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Decision 92-03-040 March 11, 1992

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
Harbor Bay Maritime, Inc., a Cali-
fornia Corporation, for a Certifi-
cate of Public Convenience and
Necessity to Operate as a Vessel
Common Carrier of Passengers on San
Francisco Bay Between Alameda and
San Francisco.

ORIGINAL

Application 91-03-058
(Filed March 27, 1991)

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applicant.

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Attorneys at Law, and Roger Murphy, for
Blue and Gold Fleet; and David
Singlestad, Attorney at Law, Jo Chapman,
and W. Graham Claytor, III, for
Alameda/Oakland Committee for Aquatic
Transit; protestants.

Jody London, for the Division
of Ratepayer Advocates.

Tom Enderle, for the Transportation
Division.

OPINION

1. Summary of Decision

This decision grants Harbor Bay Maritime, Inc.'s (Harbor Bay) application for a Certificate of Public Convenience and Necessity (CPCN) to operate a passenger ferry between its terminal facility on Bay Farm Island in the City of Alameda and its dock at Ferry Plaza in the City and County of San Francisco.

The certificate is granted without conditions regulating competition in the scheduling, minimum fares, or marketing of the ferry service, because competition between Harbor Bay's ferry and the existing ferry service operated by protestant Blue and Gold

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Harbor Bay's motion for leave to waive the filing of, and comment on, the proposed decision, as permitted in vessel cases under Rule 77.1 of the Commission's Rules of Practice and Procedure, is granted. Accordingly, this is a final order.

In recognition of the strong expressions of interest and support for starting this ferry service which have been received from potential riders and affected political jurisdictions, and the substantial expense being incurred by the applicant to lease its vessel and by the public to construct parking and terminal facilities, this order is made effective immediately.

2. Background and History of Application

2.1 Summary of Application

Harbor Bay requests authority pursuant to Section 1007 of the California Public Utilities (PU) Code to operate scheduled and unscheduled ferry services between its marine terminal facility, located in the master-planned community of Harbor Bay on Bay Farm Island Peninsula within the City of Alameda, and a vessel-docking facility on the south side of Ferry Plaza in San Francisco. Harbor

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Bay requests that the order be made effective as of the date it is signed.

2.2 Background of the Application

2.2.1 Geographical Setting of the Proposed Ferry

The City of Alameda is situated primarily on an island about seven miles long, the northwesterly end of which is across a narrow part of the San Francisco Bay from downtown San Francisco in the general vicinity of the San Francisco-Oakland Bay Bridge. To the north and west of the island of Alameda, across a navigable waterway known as the Estuary is the City of Oakland. Three bridges and a twin-bore tube connect Alameda Island with Oakland.

Also within the City of Alameda's boundaries is a sizable peninsula to the south and west of the island. For historical reasons this peninsula is known as Bay Farm Island. It is situated immediately north of the Oakland International Airport, and is separated from Alameda Island by a short channel, which opens up into San Leandro Bay and is spanned by a drawbridge. The airport itself is within Oakland's city limits, so that the east and north sides of the City of Alameda are bordered by Oakland, and the remainder by the open waters of San Francisco Bay.

By reason of its location, the major East Bay transportation corridor bypasses Alameda in favor of a parallel alignment on the Oakland side. The principal transportation facilities are Interstate Highway 880 (also known as the Nimitz Freeway), and Bay Area Rapid Transit's (BART) Fremont line. Until October 19, 1989, the Nimitz Freeway connected Oakland with the Bay Bridge by means of the so-called Cypress Structure, a two-mile segment which was destroyed by the Loma Prieta earthquake and has not since been rebuilt. Transit service until the earthquake was provided exclusively by Alameda/Contra Costa County Transit District (A/C) buses, and by bus connection to BART's Fruitvale and Coliseum stations.

2.2.2 Description of the Applicant

Harbor Bay is a California corporation, wholly owned by Harbor Bay Isle Associates, a California general partnership. It was organized specifically to operate the ferry service which is the subject of this proceeding.

