

ORIGINAL

Decision No. 69131

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Avalon Navigation Company, a California corporation, for authority to relocate mainland terminal within Los Angeles Harbor

Application No. 47461

Filed April 1, 1965

In the Matter of the Application of M.G.R.S., INC., a California corporation, for authority to relocate mainland terminal within Los Angeles Harbor.

Application No. 47463

Filed April 1, 1965;
Amended April 19, 1965

In the Matter of the Application of CATALINA MOTOR CRUISERS, INC., a California corporation, for authority to relocate mainland terminal within Los Angeles Harbor and retain on-call service from present terminal.

Application No. 47465

Filed April 1, 1965;
Amended April 19, 1965

James H. Lyons, for Avalon Navigation Company, M.G.R.S., Inc., and Catalina Motor Cruisers, Inc., applicants.
R. W. Russell, by K. D. Walpert, for the Department of Public Utilities and Transportation, City of Los Angeles, interested party.
Louis Possner, for the Bureau of Franchises, City of Long Beach, interested party.
Fred G. Ballenger, for the Transportation Division of the Commission's staff.

O P I N I O N

Applicants are common carriers by vessel engaged in the transportation of persons and baggage between Wilmington (City of Los Angeles) and the City of Avalon, Santa Catalina Island.

The Avalon Navigation Company operates the M.S. MAGIC ISLE, a vessel having a capacity of about 350 persons. M.G.R.S., Inc., operates the S.S. CATALINA, a vessel having a capacity of about 2,000 persons. Catalina Motor Cruisers, Inc. operates several motor cruisers of capacities of about 100 persons or less.

The S.S. CATALINA is operated mainly during the period from Memorial Day to about the end of September of each year. During this time it is used in daily scheduled service and in some non-scheduled service. The M.S. MAGIC ISLE is operated in scheduled service from July 1 through about Labor Day of each year and in nonscheduled service other times. During the months when the S.S. CATALINA is not in operation scheduled passenger service between Wilmington and Avalon is provided by Catalina Motor Cruisers, Inc. At other times Catalina Motor Cruisers, Inc. operates its vessels in restricted scheduled and nonscheduled service and in nonscheduled service at hourly rates.^{1/}

By these applications, Avalon Navigation Company, M.G.R.S., Inc., and Catalina Motor Cruisers, Inc. seek authority to relocate their Wilmington terminals to San Pedro (City of Los Angeles). Catalina Motor Cruisers, Inc. also seeks to continue certain services to and from Wilmington. Applicants' proposals do not affect their fares nor their time schedules. Applicants propose to maintain the same fares and schedules from San Pedro as they have been or are maintaining from Wilmington.

^{1/} The restricted scheduled and nonscheduled services are subject to a minimum of 20 round-trip fares per trip. Also six hours' advance notice to the carrier is required in connection with the restricted nonscheduled service.

Public hearings on the applications were held before Examiner Abernathy at Los Angeles on April 14, 1965. Evidence was submitted by the general manager of Avalon Navigation Company, by the president of M.G.R.S., Inc., and by the president of Catalina Motor Cruisers, Inc. Representatives of the Cities of Los Angeles and Long Beach and members of the Commission's staff participated in the development of the record. The matters were taken under submission with the filing of amendments to Applications Nos. 47463 and 47465 on April 19, 1965.

According to the evidence in these matters, applicants are seeking to move their operations from Wilmington to San Pedro in order to avail themselves of new terminal facilities which the Harbor Department of the City of Los Angeles is in the process of constructing for carriers serving Santa Catalina Island. Said facilities are located at Berths 95 and 96 in San Pedro at the foot of the new Vincent Thomas Bridge. The cost thereof, when completed, will be almost \$1,000,000. Assertedly, the terminals themselves will be much better in every respect than applicants' present terminals at Wilmington. Moreover, they are easily reached by private automobile and have an abundance of parking area for automobiles. Also, they are immediately adjacent to two bus routes of the Southern California Rapid Transit District. In addition to providing superior accommodations for the public, the relocation of applicants' terminals to San Pedro will permit some reduction in applicants' operating costs in that the terminal facilities are about one and one-half miles nearer to the entrance of the Los Angeles Harbor area than are applicants' present terminals at Wilmington.

