

ORIGINAL

Decision No. 75846

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of
H-10 WATER TAXI COMPANY, LTD.,
a Corporation, for authority to
increase rates and revise tariff

Application No. 50811

(Filed January 9, 1969;
Amended March 12, 1969)

Allan F. Bullard, for H-10 Water
Taxi Company, Ltd., applicant;
Louis Possner, Chief Engineer-
Secretary, Bureau of Franchises
and Public Utilities, City of
Long Beach, interested party;
R. W. Russell (by K. D. Walpert),
Chief Engineer and General
Manager, Department of Public
Utilities and Transportation,
City of Los Angeles, interested
party;
Robin John Brown, for Williams
Diamond & Company, interested
party;
W. H. Overbay, for Bethlehem Steel
Company, interested party;
Clyde I. Younkin, for Consolidated
Marine, Inc., interested party;
Tim Mazur, for Catalina Motor
Cruisers, Inc., interested party;
Gary Hall, Counsel, for the
Commission's staff.

O P I N I O N

Applicant, H-10 Water Taxi Company, Ltd. (H-10), is engaged in the business of transporting passengers and freight as a public utility common carrier by vessel within and about the Long Beach and Los Angeles harbor areas and between said areas and points on Santa Catalina Island. It also provides

a garbage disposal service for ships in the Long Beach and Los Angeles Harbors. Its fleet consists of eight water taxis, a former naval vessel (LCM -- Landing Craft Medium), a garbage boat and a tug.

Users of applicant's common carrier services include, amongst others, personnel of vessels bunkering at anchor, ships' repairmen, longshoremen, pilots, customs officers and other officials, ships' crewmen, school children taking educational tours of the harbors, and youth groups going to and from summer camps on Santa Catalina Island. The common carrier services are offered on an around-the-clock basis, 365 days a year.

By this application H-10 seeks authority to increase its rates and charges for its common carrier services, and to effect other changes in its tariffs.

Public hearings on the application were held before Examiner Abernathy at San Pedro and Los Angeles on April 2 and 3, 1969, respectively. The matter was taken under submission on April 14, 1969, upon the receipt of an affidavit regarding insurance costs.^{1/}

Applicant's basic rates for its services are hourly rates. A rate of \$15 per hour, minimum charge \$20, applies for transportation within the Long Beach and Los Angeles Harbors. Rates of \$17.50 and \$20 per hour (depending on the type of vessel used) apply for transportation to or from ships arriving at or departing from the harbor areas and for transportation to

^{1/} The affidavit has been included in the exhibit file in this proceeding as Exhibit No. 4.

or from Santa Catalina Island. Said rates are also subject to a minimum charge of \$20. The higher rates for transportation to or from ships arriving at or leaving the harbor areas and for transportation to or from Santa Catalina Island assertedly are necessary to meet the costs of an additional crewman, required under Coast Guard rules whenever a vessel of applicant is operated outside of the harbor areas.

Other fares and rates which applicant publishes are:

- a. One-way and roundtrip fares of 25 and 50 cents per person for transportation between Berth 90, San Pedro, and vessels of the U.S. Navy anchored within the Long Beach/Los Angeles harbor areas.
- b. A rate of 25 cents for each 50 pounds or less transported on regularly scheduled trips to vessels of the U.S. Navy or merchant ships lying at anchor in the Long Beach/Los Angeles harbor areas.
- c. Fares of \$1.30 per person for adults and 52 cents per person for children for a harbor sightseeing tour.
- d. Group fares for groups of 40 persons or less of \$100 one way, \$180 round trip, for transportation between the Long Beach/Los Angeles harbor areas and points on Santa Catalina Island; also, fares of \$2.50 per person, one way, and \$4.50 per person, round trip, for the same transportation for groups of more than 40 persons.
- e. Group rates of \$17.50 and \$20 per hour (depending upon type of equipment used) for the transportation of members of non-profit organizations to and from Santa Catalina Island. Said rates are subject to the following limitations or other provisions: Not more than 49 persons will be transported in one vessel; the rates are subject to a minimum charge for six hours' time; the rates include return transportation from Santa Catalina Island without additional charge to other members of the same organization returning to point of departure immediately after completion of an outbound trip (to Catalina) for a group of the organization.

Applicant proposes to increase its basic hourly rates as follows: To establish a rate of \$25 an hour for all service within the Long Beach/Los Angeles harbor areas, and a rate of \$30 an hour for all service to and/or from points outside of the Long Beach/Los Angeles harbor areas. The minimum charge would be that for one hour's time in both cases. With the establishment of said rates and charges, applicant's other rates and charges which are listed above would be canceled.

