

ORIGINAL

Decision No. 79092

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of HARBOR CARRIERS, INC., a cor-
poration, for a Certificate of
Public Convenience and Necessity,
authorizing an extension of its
operating authority so as to
authorize it to operate vessels
"on schedule" as a common carrier
of passengers between Berkeley,
Angel Island, and Tiburon.

Application No. 52621
(Filed May 17, 1971)

John G. Lyons, Attorney at Law, for
applicant.
William P. Clecak, Attorney at Law, for
Milton McDonough, protestant.
Robert Nisbet, Attorney at Law, for
Alameda Contra Costa Transit District,
interested party.
Tack S. Joe and Sean A. Mahon, for the
Commission staff.

O P I N I O N

Harbor Carriers, Inc., presently engaged in business as
a common carrier by vessel in the transportation of persons and
property between points in San Francisco, San Pablo and Suisun
Bays, requests authority to extend service as follows:

- (1) Between Berkeley and Angel Island;
- (2) Between Berkeley and Tiburon; and
- (3) Between Angel Island and Tiburon,
provided that local service between
Angel Island and Tiburon shall be
rendered only on trips originating
at or destined to Berkeley or San
Francisco and stopping at Angel Island
only long enough to discharge passengers
and pick up waiting passengers.

A public hearing was held before Examiner Daly at San Francisco with the matter being submitted on July 14, 1971.

The application was protested by Milton McDonough to the extent that local service is proposed between Tiburon and Angel Island, these being points between which McDonough is presently providing service pursuant to a certificate of public convenience and necessity heretofore issued by this Commission. Although applicant has a prescriptive right to operate between Tiburon and Angel Island it is restricted to an on-call service.

Applicant owns and operates ten vessels with capacities ranging from 49 passengers to 500 passengers. It presently maintains docking facilities at Tiburon and is in the process of leasing docking facilities at the Berkeley Marina from the City of Berkeley. Applicant has had many years of experience in the performance of service as a common carrier of passengers by vessel.

The proposed fares are as follows:

BERKELEY TO ANGEL ISLAND

Adult Fare (Round Trip)	\$2.00
Adult Fare (One Way)	1.00
Children under 12 (Round Trip)	1.00
Children under 12 (One Way)	.50

BERKELEY TO TIBURON

Adult Fare (Round Trip)	\$2.75
Adult Fare (One Way)	1.40
Children under 12 (Round Trip)	1.40
Children under 12 (One Way)	.70

ANGEL ISLAND TO TIBURON

Adult Fare (One Way)	\$.75
Children under 12 (One Way)	.40

Service would be provided on Saturdays, Sundays and holidays according to the following time schedule:

BERKELEY - ANGEL ISLAND - TIBURON

April 1 - October 31

<u>Lv.Berk.</u>	<u>Arr.A.I.</u>	<u>Lv.A.I.</u>	<u>Arr.Tib.</u>	<u>Lv.Tib.</u>	<u>Arr.A.I.</u>	<u>Lv.A.I.</u>	<u>Arr.Berk.</u>
0930	1030	1040	1050	1100	1110	1120	1220
1230	1330	1340	1350	1400	1410	1420	1520
1530	1630	1640	1650	1700			1800

SAN FRANCISCO - ANGEL ISLAND - TIBURON

<u>Lv.S.F.</u>	<u>Arr.A.I.</u>	<u>Lv.A.I.</u>	<u>Arr.Tib.</u>	<u>Lv.Tib.</u>	<u>Arr.A.I.</u>	<u>Lv.A.I.</u>	<u>Arr.S.F.</u>
1000	1030	1040	1050	1100			1130
1215			1245	1250	1300	1310	1345
1400	1430	1435	1445	1450			1525
1545			1615	1620	1630	1635	1705

Because there was no protest to the proposed service between Berkeley and Angel Island, and between Berkeley and Tiburon, applicant limited its showing by calling only two public witnesses in support of said portions of the application. One represented the City of Berkeley and the other represented the Berkeley Chamber of Commerce.