Applicants propose to commence operating from San Pedro as soon as the new facilities become available for use — on or about June 15, 1965. With the commencement of operations in San Pedro, both Avalon Navigation Company and M.G.R.S., Inc. will cease operating from Wilmington. Catalina Motor Cruisers, Inc., however, proposes to provide a restricted scheduled service from Wilmington for a 30-day period after the transfer of the S.S. CATALINA to San Pedro. Also, it would continue operating some of its nonscheduled service from Wilmington — at least for the 1965 summer season. According to the testimony of the witness for Catalina Motor Cruisers, Inc. the scheduled service which would be provided from Wilmington is in the nature of an in-lieu service for that of the S.S. CATALINA. It is intended primarily for those who might come to the Wilmington terminal of the S.S. CATALINA not knowing of the transfer of that vessel to San Pedro. With respect to the nonscheduled services, the witness said that the continuation of such services is proposed in order to accommodate groups or organizations who have already made, or are making, arrangements for the use of such services between Wilmington and Catalina Island during the present year.^{2/}

The record is clear that the terminals which the City of Los Angeles is constructing at Berths 95 and 96 at San Pedro will, when completed, provide superior and more convenient facilities for applicants' operations than do applicants' present terminals. We find that, to the extent hereinafter provided,

^{2/} In addition to its services between Wilmington and Avalon, Catalina Motor Cruisers, Inc. operates between Wilmington and various other points on Catalina Island and between Long Beach and various island points.

public convenience and necessity require the transfer of applicants' operations from Wilmington to said terminals at San Pedro. The transfers will be authorized.

There remains to be considered the proposals of Catalina Motor Cruisers, Inc. to operate or to continue to operate certain services from Wilmington. Insofar as the scheduled service is concerned, it appears that there will be a definite need for such service for a period until the public becomes adjusted to the transfer of applicants' operations from Wilmington to San Pedro. The S.S. CATALINA has been operated from Wilmington for almost 40 years. In view of this fact it is reasonable to expect that after the transfer of the S.S. CATALINA to San Pedro, would-be patrons thereof will continue to come to Wilmington, notwithstanding extensive advertising efforts of M.G.R.S., Inc. to apprise the public generally of the relocation of the steamer's terminal. The temporary operation of a scheduled service by Catalina Motor Cruisers, Inc. as an in-lieu service to that of the steamer should be authorized.

In connection with said service, Catalina Motor Cruisers, Inc. seeks to limit the basis of service to a minimum of 20 one-way fares per trip. In the circumstances which prompt this service, a minimum of 20 one-way fares per trip is unreasonably high. From a revenue standpoint virtually the same results would be obtained were the minimum to be

but 10 adult round-trip fares per trip. Such a minimum would be reasonable and should be adopted.^{3/}

The in-lieu service should be provided at least until service by the M.S. MAGIC ISLE is initiated about July 1, 1965. Whether the service should be continued thereafter for a full 30-day period after relocation of the S.S. CATALINA to San Pedro on or about June 15, 1965, appears to be a matter which should be left to the judgment of the carrier. The service for the full period, as proposed, will be authorized subject to cancellation thereof after daily scheduled service from San Pedro by the M.S. MAGIC ISLE has been established.^{4/} In other respects, the proposals of Catalina Motor Cruisers, Inc. to continue

^{3/} The president of Catalina Motor Cruisers, Inc. opposed reducing the minimum from 20 one-way fares to 10 round-trip fares. He said that there is a tendency for those who buy round-trip tickets to make the return trip on the S.S. CATALINA, and subsequently to submit the return trip portion of the tickets to his company for refund. This tendency may prevail when the terminals of Catalina Motor Cruisers, Inc. and of the S.S. CATALINA are in the same general vicinity. However, it does not appear that it would be applicable in connection with trips which originate in Wilmington if the return is to San Pedro.

^{4/} With the inauguration of service by the M.S. MAGIC ISLE, the need for the continuation of the in-lieu service by Catalina Motor Cruisers, Inc. should lessen. First, by July 1, about two weeks will have elapsed from the time of the transfer of the S.S. CATALINA from Wilmington to San Pedro. Thus, the fact of the transfer will, by then, be more a matter of common knowledge. Second, the service of the M.S. MAGIC ISLE will afford a choice of means of travel by water to those who otherwise would be limited to the in-lieu service of Catalina Motor Cruisers, Inc.

service from Wilmington need no authority since said services have been authorized heretofore.