As justification for the rate increases which it seeks, applicant states that with the exception of its minimum charges, the present level of its rates was established more than ten years ago; that the most recent adjustment in its minimum charges was made more than five years ago; that during the ensuing periods it has been subjected to substantial increases in operating costs, particularly in its major expenses -- wages, maintenance and insurance; that the increases which have occurred in its wage and maintenance costs during the past five years are in excess of 30 percent, and that its insurance costs have been increased sharply not only as a result of increases in insurance rates, but also as a result of increased insurance requirements which were imposed on applicant and other carriers by vessel as a result of the Commission's order in Decision No. 74925. Applicant alleges that were it not for earnings which it has realized from its garbage disposal operations it could not have maintained its common carrier services. It further alleges that its earnings from its garbage disposal operations are no longer sufficient to cover losses from the common carrier services, and that if said services are to be continued, increases in the rates therefor must be effected.

Regarding the rate cancellations which it proposes to effect, applicant states that it is no longer called on to provide service to vessels of the U.S. Navy or to provide scheduled service to and from ships at anchor in the Long Beach/Los Angeles harbor areas. It states that its sightseeing services are being provided at the hourly rates.

Financial data which H-10 submitted as part of its application include a statement of applicant's financial position as of December 31, 1968, a statement of revenues, expenses and financial results from operations during the year 1968, and statements setting forth estimates of operating results for 1969 assuming (a) that the operations are continued under present rates, and (b) that the operations had been conducted throughout the year under increased rates as sought.^{2/} These several statements are summarized in Tables Nos. 1, 2 and 3 below:

Table No. 1

H-10 Water Taxi Co., Ltd. Financial Position
As of December 31, 1968

Current Assets		\$24,315
Fixed Assets		
Boats and Equipment	\$260,779	
Less Reserve for Depreciation	<u>221,562</u>	39,217
Other Assets		<u>12,323</u>
Total Assets		\$75,855
<hr/>		
Liabilities		\$15,045
Capital		<u>60,810</u>
Total Liabilities and Capital		\$75,855

^{2/} The various financial data were explained by applicant's secretary-treasurer, who presented testimony in support of the application.

Table No. 2

Financial Results of Operations
H-10 Water Taxi Co., Ltd.
Year 1968

Revenues	
Special Charter (See Note)	\$205,701
Garbage Disposal	<u>55,108</u>
Total Revenues	\$260,809
Expenses	<u>263,921</u>
Operating Loss	\$ 3,112
Income Taxes	<u>100</u>
Net Loss	\$ 3,212
Operating Ratio	101.6%*

*Corrected figure.

Note: As used by applicant the term "special charter" means the revenues which applicant receives from its public utility common carrier operations and also certain other revenues which will be considered separately hereinafter.

Table No. 3

Estimated Results of Year's Operations
Under Present and Proposed Rates
Based on Operating Results for Year 1968

	<u>Under Present Fares</u>	<u>Under Proposed Fares</u>
Revenues		
Special Charter	\$205,701	\$286,344
Garbage Disposal	<u>55,108</u>	<u>55,108</u>
Total Revenues	\$260,809	\$341,452
Expenses	<u>306,746</u>	<u>306,746</u>
Net Operating Revenues	<u>\$ 45,937</u>	\$ 34,706*
Income Taxes	<u>100</u>	<u>10,880</u>
Net Income	<u>\$ 46,037</u> *	\$ 23,826
Operating Ratio	117.7%*	93.0%*

() Indicates loss.

* Corrected figure.

Inasmuch as the operating results which are portrayed in Table No. 2, above, were developed on the basis of applicant's combined operations, applicant's secretary-treasurer also submitted an exhibit to show corresponding data for the public utility and garbage disposal services separately. The data which were so presented for the year 1968 are as follows:

	<u>Public Utility</u>	<u>Garbage Disposal</u>
Revenues	\$205,701	\$55,108
Expenses	<u>236,433</u>	<u>27,488</u>
Net Operating Revenues	<u>\$ 30,732</u>	\$27,620

 Indicates loss.

Other witnesses who testified in H-10's behalf were the company's president and several representatives of users of the company's services. Applicant's president testified that all of the company's eight water taxis are old and require extensive and expensive repair work to maintain them in conformity with Coast Guard standards. He said that he had been exploring the possibility of replacing one of the oldest water taxis by a modern aluminum vessel, but that his efforts in this direction have not been successful because he has not been able to obtain necessary financing due to the low level of his company's earnings. The representatives of users of applicant's services testified that the proposed rates correspond substantially to those which are assessed in other port areas, such as San Francisco, and that the rates would be acceptable to the companies which they represent.