Harbor Bay Isle Associates was formed in 1971 to develop a planned community upon some 900 acres of undeveloped land on Bay Farm Island, and has been the master developer of that parcel since 1972. Doric Development, Inc., a general partner of Harbor Bay Isle Associates, is the managing general partner for the Harbor Bay development.

Conceived as a planned community consisting of some 5,000 homes and a large business park, the Harbor Bay development is now almost totally built out. Only so-called Village Five, a 630-home development, remains to be developed. It was recently placed into a separate partnership, Harbor Bay Village Five Associates, for the purpose of developing the final 600 or so homes.

2.2.3 Background of the Proposed Ferry Service

According to the applicant's president, Steven K. Brimhall (a member of the partnership's management team since 1971 and a vice president of Doric Development, Inc.), ferry service to San Francisco was contemplated by the developer from the outset. Until the development was, in the developer's opinion, sufficiently populated to support the service, Harbor Bay Isle Associates did not pursue the start-up of a scheduled ferry.

In the early 1980's, Harbor Bay Isle Associates tested various vessels for suitability for commuter passenger service to downtown San Francisco, including a Vosper Hovermarine (i.e., surface effect) vessel which was chartered for an extended test period, other surface effect ships, catamarans, and traditional mono-hulled vessels. The Urban Mass Transit Administration funded a study entitled "Surface Effect Ship Demonstration on San

Francisco Bay," dated February 1986, which included a review of nearly 1,700 questionnaires completed by passengers who had just taken a round trip test ride on the Vosper Hovermarine between San Francisco and Harbor Bay, Alameda. (Exh. 29.) Project planning also included the performance of market surveys of potential passenger interest, which demonstrated to the developer's satisfaction that regular commuter passenger service on this route would be feasible and viable.

2.2.4 Background of the Existing
Oakland/Alameda Ferry

According to Robert Warnick, the City of Alameda's Public Works Director, Alameda was also making efforts to initiate ferry service to San Francisco by the late 1980's. When the Loma Prieta earthquake destroyed the Cypress Structure and closed the Bay Bridge in October 1989, hasty arrangements were made to establish emergency service from Oakland and Richmond to San Francisco. Operating authority was granted to Harbor Carriers, Inc., more commonly known as Red and White Fleet (Red and White). (Decision (D.) 89-10-042.) In D.89-11-031, the Commission also granted Red and White authority to add service to Alameda and Berkeley.

Service from Richmond and Berkeley was later discontinued, but Alameda and Oakland service continued to be operated by Red and White from temporary docking facilities on the Estuary. This service was furnished under the terms of a contract between Red and White and the California Department of Transportation, which expired on March 23, 1990. A new agreement was executed between Red and White and the City of Alameda on March 26, 1990, under which the service was operated for one year with

subsidy assistance from the Metropolitan Transportation Commission (MTC).¹

The City of Alameda, utilizing earthquake relief funds made available to mitigate the loss of the Cypress Structure, constructed a permanent parking lot, shelter, gangway, and docking facility on the Estuary near the west end of Alameda Island. When the contract to operate the service came due for renewal in March 1991, it was awarded to Blue and Gold for another one-year period.²

Ridership on the Oakland/Alameda ferry was at about the level of 500 per day in March 1991, but rose to a high of about 900 per day in August. The annualized figure is somewhere between the two, producing revenues insufficient to cover the cost of operation. Consequently a continued subsidy of \$700,000 per year is required in order to maintain the service. Of this sum, 80% is derived from MTC's Measure 1 (bridge toll) funds, and the remaining 20% is paid by the City of Alameda and the City of Oakland in equal amounts of \$70,000.

2.2.5 Harbor Bay's Weekend Boat Operations

On or about July 4, 1991, during the pendency of this proceeding, Harbor Bay operated its boat between Harbor Bay Island and the San Francisco Ferry Building on weekends and holidays, and offered rides to the general public. No fare was charged for the ride. Passengers were permitted to disembark at San Francisco or Bay Farm Island, and to return on a later crossing of the vessel if

¹ See D.90-05-041 (May 7, 1990), p. 1. D.90-05-041 was modified by D.90-08-044 (August 9, 1990) to permit Red and White to discontinue the service if it failed to receive the subsidy.

