Saltschoff
Commissioners