

ORIGINAL

Decision No. 76496

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of
HARBOR CARRIERS, INC., a corporation
for a certificate of public conven-
ience and necessity, authorizing it
to operate vessels as a common car-
rier of passengers between Long Beach
and Avalon, Santa Catalina Island.

Application No. 50710
(Filed November 27, 1968)

Vaughan, Paul and Lyons, by John C. Lyons,
for applicant.
James H. Lyons, for Catalina Motor Cruisers,
Inc., M.G.R.S., Catalina Terminals, Inc.,
and Avalon Navigation Company; Edward
C. Farrell and Maynard Asper, for Los
Angeles Harbor Department (Port of
Los Angeles); Captain Frank C. Seehorn
and George M. Stephenson, for H-10 Water
Taxi, Ltd., Phillo R. Tozer, for Davey's
Locker, Inc., protestants.
Leslie E. Still, Jr., and Louis Possner, for
City of Long Beach (Bureau of Franchises
and Public Utilities); and James H.
Radcliffe, for City of Avalon, interested
parties.
Gary L. Hall, for the Commission staff.

O P I N I O N

Applicant is a common carrier by vessel in the trans-
portation of persons and property for compensation between points
on San Francisco, San Pablo, and Suisun Bays. Applicant seeks a
certificate of public convenience and necessity authorizing it
to transport passengers as a common carrier by vessel between
Long Beach on the one hand, and Avalon, Santa Catalina Island, on
the other hand.

Public hearings were held before Examiner Kent Rogers in Long Beach on January 22, 23 and 24, 1969, and in Los Angeles on February 18 and 19 and March 3, 1969. By Decision No. 75743 dated June 3, 1969, the application was denied. On June 24, 1969, the petition of Harbor Carriers for a rehearing was granted and rehearing was held before Examiner Robert Barnett on August 4, 5 and 6, 1969 in Avalon and on August 19, 1969 in Los Angeles. On the latter date the matter was submitted. The rehearing was heard on a common record with the application of International Hydrolines, Inc., for a certificate of public convenience and necessity to operate a hydrofoil vessel passenger service between San Pedro and Avalon (Application No. 51131).

On this rehearing we have considered all evidence submitted at the prior hearings in this case plus the evidence submitted at the rehearing. There is no need to detail the evidence which was presented prior to August 4, 1969 as that evidence is set forth in Decision No. 75743.

At the rehearing applicant presented its president, its general manager, a tourist agent, and fourteen public witnesses, who testified in support of applicant.

The general manager testified that applicant will offer a commute book consisting of ten tickets for \$30. This commute business should add to applicant's revenue estimates. Applicant's ship "Eagle", 149 passengers, is now ready for operation and will make the trip between Long Beach and Avalon in approximately one and one half hours. Applicant's president testified that

applicant is prepared to continue service for the first two years of operations even if those operations are conducted at a loss. He estimated that it might take two years before the operation generates sufficient business to show a profit. He guaranteed that his proposed winter schedule of two round trips a day would not be reduced for at least one year from the issuance of a certificate. He also said that applicant would not seek an increase in its \$7.50 round trip rate even though applicant's competitors might raise their rates.

A travel agent who specializes in Catalina reservations supported this application. This agent handles a majority of the hotel bookings on Catalina. He avoids sending his clients on the present water transportation facilities to Catalina because the persons operating those facilities refuse to pay him a commission. In his opinion competition is necessary in the water transportation business to Catalina in order to provide reliable service to the island. In his opinion the traffic generated by the ship Queen Mary, now being remodeled as a tourist attraction to be permanently stationed in the Long Beach Harbor, will generate within two years approximately 60,000 tourists who will go to Catalina as part of their travels in the southern California area. The Queen Mary is expected to be in operation within a year.