Data relating to the financial aspects of applicant's services under present and proposed rates were also presented by a transportation engineer of the Commission's staff who reported on a study which he had made of applicant's operations and records. In Table No. 4 below are set forth the figures which he developed as representing the financial results of applicant's operations for the year 1968 under present rates:

Table No. 4

Financial Results of Operations
Under Present Rates, Year 1968

	<u>Public Utility</u>	<u>Non-Public Utility</u>	<u>Total</u>
Revenues	\$205,701	\$55,108	\$260,809
Expenses	<u>218,061</u>	<u>42,720</u>	<u>260,781</u>
Net Operating Revenues	<u>(\$ 12,360)</u>	\$12,388	\$ 28
Income Taxes	<u>-</u>	<u>100</u>	<u>100</u>
Net Income	<u>(\$ 12,360)</u>	\$12,288	<u>(\$ 72)</u>
Operating Ratio	106.0%	77.7%	100.0%

 Indicates loss.

Looking to the future, the engineer predicted that applicant would continue to experience losses from its operations under present rates. He estimated that if present rates are continued throughout the year ending with April 30, 1970, applicant's operating loss from its combined services during that period would amount to \$18,300. Similarly, he estimated that if the sought rates are authorized and put into effect, applicant's operating results

for the year ending with April 30, 1970, would be as shown in the following table:

Table No. 5

Estimated Results of Operations
Under Proposed Rates
Year Ending with April 30, 1970

	<u>Public</u> <u>Utility</u>	<u>Non-Public</u> <u>Utility</u>	<u>Total</u>
Revenues	\$302,600	\$55,100	\$357,700
Expenses	<u>234,400</u>	<u>44,600</u>	<u>279,000</u>
Net Operating Revenues	\$ 68,200	\$10,500	\$ 78,700
Income Taxes	<u>31,800</u>	<u>4,900</u>	<u>36,700</u>
Net Income	\$ 36,400	\$ 5,600	\$ 42,000
Operating Ratio	88.0%	89.6%	88.3%

On the basis of the information which the engineer had developed from his analysis of applicant's operations and records, the engineer concluded that increases in applicant's rates are justified but not to the extent sought. For transportation within the Long Beach/Los Angeles harbor areas he recommended that a rate of \$20 per hour be authorized instead of the sought rate of \$25 per hour. For transportation outside of the harbor areas and to and from points on Santa Catalina Island he recommended the authorization of a rate of \$25 an hour instead of the sought rate of \$30 per hour. He said that the resulting net income from the public utility services would be \$14,000, and the corresponding operating ratio after provision for income taxes would be 94.5 percent.

Discussion

This is a matter in which it is plain from the record that increases in applicant's rates for its public utility services are justified. The showings of applicant and of the Commission engineer clearly are in agreement on this point, and establish that H-10's public utility services are being conducted at a loss under present rates. However, they differ as to the amounts of loss under present rates. They differ also as to the amounts of rate increase needed to restore the public utility operations to a reasonably profitable basis.

In order that the latter differences may be properly resolved, we shall first direct our attention towards resolving the more important differences between applicant's and the engineer's reports of H-10's operating results for 1968. It is noted that applicant shows a loss of \$30,732 from its public utility common carrier services and a profit of \$27,620 from its garbage disposal services, whereas the engineer shows a loss of \$12,360 from the public utility services and a profit of \$12,288 from the disposal services.

It appears that the differences between the reported losses and profits from the public utility and disposal services, respectively, may be ascribed mainly to differences in method by which applicant and the engineer allocated to the two services separately those expenses which are jointly applicable to the services. Applicant assertedly allocated the joint expenses according to the number of vessels used in the separate services.

A. 50811 - SW

One-ninth of the expenses were allocated to the disposal services and the remainder to the public utility services. On the other hand, the engineer employed several methods of allocation. The selection of method was according to which, in his judgment, most directly related the expenses to the underlying services involved. We are of the opinion that the methods of allocation employed by the engineer are more conducive to results which are consistent with the expenses actually incurred in the separate operations.