Upon consideration of the record in these matters the Commission finds that public convenience and necessity require the relocation of applicants' terminals within the Los Angeles Harbor from Wilmington to San Pedro. Applicants' present operating authorities will be restated to reflect the changes authorized. The Commission further finds that such other changes in applicants' operations as are specified in the following order are justified and/or required by public convenience and necessity.

Applicants are 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 certificates hereinafter granted shall be subject to the following provision of law:

That the Commission shall have no power to authorize the capitalization of this certificate of public convenience and necessity or the right to own, operate, or enjoy such certificate of public convenience and necessity in excess of the amount (exclusive of any tax or annual charge) actually paid to the State as the consideration for the issuance of such certificate of public convenience and necessity or right.

In view of the relatively brief time until June 15, 1965, when applicants seek to put into effect various of the service changes herein authorized, the order herein will be made effective ten days after the date hereof.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity, as set forth in Appendix A attached hereto and by this reference made a part hereof, is hereby granted to Avalon Navigation 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) to the extent and subject to the conditions, restrictions and privileges, specified in said certificate.
2. The certificate of public convenience and necessity which is granted by this order supersedes the certificates of public convenience and necessity granted to Avalon Navigation Company by Decision No. 67467, dated June 30, 1964, in Application No. 46623, and Decision No. 68027, dated October 13, 1964, in Application No. 46846, which certificates are hereby revoked, said revocation to become effective concurrently with the effective date of the tariff filings required by paragraph 7 hereof.
3. A certificate of public convenience and necessity, as set forth in Appendix B attached hereto and by this reference made a part hereof, is hereby granted to M.G.R.S., Inc., 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) to the extent, and subject to the conditions, restrictions and privileges, specified in said certificate.

4. The certificate of public convenience and necessity which is granted by this order supersedes the certificates of public convenience and necessity granted to M.G.R.S., INC. by Decision No. 59710, dated February 23, 1960, in Application No. 41613 and Decision No. 66794, dated February 11, 1964, in Application No. 45455, which certificates are hereby revoked, said revocation to become effective concurrently with the effective date of the tariff filings required by paragraph 7 hereof.

5. A certificate of public convenience and necessity, as set forth in Appendix C attached hereto and by this reference made a part hereof, is hereby granted to Catalina Motor Cruisers, Inc., 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) to the extent, and subject to the conditions, restrictions and privileges, specified in said certificate.

6. The certificate of public convenience and necessity which is granted by this order supersedes the certificate of public convenience and necessity acquired by Catalina Motor Cruisers, Inc. pursuant to authority granted by Decision No. 67166, dated April 28, 1964, in Application No. 46250, which certificate is hereby revoked, said revocation to become effective concurrently with the effective date of the tariff filings required by paragraph 7 hereof.

7. In providing service pursuant to the certificates herein granted, applicants shall comply with and observe the following service regulations:

- (a) Within thirty days after the effective date hereof, applicants shall file written acceptances of the certificates herein granted. By accepting the certificates of public convenience and necessity herein granted, applicants are placed on notice that they will be required, among other things, to file annual reports of their operations and to comply with and observe the insurance requirements of the Commission's General Order No. 111-A. 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-A, may result in a cancellation of the operating authorities which are involved and which are granted by this decision.
- (b) Except as is otherwise provided, the services which applicants are herein authorized to perform from and to San Pedro shall be established on or about June 15, 1965 (as soon as terminal facilities which are there being constructed in the vicinity of the Vincent Thomas Bridge for carriers serving Santa Catalina Island are made available to applicants, respectively). The temporary, scheduled, restricted service which Catalina Motor Cruisers, Inc. is herein authorized to provide between Wilmington and Avalon shall be established concurrently with the transfer of the operations of the S.S. CATALINA from Wilmington to San Pedro. Applicants shall file in the Commission's office tariffs and timetables in triplicate satisfactory to the Commission.

- (c) The tariff and timetable filings shall be made effective not earlier than five days after the effective date of this order on not less than five days' notice to the Commission and the public, and the effective date of the tariff and timetable filings shall be concurrent with the establishment of the services herein authorized.
- (d) The tariff and timetable filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs and timetables set forth in the Commission's General Orders Nos. 87 and 117.
- (e) The acceptance of the timetable filings which are made pursuant to this order shall be subject to the prior approval of the Commission of applicants' terminal facilities at San Pedro.