The fourteen public witnesses who supported the application comprised a group representative of residents of Avalon, hotel owners, businessmen on Avalon, and persons who catered to the tourist trade on Avalon. The testimony of these persons

covered, in general, the same points. Briefly, they testified that a new service to Long Beach would be beneficial to the residents of the island who have to conduct business in Long Beach. It is extremely difficult for those residents to take the boat to San Pedro and then obtain transportation from San Pedro to Long Beach. Because of this most residents who have business in Long Beach fly to the Long Beach Airport. Many of these people would prefer to go by boat because they don't like to fly and because boat transportation to Long Beach Harbor would put them nearer to the places that they wish to visit. They also said that competition was needed in the area of water transportation. They were concerned with the future of Catalina Island as a tourist attraction and felt that new transportation services would generate additional business to the island. Finally, they felt that the more frequent sailings of applicant in the winter time would eliminate the need for Avalon residents to spend two nights in Long Beach to conduct one day's business there.

Discussion

Applicant has the business experience to provide the proposed service, as applicant has provided similar service in the San Francisco Bay area for many years. Applicant has the financial ability to withstand any initial losses that might be incurred when a new service is instituted. Applicant's ratio of current assets to current liabilities is nearly two to one; it has a relatively debt free position, and nearly \$200,000 of equity capital to cushion initial losses. Applicant's diversity

of operations in both northern and southern California makes it less susceptible to financial impairment through losses in any one segment of its operations.

There is need for boat service from Avalon to Long Beach. A number of public witnesses testified to the need for service between Avalon and Long Beach. These people live in Avalon and have business or friends and relatives in Long Beach. Some do not like to fly, others feel the airplane is too expensive, and all find it inconvenient when going by boat to dock at San Pedro. The need for travel to Avalon from Long Beach (for other than Avalon residents) is based upon the anticipated tourist traffic to be generated by the Queen Mary and other leisure time attractions in the Long Beach area. And, most importantly, the certification of a financially strong and independent operator to serve Catalina will break the monopoly now enjoyed by the present carriers and should provide a salutary competitive atmosphere which, in itself, will generate additional travel. At the present time all regular common carrier service by vessel to Catalina is controlled by one management group operating through four or five companies. When this management has problems there is no one else to whom the public can turn. This was graphically illustrated in 1968 when the SS Catalina was removed from the San Pedro-Avalon run. At that time the number of visitors to Avalon dropped from a 1967 high of approximately 338,000 to 288,000. The SS Catalina was operated during the 1969 summer season (business is at a new high) but had problems docking

at Avalon. If these problems are not resolved there is a strong possibility that the boat will not sail in 1970. A competing carrier could not fill any void left in the wake of a possible discontinuance of the SS Catalina, but it might spur the SS Catalina's management to greater efforts to insure that it does sail in 1970. ✓

In our opinion the certification of applicant will not have a serious adverse effect on the present carriers. Certainly the proposed service will not compete in any significant way with the SS Catalina as that service is itself a seasonal attraction and an entirely different type of service. We do not doubt that applicant's proposed service will draw from the same market utilized by the smaller vessels now in cross-channel service, and will take some of their business. However, this amount of diverted business will be insignificant in the total requirements of applicant. For applicant to succeed it will have to generate its own markets; if it does not applicant will be out of business long before its diverted business materially affects protestants.

Protestants assert that their present service is adequate because it transports all who wish to travel. But adequacy of service cannot be measured merely by finding that all those who appeared at San Pedro for transportation to Avalon were accommodated. Adequacy of service in this market must include backup facilities. When the SS Catalina did not operate in 1968 the number of passengers to Avalon dropped

approximately 50,000. When the present management placed a hydrofoil vessel in service in July 1969, that vessel proved less than reliable, having had a number of breakdowns which prevented it from operating during a substantial portion of the summer season. Attempts to obtain a new 500 passenger vessel are still being made but there is no assurance that such a vessel will be placed in the Long Beach-Avalon market in time for the next summer season. Even considering these problems as no more than the normal hazards of the water transportation business still, they have all happened to the one management that controls all common carrier traffic by vessel between Catalina and the mainland. When problems occur and especially if they occur in bunches, the public has no other transportation company to which it can turn.