Applicant's showing with respect to the proposed local service between Tiburon and Angel Island was limited to a survey made by an investigator engaged by applicant. The investigator testified that he made observations and tabulations and took pictures of the operations conducted by McDonough between Tiburon and Angel Island on Friday, July 2, 1971; Saturday, July 3, 1971; Sunday, July 4, 1971; Monday, July 5, 1971; Wednesday, July 7, 1971; Saturday, July 10, 1971; and Sunday, July 11, 1971. The tabulations made by the witness were received in evidence as Exhibit 9 and the pictures were received as Exhibit 7.

Exhibit 7 consists of a series of pictures taken at Tiburon and Angel Island showing people standing on the dock facilities apparently waiting to be transported by one of McDonough's two boats. Exhibit 9 is a tabulation of the operations of McDonough's vessels. It indicates the time of departure of the vessels, the number boarding the boats and the number, if any, left on the dock. Exhibit 9 indicates that on a number of occasions one or the other of McDonough's boats left the dock at either Tiburon or Angel Island fully loaded (each has a capacity of 49 passengers) leaving as many as 67 passengers waiting on the dock. This was particularly true on July 4, 1971, when it occurred 13 times; however, Exhibit 9 also indicates that the time elapsing before the arrival of the other boat was usually a matter of a few minutes, with the maximum waiting period being approximately 15 minutes.

The record shows that McDonough has been operating a passenger service by vessel between Tiburon and Angel Island for a number of years. He owns and maintains his own docking facility. He also owns and operates two vessels, the Gaycin and the Margherita. The latter was purchased last year and is primarily operated on Saturdays, Sundays and holidays. McDonough is presently considering the purchase of a 250-passenger vessel, which he hopes to acquire and place in service by next year.

Exhibits 16 and 17 were received in evidence and reflect the operations of the Gaycin and Margherita for the period April 25, 1971 through July 11, 1971. The dates selected during that period were primarily weekends and holidays. According to said exhibits the boats, with few exceptions, were operated at less than capacity.

A state park ranger stationed at Angel Island testified that he has observed occasions, particularly between 4:00 and 5:30 p.m., when one of the McDonough boats left the Angel Island dock fully loaded leaving passengers to await the arrival of the next boat. The waiting period was usually a matter of minutes and

seldom exceeded 15 minutes. He further testified that he had never received or heard of any complaints concerning the McDonough service.

A member of the Tiburon Council testified that the City Council officially opposed the application to the extent that the proposed service would constitute a duplication of that service presently being rendered between Tiburon and Angel Island by McDonough.

After consideration the Commission finds that:

1. Applicant is presently rendering passenger service by vessel between points on San Francisco Bay.
2. Applicant has the necessary experience, vessels, facilities and financial ability to conduct the proposed service.
3. An existing service by vessel is presently being provided between Tiburon and Angel Island by Milton McDonough.
4. There are occasions during the peak periods when one of the McDonough boats departs from the Tiburon or Angel Island facilities fully loaded leaving passengers standing on the dock.
5. On those occasions when passengers are left on the dock to await the arrival of the other boat the waiting period is usually a matter of a few minutes and seldom exceeds 15 minutes.
6. McDonough is presently providing satisfactory service between Tiburon and Angel Island.
7. Diversion of traffic from McDonough by applicant could seriously impair the ability of McDonough to continue operations between Tiburon and Angel Island.
8. Public convenience and necessity require the granting of the application except to the extent that it would duplicate the scheduled service of McDonough between Tiburon and Angel Island.

The Commission concludes that the application should be granted to the extent hereafter set forth in Appendix A and in all other respects be denied. For the purpose of clarity applicant's operating authority will be restated in loose-leaf form.

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 Appendix A attached hereto and made a part hereof.

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 tariffs 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.

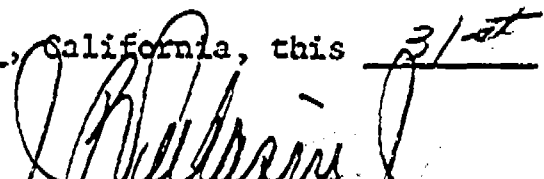
- (e) Applicant shall maintain its accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of its operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

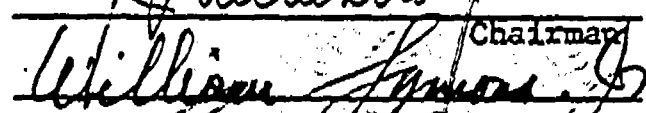
3. Concurrent with the tariff and timetable filings required by ordering paragraph 2(c) hereof the operating authority granted by Decision No. 73811 in Application No. 49712, as amended by Decision No. 76496 in Application No. 50710, is hereby revoked.