Another source of the difference between the amounts which applicant and the engineer reported as H-10's expenses for 1968 is the method which applicant followed in accounting for the acquisition costs of certain dock properties. Said acquisition costs were all charged by applicant to its operating expenses for the year 1968. The engineer, on the other hand, capitalized the acquisition costs, inasmuch as the dock properties which were acquired have service lives of several years. The method which was followed by applicant results in an overstatement of expenses for the year 1968 and an understatement of expenses for subsequent years. The method which was followed by the engineer in effect constitutes a pro rata allocation of the acquisition costs over the years of the expected service lives. In this instance, also, the method which was followed by the engineer appears to be the more appropriate. The engineer's figures should be adopted.

One other item of applicant's 1968 expenses which requires consideration herein is that which is designated as "Entertainment" and which covers expenditures totaling \$4,379 for the year.

According to the combined testimony of applicant's secretary-treasurer and of the Commission engineer, applicant follows the practice of maintaining a supply of liquor on its vessels and at its office which is made available to various users of its services -- principally to ships' agents, officers and crewmen. In accordance with its general plan of allocation, applicant charged eight-ninths of the total expenditure for "Entertainment" to its public utility services and the balance to its disposal services. The engineer allocated \$2,448 against the public utility operations and \$1,931 against the disposal services.

Considered from the viewpoint of what amount would constitute a reasonable charge for "Entertainment" against H-10's public utility operations, it appears that either of the amounts which were allocated by applicant and by the engineer would be unduly high. Irrespective of whether the outlays are designated as officers' expense, solicitation expense, or simply as entertainment, if such outlays are to be considered as reasonable charges to the public utility services, they should have some relationship to the furthering of said public utility services. ✓

On this record it appears that the relationship of a number of the outlays for "Entertainment" to the furthering of applicant's public utility services is quite remote, at best. Although reference has been made previously herein to ships' personnel, customs officers and other officials as being users of applicant's services, it appears that applicant's real

customers are various steamship companies throughout the world; that applicant's services in transporting ships' personnel, etc., to and from the ships, or in transporting supplies to ships, is performed on behalf of said steamship companies; that applicant is hired by ships' agents who are located in the Long Beach/Los Angeles harbor areas; that those who have been identified above as users of applicant's services do not, for the most part, enter into the decision process as to whether applicant should be hired, and that even the options of the ships' agents as to whether applicant's services shall be used are limited by the fact that applicant is the sole carrier of its kind operating within the Long Beach/Los Angeles harbor areas.

In these circumstances we conclude that much of applicant's activities which are identified as "Entertainment" are not so channeled as to enhance applicant's public utility operations.^{3/} We are of the further opinion that on this record an amount of \$1,000 is the maximum amount that can be found to be a reasonable charge for "Entertainment" to be applied against applicant's public utility operations, either for 1968 or those during the coming year. The expense estimates should be limited accordingly.^{4/}

^{3/} Applicant's secretary-treasurer referred to the garbage disposal services as being the principal beneficiary of entertainment expenditures for the ships' agents.

^{4/} Compare Benjamin S. Goldberg, 54 Cal. P.U.C. 177 (1955).

"Reasonable amounts for solicitation expense are a proper charge to operations, but when claimed expenditures are unreasonably high, the carrier having a virtual monopoly in its field of operations, serving the same customers in a relatively small area over a period of many years, the Commission will take such circumstances into account in determining whether applicants for an increase in rates have sustained the burden of proving the reasonableness and propriety of their claimed charges."

A. 50811 - SW

Subject to this adjustment in the amount which the engineer showed as a charge for entertainment against applicant's public utility services for 1968, we will accept the engineer's evaluation of the 1968 operating results of said services for the purpose of determining applicant's future revenue needs.

Adverting to applicant's and the engineer's estimates of future operating results under the sought rates, we note material differences also in some of said estimates which are not attributable to the causes heretofore discussed. The estimates in question are as follows:

	<u>Estimate</u>	
	<u>Applicant</u>	<u>Engineer</u>
<u>Revenues, Water Taxi</u>	\$286,344	\$302,600
<u>Expenses</u>		
Wages	136,753	127,200
Maintenance	58,879	50,200
Insurance	11,792	10,500
Accounting and Legal	3,555	2,000
Payroll Tax	11,490	8,400

Water Taxi Revenues

The difference between the estimates of water taxi revenues appears to be due mainly to the fact that applicant's estimate was developed on a lower rate level than that upon which the engineer's estimate was constructed. Although applicant purportedly is seeking authority to establish one rate which will apply uniformly for its services within the Long Beach/Los Angeles harbor areas and another rate which will apply for service between said areas and points on Santa Catalina Island, such is not the fact.