² Blue and Gold sought and obtained this Commission's authority to operate that service in Application 91-03-053. See D.91-07-049 (July 25, 1991).

they desired. These rides were offered as part of the marketing of the Harbor Bay residential development.

The weekend and holiday operations gave rise to a dispute between Blue and Gold and Harbor Bay concerning their lawfulness, as will be described in greater detail below. The weekend and holiday program continued intermittently until late summer or early autumn, apparently until after the hearings in this matter concluded.

2.3 Procedural Background

2.3.1 Application and Protests

Harbor Bay filed its application on March 27, 1991.³ Protests were filed by Blue and Gold, and by the Alameda/Oakland Committee for Aquatic Transit (A/OCAT).

Blue and Gold's protest contends that commencement of a new ferry service from Alameda by Harbor Bay would jeopardize the viability of the Alameda/Oakland ferry by diverting passengers (and thus revenue) away from it, and challenges both the public need for the new service and Harbor Bay's fitness to operate it under the traditional formulation of the requirements for a CPCN. Blue and Gold also asserts that it would be inappropriate to grant the certificate simply to aid Harbor Bay's developers in marketing their real estate development for private gain.

A/OCAT contends that the new ferry cannot become self-supporting, and will necessarily have to compete with the existing Oakland/Alameda ferry for scarce public subsidies, thus threatening the future of that service. A/OCAT argues that, because the Harbor Bay ferry would serve a much more limited and isolated community of

³ This filing date coincides almost exactly with Blue and Gold's assumption of responsibility for operation of the Alameda/Oakland ferry from the west end of Alameda Island under the second one-year agreement. See D.91-07-049 (July 24, 1991).

potential riders, the public interest would not be served by granting it a certificate to operate.

2.3.2 Hearings and Submission

In view of the seriousness and complexity of the underlying issue, i.e., that the future of one privately owned (but publicly supported) passenger ferry was potentially threatened by another private ferry serving the same apparent market area, the Administrative Law Judge (ALJ) ruled at the prehearing conference that full evidentiary hearings should be held. Hearings commenced July 22 and concluded September 20, 1991, and the matter was submitted on October 16 after post-hearing briefs were filed.

2.3.3 Motion for Issuance of a Cease and Desist Order

On July 17, Blue and Gold filed a Motion for Issuance of an Immediate Cease and Desist Order to prevent Harbor Bay from operating its weekend and holiday complimentary trips. Blue and Gold argued that the program violated PU Code § 1007, because Harbor Bay lacked a CPCN and was operating a ferry for compensation within the meaning of that statute. Harbor Bay responded that the Commission lacked jurisdiction to grant the requested relief, but that even if it had such jurisdiction, the operation fell within the so-called "loop charter exemption" of Section 1007. See Golden Gate Steamship Lines, Inc. v. Public Utilities Comm. (1962) 57 Cal. 2d 373, 377, 19 Cal. Rptr 657, and H. Tourist, Inc., dba Catalina Cruises v. Island Passenger Service Corp. (1985) 18 CPUC 2d 527. The ALJ took the matter under submission at the conclusion of the hearing.

2.3.4 Waiver of Filing and Comment
by Harbor Bay

Pursuant to Rule 77.1, and without objection by the protestants, at the conclusion of the hearing Harbor Bay orally moved to waive the PU Code § 311 procedure for filing of, and

comment on, the proposed decision.⁴ The ALJ granted the motion, and accordingly, this decision is issued without receiving comments from the parties.

3. Analysis and Discussion of the Record

3.1 Issues to Be Resolved by the Commission

The application and protests essentially raise two issues for determination by the Commission: first, should a CPCN be granted to Harbor Bay to operate a new ferry services between its terminal facility at Harbor Bay Island and its dock at Ferry Plaza; and secondly, if the Commission grants the CPCN, should it do so subject to conditions to regulate competition in the scheduling, fares, and marketing of the service vis-a-vis the operator of the existing Alameda/Oakland ferry?