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

Dated at San Francisco, California, this 25th day of MAY, 1965.

John E. Mitchell President
George J. Hoover
Alvarez
Commissioners

Commissioner Frederick B. Holoboff, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner William M. Bennett, being necessarily absent, did not participate in the disposition of this proceeding.

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

Setting forth the operating rights, restrictions and privileges applicable to operations as a common carrier by vessel conducted by Avalon Navigation Company.

All changes and amendments as authorized by the Public Utilities Commission of the State of California will be made by revised pages or by added original pages.

Issued by the California Public Utilities Commission.

Decision No. 69131, Application No. 47461.

Avalon Navigation Company, a corporation, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport persons and their baggage, using the motor vessel MAGIC ISLE or some other vessel at least equal thereto, between San Pedro (City of Los Angeles), on the one hand, and the City of Avalon, Santa Catalina Island, on the other hand, subject to the following conditions:

1. Service shall be operated on a daily, scheduled basis only and shall be operated during the period from July 1 through Labor Day of each year. However, when in the opinion of the management of Avalon Navigation Company, public convenience and necessity require the operation of daily service sooner than July 1, or later than Labor Day, or both, said service may be initiated not sooner than one week before July 1 and/or continued to not later than one week after Labor Day of each year upon 10 days advance notice to the Commission and to the public.
2. In providing service under this certificate, Avalon Navigation Company shall not permit the vessel used in said service to depart from its San Pedro terminal for Avalon sooner than one-half hour after the first departure of the morning of the S.S. CATALINA from said steamer's San Pedro terminal for Avalon; neither shall Avalon Navigation Company permit its vessel to depart from its Avalon Terminal for San Pedro sooner than one-half hour after the first departure of the afternoon of the S.S. CATALINA from said steamer's Avalon terminal for San Pedro.

Issued by California Public Utilities Commission.

Decision No. 69131, Application No. 47461.

Avalon Navigation Company, a corporation, by the certificate of public convenience and necessity noted in the margin, is authorized to charter the motor vessel MAGIC ISLE, or some other vessel at least equal thereto, as follows:

(1) Between San Pedro (City of Los Angeles), on the one hand, and the City of Avalon, Santa Catalina Island, on the other hand, subject to the following condition:

The charter service shall be available to the public on a year-round basis, except that the vessel shall not be available for charter at times which would interfere with the daily scheduled service during the months of July, August and September in accordance with tariffs on file with the Commission.

(2) In providing service pursuant to the authority herein granted Avalon Navigation Company shall not charge or assess rates greater than \$150 per hour or fraction thereof for which the vessel is engaged, subject to a minimum charge of \$900, unless otherwise so authorized by subsequent order of the Commission.

(End of Appendix A)

Issued by the California Public Utilities Commission.

Decision No. 69131, Application No. 47461.

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

Setting forth the operating rights, restrictions and privileges applicable to operations as a common carrier by vessel conducted by M.G.R.S., Inc.

All changes and amendments as authorized by the Public Utilities Commission of the State of California will be made by revised pages or by added original pages.

Issued by the California Public Utilities Commission.

Decision No. 69131, Application No. 47463.

1. M.G.R.S., Inc., a corporation, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to conduct common carrier service by the S.S. CATALINA for the transportation of persons and their hand baggage and for the transportation of freight between San Pedro in the City of Los Angeles and Avalon on Catalina Island.

2. The service which may be provided under the certificate herein granted shall be conducted in accordance with the following:

- a. Scheduled Daily Passenger Service: Scheduled service for the transportation of persons shall be initiated not later than Memorial Day of each year and shall be conducted on a daily basis until not sooner than September 30 of each year. However, when in the opinion of the management of M.G.R.S., Inc. public convenience and necessity require the operation of daily scheduled service sooner than Memorial Day or later than September 30, or both, said service may be initiated not sooner than April 15 and/or continued to not later than October 15 of each year upon 10 days' advance notice to the Commission and to the public.

Issued by the California Public Utilities Commission.

Decision No. 69131, Application No. 47463.