The record shows that during the past year applicant has been charging a rate of approximately \$135 per round trip for the transportation of organized groups consisting of members of nonprofit organizations between the Long Beach/Los Angeles harbor areas and points on Santa Cataline Island. The record also shows that applicant intends to continue this rate for nonprofit organizations during the coming year.^{5/}

On the other hand, the presentation of the Commission engineer shows that under the sought rate of \$30 an hour applicant would receive revenues of about \$175 per round trip between the Long Beach/Los Angeles harbor areas and Santa Cataline Island. Hence, in charging but \$135 a trip when its normal charge would be approximately \$175 per trip, applicant would be foregoing \$40 a trip. In effect, the \$40 per trip constitutes a contribution by applicant to the nonprofit organization involved.

Section 530 of the Public Utilities Code authorizes a common carrier to transport persons at free or reduced rates for charitable purposes. However, when a carrier acts under the authority of Section 530 of the Public Utilities Code and provides transportation to some of its patrons at free or reduced rates, it should not expect to impose higher rates on its other patrons

^{5/} The rates which applicant is charging at present for its services for nonprofit organizations are not set forth in its applicable tariff.

in order to recoup revenues which it has foregone as a result of its action.^{6/} Hence, in the measurement of applicant's earning needs, the revenue estimates to be considered are those which do not reflect the reductions in revenue which applicant accepts as a result of its services at reduced rates. For the purposes of our findings and conclusions herein the engineer's estimate of revenues will be adopted instead of that of applicant.

Wage Expense

The difference between applicant's wage estimate of \$136,753 and the engineer's estimate of \$127,200 appears to be attributable mainly to the fact that applicant's estimate includes provision for the wages of a mechanic whereas the corresponding provision was included in the engineer's estimate of maintenance expense. Also, the engineer's estimate was developed on the basis of the wages paid during 1968. The record shows that during several months of 1968 applicant conducted its

^{6/} Compare with Decision No. 66573, Re H-10 Water Taxi Co., Ltd., 62 Cal. P.U.C. 152 (1964):

"Losses resulting from voluntary rate reductions to nonprofit organizations should not be imposed on other patrons through increased rates."

Compare also with Decision No. 67369, Re Pacific Telephone & Telegraph Company, 62 Cal. P.U.C. 775, 852 (1964):

"Dues, donations, contributions, if included as an expense for rate-making purposes, become an involuntary levy on ratepayers, who because of the monopolistic nature of utility service, are unable to obtain service from another source and thereby avoid such a levy." (Telephone company placed on notice that the policy of the Commission will be to exclude from operating expenses for rate-fixing purposes all amounts claimed for dues, donations and contributions.)

A. 50811 - SW/JR *

operations with less than its full complement of personnel because of the illness of one of its employees. As a consequence, it appears that the wages paid during 1968 do not fully represent applicant's normal employment needs for a year. In consideration of these circumstances we are of the opinion that applicant's estimate should be adopted as being representative of the outlays for wages which applicant will make during the coming year.

Maintenance Expense

Applicant's estimate of \$58,879 for maintenance expense is to be compared with an amount of \$47,360, which represents applicant's recorded outlays for maintenance during 1968 after exclusion of the charges (previously discussed herein) for dock facilities which should have been capitalized. Applicant's estimate is about 25 percent more than the 1968 figure. The record shows that applicant's vessels require extensive maintenance, but it does not show that the required maintenance will necessitate expenditures during the coming year as great as estimated. Moreover, applicant's estimate makes no allowance for a reduction in maintenance under contract with local shipyards which should follow as a result of the employment of the mechanic in the latter part of 1968 for maintenance work. Applicant's estimate has not been substantiated and will not be adopted.

The engineer's estimate of \$50,200 is overstated by reason of the inclusion of the mechanic's wages as previously mentioned. On the other hand, it appears that his estimate should include some provision for increases in the level of the

A. 50811 - SW

costs of materials and supplies during 1968. For the purposes of determining applicant's earnings needs for the future, we shall adopt an amount of \$45,000 as being a reasonable provision for applicant's maintenance expense during the ensuing year.

Insurance Expense

Applicant: \$11,792

Engineer: \$10,500

In arriving at their respective estimates of insurance expense, neither applicant nor the engineer had available to them information relative to current insurance rates. Information in this respect which had just become available at the time of the hearings and which was submitted in late-filed Exhibit No. 4 shows that the total insurance premiums for the coming year will be \$14,612 and that those which apply to the utility operations only will be \$11,340. These amounts will be adopted.