3.2 Governing Regulatory Principles and Commission Policy

Harbor Bay and Blue and Gold each cite D.84-04-094 Re Island Passenger Service, Inc. (1984), 14 CPUC 2d 642 (unpublished decision) to articulate the regulatory principles that determine whether a CPCN should be granted in a vessel case. Island Passenger states that in order for public convenience and necessity to be shown, a broad view of the needs of a particular class of public concern should be taken, and the applicant must establish reasonable fitness and responsibility to conduct the proposed service. The public's interest is considered to be synonymous with

4 Rule 77.1 provides in pertinent part:

"Applicants in matters involving...vessels may make an oral or written motion to waive the filing of and comment on the proposed decision. Any party objecting to such waiver will have the burden of demonstrating that such filing and comment is in the public interest."

public convenience, and in determining the public interest the Commission weighs the respective advantages and disadvantages of competitive and limited monopoly service.⁵

In applying these basic principles, the Commission has moved away from notions of exclusivity and protectionism which pervaded earlier vessel cases. As the Commission stated in Pacific Towboat and Salvage (1982), 9 CPUC 2d 475:

"[I]n the transportation field, public convenience and necessity should be liberally construed, and...competition should be encouraged. Id. 483.

* * *

"[P]rotection from limited competition is contrary to the public interest.... Id. 484.

* * *

"[T]he Commission will not limit carrier entry into the water vessel market simply to protect the interests of existing carriers. We will allow competition whenever to do so is not adverse to the public interest." Id.

Consequently, if the commencement of a new vessel service is not contrary to the broad public interest, the Commission will grant the certificate.

Only where uncontrolled competition would not lead to lower rates or better service to the traveling public is competition among carriers by vessel considered contrary to the

5 In Island Passenger an application by a vessel carrier for authority to provide passenger service on the mainland-to-Catalina Island run was denied, because the applicant's point of origin, while not in the immediate area of protestants' points of origin, was within a 20 to 25-mile radius of those points, and all of the carriers' destinations converged at a single point. The Commission found that additional competition by the applicant would not produce any significant benefits to the public.

public interest. See Island Passenger, supra (mimeo.), p. 20. Destructive economic warfare among carriers is secondary to the needs of the public and will not, by itself, constitute a basis for denial of the certificate. Re: Harbor Carriers, Inc., (1985) 18 CPUC 2d 110, 122. Thus, whether or not prospective competition from a new carrier is consistent with the public interest is an issue of fact which the Commission must resolve in determining whether to issue a CPCN, where an existing vessel carrier serves the market.

As Harbor Bay correctly observes in its Post-Hearing Brief:

"The major direction of the Commission's prior decisions on applications for new or expanded ferry service emphasizes public need and the demonstration of new ridership rather than impacts on other existing carriers. Public interests are defined in terms of the passengers desiring convenient service, not in terms of the desires of existing carriers to control the market and keep out other service providers." (pp. 57-58.)

Consequently, it is the former issue which deserves the greater part of our attention, and we turn to that issue first.

3.3 Discussion of the Record

3.3.1 Existence of Public Need

Harbor Bay presented extensive testimony documenting its claim that there is a group of potential riders for the new service which is largely unserved by existing transit operations. While most of this group resides or works in Harbor Bay Island, there is a second group of potential riders at the southeast end of Alameda Island who may also find the new ferry more convenient, and therefore more desirable, than the transit facilities (including the Alameda/Oakland ferry) and private vehicles they now utilize to make their journey to work.

Harbor Bay's uncontradicted testimony is that there are currently 4,500 homes on Harbor Bay Island, 2,500 of which are

within the Harbor Bay development. The remainder are on the historically high ground of Bay Farm Island, which was not developed as part of that project. Approximately 500 more homes will be built and occupied in the project, so that Harbor Bay Island will have a total of 5,000 homes when fully developed.

Based upon surveys performed by the Harbor Bay Community Association, approximately 1,000 of the existing homes have at least 1 resident who works in San Francisco. The 6.9-mile distance across the San Francisco Bay between the Harbor Bay ferry terminal and the Ferry Plaza terminal is by far the shortest and most direct route to San Francisco, so this group obviously comprises a ready market for the service. Current transit service by A/C, BART, and the Alameda/Oakland ferry is indirect or slow (or both), often requiring one or more transfers between modes or routes of travel. A significant proportion of the existing residents of Harbor Bay Island can walk or bicycle to the ferry terminal, and may therefore find the proposed ferry convenient and desirable.