- b. The scheduled service may be provided in part with equipment other than the S.S. CATALINA under those unusual conditions where the number of intending passengers with validated tickets for a particular day exceed the maximum capacity of the S.S. CATALINA.
- c. "Charter" (nonscheduled) Service: M.G.R.S., Inc. may also operate "charter" (nonscheduled) service between San Pedro and Avalon during the period between the commencement and termination of daily scheduled service as set forth above. The operation of said "charter" service shall be so coordinated with the scheduled service as to avoid disruption of the scheduled service. The term "charter" (nonscheduled) service, as herein used, means service in which the S.S. CATALINA is engaged, for a specified charge, by a person or group of persons for the exclusive use of said person or group of persons in transportation between San Pedro and Avalon.
- d. Hand baggage checking privileges shall be provided in connection with the transportation of persons.
- e. Upon order of this Commission, the service for the transportation of freight shall be established as directed.

(End of Appendix B)

Issued by the California Public Utilities Commission.

Decision No. 69131, Application No. 47463.

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

Setting forth the operating rights, restrictions and privileges applicable to operations as a common carrier by vessel by Catalina Motor Cruisers, Inc.

All changes and amendments as authorized by the Public Utilities Commission of the State of California will be made by revised pages or by added original pages.

Issued by the California Public Utilities Commission.

Decision No. 69131, Application No. 47465.

Catalina Motor Cruisers, Inc., a corporation, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to conduct common carrier services by vessel, as described below, for the transportation of persons and their baggage, and newspapers:

I

Scheduled, Daily Service

- A. Between San Pedro (City of Los Angeles) and Avalon during such times of the year that scheduled daily service between San Pedro and Avalon is not being provided by means of the S.S. CATALINA.
- B. Between San Pedro and Avalon during the period from approximately June 10 to approximately September 10 of each year, said service to be coordinated with requirements for the transportation of newspapers from San Pedro to Avalon.

Issued by the California Public Utilities Commission.

Decision No. 69131, Application No. 47465.

IIScheduled, Daily, Restricted Service

- A. Between San Pedro and Avalon during such times of the year that scheduled, daily service between San Pedro and Avalon is being provided by means of the S. S. CATALINA.
3. Between Wilmington and Avalon during the period which begins with the day that daily scheduled service by the S.S. CATALINA is inaugurated for the 1965 summer season between San Pedro and Avalon, and which ends with the 15th day after daily scheduled service by the M.S. MAGIC ISLE is inaugurated for the 1965 summer season between San Pedro and Avalon. (Subject to Notes 1 and 2.)

Note 1. - Upon five days' advance notice to the Commission and to the public, Catalina Motor Cruisers, Inc., may terminate its scheduled, daily restricted service between Wilmington and Avalon prior to the 15th day after, but not sooner than, the commencement of service between San Pedro and Avalon by the M.S. MAGIC ISLE if, in the judgment of the management of Catalina Motor Cruisers, Inc., the needs of the traffic no longer require said service.

Note 2. - A minimum of 10 round-trip adult fares per trip applies for service provided pursuant to this paragraph. (Exception to Section V, Paragraph B.)

Issued by the California Public Utilities Commission.

Decision No. 69131, Application No. 47465.

III

Nonscheduled, Restricted Service

- A. Between Long Beach and Avalon.
- B. Between Long Beach, Wilmington, and San Pedro, on the one hand, and the following points on Santa Catalina Island, on the other hand:

Gallagher's Beach,
Toyon Bay,
White's Landing,
Camp Fox,

Empire Landing,
Isthmus Cove,
Emerald Bay.

Issued by the California Public Utilities Commission.

Decision No. 69131, Application No. 47465.

IV

Nonscheduled Service at Hourly Rates

Between Long Beach, Wilmington, and San Pedro, on the one hand, and all points on the coast of Santa Catalina Island, on the other hand.

Issued by the California Public Utilities Commission.

Decision No. 69131, Application No. 47465.

VConditions and Restrictions

- A. Services which are to be provided during the period from "approximately June 10 to approximately September 10" may be commenced at any time within 10 days before or after June 10 and terminated at any time within 10 days before or after September 10, according to the needs of the traffic, as measured by the judgment of the carrier, upon not less than 10 days' advance notice to the Commission and to the public.
- B. A minimum of 20 round-trip adult fares per trip applies for scheduled and nonscheduled services which are designated as "restricted."
- C. The operation of restricted, nonscheduled service is subject to 6 hours' advance notice to the carrier that such service is to be provided.

(End of Appendix C)

Issued by the California Public Utilities Commission.

Decision No. 69131, Application No. 47465.