Accounting and Legal Expense

Applicant: \$3,555

Engineer: \$2,000

The difference between these estimates is due to the fact that applicant's estimate reflects a charge for legal expense for extraordinary legal services which are not expected to recur. Moreover, it assigns to the coming year's operations all of the legal expenses incurred by applicant in connection with this proceeding. The engineer excluded from his estimate the extraordinary legal expense, and he assumed the amortization of the legal expenses applicable to this proceeding over a period of five years.

Applicant's estimate plainly overstates the accounting and legal expense that may be considered normally applicable to its operations. In contrast, the estimate of the engineer reasonably represents the normal level of applicant's accounting and legal expense as reflected in H-10's records at the time of the engineer's study. However, for reasons which are hereinafter explained, it appears that applicant will be subject to further accounting and legal expense during the year and that provision should be made therefor. Taking this circumstance into account, and assuming the due amortization of the additional expense, we find that an amount of \$2,700 will constitute a reasonable allowance for accounting and legal expense. Said amount will be adopted.

Payroll Tax Expense

Applicant:	\$11,490
Engineer:	\$ 8,400

The payroll tax estimates, both of applicant and of the engineer, assertedly were calculated on the basis of the applicable wage tax rates applied to the wages to be paid during the coming year. As has been previously pointed out, the engineer's estimate of wages to be paid does not fully represent the applicable wages. Hence, his estimate of payroll tax expense is deficient. Applicant's estimate, on the other hand, is not subject to this infirmity. However, it appears that applicant has erred in its calculations with the result that its estimate exceeds the payroll taxes which will actually apply. A corrected estimate would be approximately \$9,200. This amount will be adopted as reasonable.

One other expense which requires comment is an expense which is identified as "Dues", and which applicant and the engineer both estimated as amounting to about \$700. The record shows that the payments in question are made to business associations, service clubs and fraternal organizations. As we have held on numerous occasions heretofore, dues payments to service clubs and fraternal organizations will not be recognized as an operating expense for rate-making purposes. The amount for dues which will be otherwise so recognized and adopted on this record will be limited to \$200.

Restatement of the engineer's estimates of the financial results of applicant's public utility operations under the proposed rates and under his alternate rate proposal to give effect to the expense modifications discussed above results in the revised estimates which are summarized in the following table:

Table No. 6

Estimated Results of Public Utility Operations
Under Proposed Rates and Under Alternate
Rate Proposal of Engineer
Year Ending with April 30, 1969

	<u>Under Proposed Rates</u>	<u>Under Alternate Rates</u>
Revenues	\$302,600	\$254,900
Expenses	<u>241,560</u>	<u>241,560</u>
Net Operating Revenues	\$ 61,040	\$ 13,340
Income Taxes	\$ 26,700	\$ 3,730
Net Income	\$ 34,340	\$ 9,610
Operating Ratio	88.7%	96.2%

In the determination of the extent that increases in applicant's rates may be found justified on this record, a consideration to be taken into account (in addition to the level of applicant's needs for increased revenues) is whether the evidence supports the granting of all of the increases which applicant seeks in its hourly rates. The evidence shows that one class of applicant's services -- that which is subject to standby rates -- involves lesser costs than do applicant's services generally. According to H-10's tariffs, the standby rates apply for the holding of a vessel pursuant to a hirer's request or as a result of changes in shipping orders.

While a vessel is in standby service, it obviously is not subject to the same operational costs that it is in active service. Its engine is not being operated, or is being operated to a lesser extent than in active service, and hence the costs applicable or incidental to the operation of the engine are either not being incurred or are being incurred to a lesser extent. Hence, from a cost-of-service standpoint, the charging of the same rates for standby service as for active service is not justified.

A precise determination of the differential between the costs of applicant's standby and other services may not be made on this record. Nevertheless, we conclude from the showing of the engineer that the differential in costs justifies a differential of not less than \$3.50 per hour between the rates for the standby and other services, respectively. Such differential will be adopted.

The effect of this limitation upon the rates that may be approved for the standby services would be a reduction in earnings below the amounts which are shown in Table No. 6 above as net income under the proposed rates and under the alternate rates recommended by the Commission engineer. It does not appear that the reduction in earnings would be substantial, inasmuch as the standby services constitute a relatively small part of H-10's total public utility services.