In addition, approximately 2,000 people are currently employed at the Harbor Bay Business Park. Witness Benisa Berry testified that this group was surveyed to determine where they reside, and approximately 7.8% responded with a San Francisco residence address. This indicates a genuine possibility that a reverse market exists for the commuter service.

Harbor Bay Island's location immediately next to the Oakland International Airport also presents the intriguing potential for the ferry service to connect with a shuttle bus, providing a direct link between San Francisco's financial district and Oakland Airport, a possibility that the City of Alameda has encouraged Harbor Bay to explore. In light of the overcrowded and chaotic airport ground transportation situation to and from both Oakland and San Francisco International Airports, and the volume of flight activity at the latter, this prospect may appeal to an even greater unserved market than Harbor Bay has even recognized.

In addition to a primary market consisting of passengers whose origins and destinations are on Bay Farm Island, the Harbor Bay ferry may draw a proportion of its passengers from the southeast end of Alameda Island. The geographical extent of this market, and the proportion which may be subject to diversion from the Alameda/Oakland ferry by the new service, were the subject of considerable conflicting testimony. However, a substantial proportion, (perhaps a quarter or more) of Alameda Island's total population resides between Park Street (the northernmost crosstown arterial connecting Alameda Island with Oakland by bridge) and San Leandro Bay.⁶ Harbor Bay also identified relatively minor secondary markets for its ferry in San Leandro west of the Nimitz Freeway, and in portions of Oakland south of the Fruitvale BART station.

This evidence indicates the existence of a public need for a new, direct ferry service between Bay Farm Island and San Francisco. Other facts corroborate the existence of such a need. First, the Harbor Bay Isle Associates' February 1986 report on the Surface Effect Ship Demonstration indicates a high degree of passenger acceptance of rapid waterborne transportation between these points, and a "large majority" of the 1,700 demonstration passengers surveyed felt that such transportation would be better than crossing the Bay by bus or car pool. (Ex. 28, p. 33.) Secondly, Harbor Bay (or its corporate parent) has also made several other attempts to assess the degree of interest in the new ferry service since the conclusion of the surface effect ship demonstration project, all with positive results.

⁶ Viewing the evidence in the light most favorable to the protestants, Park Street is the northernmost boundary of the zone of potential competition between the two ferries.

In December 1987, Anthony Hurt & Associates, a marketing research firm, conducted a telephone survey of a sample of 100 residents, 50 each from Bay Farm Island and from the portion of Alameda Island south of Park Street, or about 4 to 6% of the estimated number of persons in the 2 areas who worked in downtown San Francisco. The survey results indicated that,

"The planned Ferry Boat Service is perceived very positively by a majority of the respondents with more than two-thirds indicating that they are 'likely' or 'very likely' to use the Ferry. The strongest positive response is from residents of Bay Farm Isle with more than half responding that they are 'very likely' to use it." (Ex. 30, cover letter, p. 1.)

The survey document was fairly comprehensive, and the results were relied upon by the Harbor Bay developer in planning the service at issue in this proceeding.

In 1990, The Research Alliance conducted another survey to determine the extent of interest in using a ferry commuter service between Harbor Bay and the Ferry Building by residents of Harbor Bay/Bay Farm, the Fernside neighborhood of southeast Alameda, and the remainder of the western half of Alameda Island. The results indicated that projected ridership for the ferry was 244 daily round trip passengers at a \$5.00 fare, and 402 at a \$3.00 fare.⁷ (Exh. 32.)

Finally, in June 1991, Harbor Bay again attempted to gauge the degree of public interest in its proposed ferry by distributing and mailing some 4,000 copies of a document titled "Petition to Support a New Alameda Ferry from Harbor Bay/Bay Farm Island to San Francisco." (Ex. 33.) Although the weight accorded

⁷ The latter figures are roughly comparable to the annualized ridership of the Alameda/Oakland ferry at an equivalent fare level.

to the results of this effort is diminished by the fact that it was conducted during the pendency of this proceeding with the obvious purpose of eliciting public support, the result (some 2,520 affirmative responses) does lend some additional credence to Harbor Bay's claim that there is unsatisfied public demand for the service.

