

ORIGINAL

Decision No. 67879

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of FUN ZONE BOAT COMPANY, INC.,)
For a Certificate under the pro-)
visions of Sections 1007 and 1009)
of the Public Utilities Code.)

Application No. 46722
(Filed June 12, 1964)

Hurwitz, Hurwitz & Remer, by Harry Ashton
and S. J. Cohen, for applicant.
Glenn R. Roland, for Island Transportation Co.,
protestant.
Fred G. Ballenger, for the Commission staff.

O P I N I O N

Fun Zone Boat Company, Inc., a California corporation (Fun Zone), requests authority to establish and operate a scheduled and "on call" common carrier service for the transportation by vessel of persons and hand baggage between the City of Newport Beach and the City of Avalon, Catalina Island. It now operates sight-seeing vessels in Newport Bay and along the coastal waters between Balboa and Laguna Beach (Decision Nos. 56944, 58451 and 65533).

The application was protested by Island Transportation Co., a corporation (Island Co.), which has a certificate of public convenience and necessity from this Commission authorizing it to perform a common carrier service "for the transportation of persons and hand baggage by vessels between Newport Beach and Avalon" and between Newport Beach and other points and places on Catalina Island (Decisions Nos. 48700, 51067 and 60706).

A public hearing was held in Newport Beach on July 23, 1964, before Examiner Chiesa. Oral and documentary evidence having been adduced, the matter was submitted for decision.

Two witnesses testified in support of the application, Dal Grettenberg, president and owner of applicant, and his wife. Glenn R. Roland, president of Island Co. testified for the protestant. There were no other witnesses.

The evidence shows that applicant's proposed passenger service is similar to that of protestant and that applicant would temporarily use a boat or boats that it is now operating in its bay and coastal sightseeing service. If a certificate is granted it proposes to build a 120-passenger boat which would be ready for service for the 1965 season. In 1963, Grettenberg and his wife also represented the protestant Island Co. as agents in the sale of tickets for the latter's Catalina Island service. It is their opinion based upon their experience and the knowledge obtained through their connections with protestant and in the conduct of their business that enough business could be generated to justify two carriers between Newport Beach and Avalon.

Grettenberg testified that for the remainder of this year he would operate his "Show Boat," an 80-passenger cruiser which has 36 seats "under cover" and cruises at 12 knots; that the one-way running time would be approximately three hours; that a regular schedule would be operated daily June 5 to September 20,

and weekend service the rest of the year with the exception of two months in winter when service would be discontinued due to weather conditions and probable lack of patronage. Proposed round-trip fares were changed at the hearing to \$7.50 for adults and \$4.00 for children exclusive of tax. Grettenberg further testified that protestant's service was poor in 1963 because its boat, "Catalina Island Lady," needed repairs. Mrs. Grettenberg's testimony was substantially the same. Applicant did not present an estimate of results of the proposed operation.

Protestant Island Co. and its predecessors have been operating a vessel passenger service between Newport Beach and Avalon since 1953. The service has been operated regularly during the summers and intermittently at other times except for several periods in 1963 and 1964 when the "Catalina Island Lady" was in need of repairs. Other boats were chartered when the "Catalina Island Lady" was not in use, but the operation deteriorated and revenues decreased due to the irregularity of the service. At the time of the hearing applicant was operating the "Esterina" on charter pending completion of repairs to the "Catalina Island Lady" which was due back in service in August. The "Catalina Island Lady" has a rated capacity of 104 passengers which in the past has been adequate.^{1/}

Except for the opinion testimony of Fun Zone's president and his wife, there is an absence of substantial evidence to justify the establishment and operation of an additional carrier between Newport Beach and the City of Avalon.

^{1/} A Commission engineer reports that the "Catalina Island Lady" resumed regular service August 8, 1964, and has been operating daily; that for the period of August 8 to 18 the daily average passenger count outbound and inbound was 55.1 and 51.6, respectively.

The Commission finds that:

(1) Applicant's proposed service is similar to that which is now operated by protestant between the City of Newport Beach and the City of Avalon.

(2) Applicant has failed to show that public convenience and necessity require the operation of an additional vessel passenger service as proposed in the application.

Based upon the foregoing findings we conclude that the application should be denied.

O R D E R

IT IS ORDERED that Application No. 46722 of Fun Zone Boat Company, Inc., a corporation, be and it hereby is denied.

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

Dated at San Francisco, California, this 22nd day of SEPTEMBER, 1964.

Frederick B. Holbrook
President
John E. Mitchell
Robert W. Rye
George H. Trover
William M. Bennett
Commissioners