One final comment. The protestants to this application did not protest the application of International Hydrolines Inc. (Application No. 51131), wherein a service comparable to Harbor Carriers was proposed, with more sophisticated equipment. The International Hydrolines application was not protested because the management of International Hydrolines and the protestants herein had an agreement to consolidate their operations if the International Hydrolines application were granted. It is apparent to us that it is not more boats in the channel that protestants object to but more boats under independent management.

For the reasons stated above the application will be granted.

Findings

The Commission finds that:

1. Applicant is engaged in business as a common carrier by vessel in the transportation of persons and property for compensation between points in northern California under both prescriptive and certificated rights granted by this Commission.
2. Applicant proposes to provide service as a common carrier by vessel for compensation between the Port of Long Beach and the harbor of Avalon, both in the County of Los Angeles.
3. Applicant has the experience, personnel, and finances, and would undertake to secure adequate equipment, parking space, and docking facilities, with which to render the proposed service.
4. Applicant proposes to operate all year if granted the requested authority.
5. The City of Long Beach, travel agents, and residents of Long Beach and Avalon desire that the application be granted.
6. The number of visitors to Avalon dropped from 338,000 in 1967 to 288,000 in 1968, largely because of a limited operation in 1968 by the existing carriers.
7. Service between the Port of Long Beach and Avalon will be more convenient for some people than service between San Pedro and Avalon or Newport Beach and Avalon.
8. Transportation service between the Port of Long Beach and Catalina Island is inadequate. This present inadequacy will become acute within a year when the tourist attraction Queen Mary will be open to the public in the Port of Long Beach.

9. Additional transportation service to Catalina Island, under independent management, will benefit not only Catalina residents but also residents of the California mainland desiring to go to Catalina, and tourists coming to the southern California area. The new transportation company will have to advertise and such advertising will generate additional tourists to Catalina. The competition engendered by an independent transportation company will be a strong factor in insuring that the present transportation operators continue to improve their service, and will be an influence in retaining the SS Catalina in operation and perhaps in lengthening its season. The additional competition will also provide more schedules in the winter time, which will benefit all potential users and have a tendency to keep rates low.

10. Applicant's service will generate its own market and will not materially reduce the revenues or schedules of the presently certified carriers.

11. Public convenience and necessity require the proposed service.

We conclude that the application should be granted.

Harbor Carriers Inc., is 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.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Harbor Carriers 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, between the points and over the routes particularly set forth in Original Page 3 to Appendix A in Decision No. 73811 in Application No. 49712, attached hereto and made a part hereof with the fares and service proposed in Application No. 50710.

2. In providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations. Failure so to do may result in a cancellation of the operating authority granted by this decision.

- (a) Within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted. Applicant is placed on notice that, if it accepts the certificate of public convenience and necessity herein granted, it will be required, among other things, to comply with and observe the insurance requirements of the Commission's General Order No. 111-B.
- (b) Within one hundred twenty days after the effective date hereof, applicant shall establish the service herein authorized and file tariffs and timetables, in triplicate, in the Commission's office.

- (c) The tariff and timetable filings shall be made effective not earlier than ten days after the effective date of this order on not less than ten days' notice to the Commission and the public, and the effective date of the tariff and timetable filings shall be concurrent with the establishment of the service 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) Applicant shall maintain its accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of its operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

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

Dated at San Francisco, California, this 2nd day of DECEMBER, 1969.

William J. Symons, Jr.
President

J. B. Barker

James L. Sturgeon

Vernon L. Sturgeon
Commissioners

Commissioner A. W. Cato

Present but not participating.

NW/ds *

Appendix A
(Decision 73811)

HARBOR CARRIERS, INC.
(a corporation)

Original Page 3

Harbor Carriers, Inc., a corporation, by the decision noted in the margin, is authorized to conduct daily scheduled common carrier service throughout the year, by vessel, for the transportation of passengers and their baggage between the Port of Long Beach and Avalon, Santa Catalina Island.

Issued by California Public Utilities Commission.

Decision No. 76496, Application No. 50710.