Subject to this modification, we hereby adopt the data in Table No. 6 as being reasonably representative of the financial operating results to be realized from applicant's public utility operations during the coming year under the sought rates and under the rates recommended by the engineer. We find that earnings which applicant would realize under the rates recommended by the engineer would be unreasonably low. On the other hand, it appears that the earnings which applicant would realize under the sought rates would be unreasonably high. In the alternative, rates of \$22.50 per hour for transportation within the Long Beach/Los Angeles harbor areas and of \$27.50 per hour for service to and/or from points outside of said areas would result in net earnings of approximately \$24,000 and an operating ratio of 91.4 percent. Taking into account the fact that applicant's service in the Long Beach/Los Angeles harbor areas is the only service of its kind; that applicant's fleet as a whole is quite old; and that applicant is confronted with a necessity for replacing one or more of its vessels within the relatively near future, we find that the earnings which applicant would realize under said rates (including standby rates of \$3.50 per hour less and minimum charges of those for one hour's service) are and will be reasonable. Said rates should be authorized. To this extent the application should be

granted. In view of applicant's evident need for increased revenues, the order herein should be made effective five days after the date hereof, and applicant should be authorized to make the increased rates effective on five days' notice to the Commission and to the public.

The other changes which applicant seeks to make in its tariff will not be authorized. The specific changes that would result under applicant's proposals are not sufficiently described to permit a determination of their propriety. Moreover, for reasons which are set forth below, it appears that other changes should also be made in applicant's tariffs. The total changes to be made should be considered in a subsequent proceeding or in a subsequent phase of this proceeding.

The rate increase authority which is granted by the following order should be regarded by applicant as an interim measure pending further consideration and action on various corrective steps which the record indicates should be taken with respect to certain facets of applicant's operations. For example:

- a. Applicant's operative authority covering the transportation of property between the Long Beach/Los Angeles harbor areas, on the one hand, and points on Santa Catalina Island (other than Avalon Bay), on the other hand, is conditioned on the operation of vessels described as diesel-powered wooden vessels, each approximately 50 feet in length and of approximately 165 horsepower. Notwithstanding this condition, applicant conducts part of said transportation to and from Santa Catalina Island under a subhauling arrangement involving the use of a sportsfishing boat which is substantially different from any of the vessels which applicant is authorized to operate.^{7/} Applicant should either conduct its operations in conformity with its authority or it should obtain an appropriate amendment of its authority.

^{7/} It appears that the owner-operator of the sportsfishing boat also does not hold any authority from the Commission authorizing common carrier operations by said vessel.

- b. Applicant at times provides service to and from points outside of the territorial scope of its authority. In this respect, also, applicant should either limit its operations to conform to its authority or obtain enlargement of its authority.
- c. In a number of instances applicant does not assess rates and charges in accordance with its tariff.^{8/} Mention has been made heretofore of the fact that applicant's charges to nonprofit organizations are different from those set forth in applicant's tariff for said organizations.^{9/} Other services for which applicant's charges do not conform to its tariff are: the transportation of passengers and freight by sportsfishing boat to and from Santa Catalina Island; the services performed by use of the LCM (landing craft medium), and the transportation of passengers and freight to and from Pierpoint Landing in Long Beach.

Our findings and conclusions relative to applicant's need for increased rates have been reached on the basis of applicant's operations as they are being conducted, including those which are being provided outside the scope of applicant's

^{8/} Section 486 of the Public Utilities Code requires common carriers to file with the Commission and to maintain available for public inspection their tariffs showing their rates and charges for all transportation services which they provide within this State. Section 494 of the Public Utilities Code proscribes the charging by a common carrier of different rates than those which are specified in the carrier's tariffs on file with the Commission and in effect.

^{9/} Aside from the fact that applicant's charges to nonprofit organizations are not in conformity with its tariff, it appears that the charges may be improper for another reason also. Section 530 of the Public Utilities Code authorizes a carrier to provide free or reduced rate transportation for charitable organizations. However "nonprofit organizations" are not necessarily the same as "charitable organizations". In providing reduced rate transportation for "nonprofit organizations" applicant may be exceeding the authority granted it by Section 530.

operative authority or at other than tariff rates. The urgency of H-10's need for relief from operating losses which are seriously eroding its ability to continue its public utility operations requires an immediate response that will preserve said operations. Should subsequent consideration so warrant, appropriate steps can be taken to modify the action here taken.

Obviously, however, the continuance of applicant's unauthorized operations and charges cannot be condoned. In connection with the exercise of the rate increase authority herein granted applicant will be expected to take prompt and effective measures to align its operations and charges in the respects specified with the applicable statutory requirements. The order herein will be conditioned accordingly.