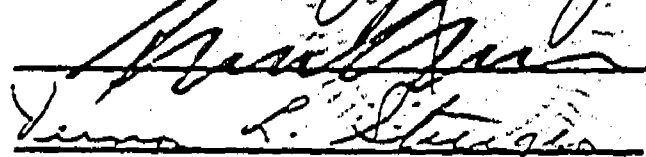
4. In all other respects the application is denied.


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

Dated at San Francisco, California, this 31st
day of AUGUST, 1971.



Chairman






Commissioners

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY

The certificate hereinafter noted supersedes all operative authority heretofore granted to Harbor Carriers, Inc. or its predecessors with the exception of certain prescriptive rights described in Appendix A to Decision No. 29778 (40 C.R.C. 493,515).

Showing common carrier by vessel operative rights, restrictions, limitations, exceptions, and privileges applicable thereto.

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

Issued under authority of Decision No. 79092, dated AUG 31, 1971, of the Public Utilities Commission of the State of California, on Application No. 52621.

SECTION 1. GENERAL AUTHORIZATION, RESTRICTIONS, LIMITATIONS AND SPECIFICATIONS

SAN FRANCISCO BAY OPERATIONS

Harbor Carriers, Inc., by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to transport persons by vessel over the waters of San Francisco Bay between San Francisco, on the one hand, and Angel Island State Park, Tiburon, Alcatraz Island and Sausalito, on the other hand, and between Berkeley, on the one hand, and Angel Island State Park and Tiburon, on the other hand, subject to the following conditions:

A. San Francisco - Angel Island State Park

Harbor Carriers, Inc. shall provide in its tariff and timetable for at least one trip per day in each direction during the period from June 1 through September 10 of each year. In addition, applicant is authorized to provide in its tariff and timetables for an on-call service, on one hour's notice, for three or more passengers during the period from September 11 through May 31 of each year.

B. San Francisco - Tiburon

Harbor Carriers, Inc. shall provide in its tariff and timetable for at least two trips per day in each direction during the period from June 1 through September 10 of each year. In addition, applicant is authorized to provide in its tariff and timetable for an on-call service, on two hours' notice, for 15 or more adult passengers during the period from September 11 through May 31 of each year.

Issued by California Public Utilities Commission.

Decision No. 79092, Application No. 52621.

C. San Francisco - Alcatraz Island

Harbor Carriers, Inc. shall provide in its tariff and timetable for at least two trips per day in each direction during the period from June 1 through September 10 of each year. In addition, Harbor Carriers, Inc. is authorized to provide in its tariff and timetable for an on-call service, on one hour's notice, for five or more adult passengers during the period from September 11 through May 31 of each year.

D. San Francisco - Sausalito

Harbor Carriers, Inc. shall provide in its tariff and timetable for at least one trip per day in each direction during the period from June 1 through September 10 of each year. In addition, Harbor Carriers, Inc. is authorized to provide in its tariff and timetable for an on-call service, on two hours' notice, for 15 or more adult passengers from September 11 through May 31 of each year.

E. Berkeley - Angel Island State Park

Harbor Carriers, Inc. shall provide in its tariff and timetable for at least one trip per day each direction during the period between April 1 through October 31 of each year. In addition, Harbor Carriers, Inc. is authorized to provide in its tariff and timetable for an on-call service, on two hours' notice, for 75 or more adult passengers between the period November 1 through March 31 of each year, provided that service commences after 9:00 a.m. and terminates before 6:00 p.m. of the same day.

F. Berkeley - Tiburon

Harbor Carriers, Inc. shall provide in its tariff and timetable for at least one trip per day in each direction during the period from April 1 through October 31 of each year. In addition, Harbor Carriers, Inc. is authorized to provide in its tariff and timetable for an on-call service, on two hours' notice, for 75 or more adult passengers, between the period November 1 through March 31 of each year, provided that service commences after 9:00 a.m. and terminates before 6:00 p.m. of the same day.

Issued by California Public Utilities Commission.

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MAINLAND-CATALINA OPERATIONS

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. 79092, Application No. 52621.