In view of applicant's need for early relief from the losses which it is incurring from its operations, the order herein will be made effective five days after the date hereof, and the increased rates and other tariff changes may be made effective on five days' notice to the Commission and to the public.

Findings

1. The revenues which applicant is receiving under its present rates for its public utility services are insufficient to sustain said services.

2. The revenues which applicant would receive from the rates authorized herein (modified as stated above in regard to the standby rates) would result in reasonable earnings.

3. The rate increases which would result from establishment of the rates authorized herein, and from the sought cancellations of rates hereinbefore described are justified.

4. In various respects which have been detailed above, applicant is providing services at other than its tariff rates or is providing services which are outside of the scope of its operative authority.

Conclusions

1. Applicant should be authorized to increase its rates for on-call service as authorized herein, subject to the limitation heretofore stated in the increases that may be made in the standby rates.

2. Applicant should be authorized to effect cancellations in its rates as more specifically described in the following order.

3. Applicant should be required to take such steps as are necessary to bring its operations into conformity with statutory requirements with respect to its operating authority and observance of its tariff provisions.

O R D E R

IT IS ORDERED that:

1. H-10 Water Taxi Company, Ltd., is authorized to amend its Local Passenger Tariff Cal. P.U.C. No. 8 and its Express Tariff Cal. P.U.C. No. 8 as follows:

A. Local Passenger Tariff Cal. P.U.C. No. 8

1. Cancel rates in Section No. 1-A (rates between Berth 90, San Pedro, and vessels of U.S. Navy anchored in the Long Beach and/or the Los Angeles Harbors).

2. Cancel rates in Section No. 1-B (rates for harbor sightseeing tour).
3. Establish the following rates in lieu of those currently set forth in Section No. 1-C (rates for on-call service within Long Beach/Los Angeles Harbors):

Rate per hour	\$22.50
Minimum charge	\$22.50
Waiting or standby charge, per hour	\$19.00

4. Establish the following rates in lieu of those currently set forth in Section No. 1-D (rates for on-call service between points and places within the Long Beach/Los Angeles Harbors, on the one hand, and vessels arriving at or departing from said harbors, on the other hand):

Rate per hour	\$27.50
Minimum charge	\$27.50
Waiting or standby charge, per hour	\$24.00

5. Amend Section No. 1-D to provide that the rates therein also apply for on-call service between points and places within the Long Beach and Los Angeles Harbors, on the one hand, and points and places on Santa Catalina Island, on the other hand.
6. Cancel rates in Section No. 1-E (rates for on-call service and for the transportation of organized groups of members of nonprofit organizations between points and places within the Long Beach and Los Angeles Harbors, on the one hand, and points and places on Santa Catalina Island, on the other hand).

B. Express Tariff Cal. P.U.C. No. 8

1. Cancel rates in Section 1-A (rates for parcel delivery service).
2. Amend Sections 1-B and 1-C to conform to Sections 1-C and 1-D of H-10's Local Passenger Tariff Cal. P.U.C. No. 8, as amended pursuant to paragraphs A.3. and A.4., above, respectively.

2. The exercise of the authority granted by the above paragraph 1 is made subject to the following conditions:

- A. In the amendment of its tariffs to publish the rates authorized herein, applicant shall concurrently publish and make effective its rates for service within the scope of its operative authority which it performs by use of its LCM (landing craft medium).
- B. Within 60 days after the effective date of this order applicant shall file application, and thereafter actively prosecute said application, for such enlargement or enlargements of its operative authority as is necessary to embrace any and all services which it is conducting beyond the scope of its authority. In the alternative applicant may elect to confine its operations to the scope of its present authority, in which event it should so inform the Commission within 60 days after the effective date of this order.
- C. Applicant shall refrain from assessing charges higher than those applicable under its tariff rates in connection with service to and from Pierpoint Landing, Long Beach, until it has sought and obtained authority from this Commission for any such higher charges.

3. Tariff publications required to be made by H-10 Water Taxi Company, Ltd., 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, provided that H-10 Water Taxi Company, Ltd., has first filed with the Commission its acceptance of the conditions specified in paragraph 2 above.

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

5. In addition to the required posting and filing of tariffs, H-10 Water Taxi Company, Ltd., shall give notice to the public by posting in its vessels and at its terminal an explanation of the rate and fare changes. The notices to be posted in the vessels and terminal shall be posted on not less than five days before the increased rates become effective and shall remain posted for a period of not less than thirty days.

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

Dated at San Francisco, California,
this 24th JUNE day of JUNE, 1969.

William J. Synnott
President

Sheldon B. Monsey

Commissioners