Perhaps more compelling than any of the efforts to survey the market is the fact that the City of Alameda has required the Harbor Bay developer to operate the ferry as a condition of development approval. This was specifically required by the city as a traffic mitigation measure, and represents a considered judgment by Alameda's governing body that there is a public need for such service. The city has also caused parking and terminal facilities for the ferry to be funded through public assessment districts.

Under the terms of a 1990 agreement (the Development Agreement) between the Harbor Bay developer and the City of Alameda, the city requires the developer to provide ferry service between Bay Farm Island and San Francisco for a period of three years.⁸ In order to provide parking and terminal facilities on Bay Farm Island and docking facilities in San Francisco, the City of Alameda is providing funds from two separate assessment districts, totaling some \$1.5 million for these purposes. As explained by the city's Public Works Director, approximately \$1.0 million is being paid by Assessment District 84-4, and the remainder from so-called Mello-Roos funds, under which the Harbor Bay Business Park Assessment District is furnishing additional

⁸ The Development Agreement is not part of the record, but Messrs. Brimhall and Warnick, and Mayor William Withrow, all testified to this effect.

funds by assessing district properties that will benefit from the improvements.

Taken together, these facts strongly indicate that a public need exists for the new ferry. Although A/OCAT's testimony demonstrates that existing transit services have the capacity to accommodate the number of people who might use the ferry, this is beside the point. The record demonstrates that there is a strong independent interest in, and support for, a direct maritime link between Bay Farm Island and San Francisco's downtown area.

The existing Alameda/Oakland ferry is ill-equipped to serve this need, for its Alameda terminal is fully 7.4 miles from Harbor Bay, across a drawbridge and along city streets. A bus trip from Harbor Bay to the Alameda/Oakland terminal requires nearly a half-hour by A/C bus, making the overall transit time to San Francisco unacceptably long to most commuters when the additional 20-minute ferry ride and transfer times are added. Given these circumstances, we find that Harbor Bay has satisfied its burden of showing public need for the new ferry.

3.3.2 Competitive Effects

The protestants contend that if the Commission grants Harbor Bay's CPCN, the existing Alameda/Oakland ferry service will lose its passenger base to an extent that will threaten its existence. The threat, they assert, would result from the loss of revenue, compounded by funding agencies' withdrawal of subsidies. In the extreme case, they suggest that both services could fail because the competition for revenue and subsidies would become destructive.

Harbor Bay urges us to adopt a standard under which the CPCN should only be denied (assuming public need is otherwise established) if there is "compelling evidence of potential substantial detriment." We need not go that far: as we stated above, we only need to consider whether competition between Harbor Bay and the existing ferry will result in lower fares or better

service to the traveling public without harming the public interest. If the answer is affirmative, the marketplace (as reflected in part by the willingness of public agencies or private organizations to pay a subsidy to operate a particular service) will create the equilibrium that will determine whether the service survives.

We have already found that the Harbor Bay ferry will result in better transit service to the public, for it will provide a direct and expeditious means for commuting between a relatively remote and poorly served part of the City of Alameda and downtown San Francisco. There is also the possibility of establishing a maritime link from San Francisco to Oakland Airport, which does not now exist. Thus, we would expect the new service to result in appreciable new transit ridership.

PU Code § 1007 only requires an affirmative finding, so it is not necessary also to find that alternative transit facilities provide poorer service. (Re Harbor Carriers, Inc. (1985) 18 CPUC 110, 121.) Nevertheless, it is abundantly clear from the testimony of Benisa Berry and others that the number of transfers and the overall travel time makes existing transit services which serve southeast Alameda inconvenient for residents. In particular, permitting competition within a reasonably overlapping market area between the two ferries would promote the fullest range of choice for passengers within that market area, which is in the public interest. Our decision in this regard might be different if the ferry sought to be protected by the protestants were in direct competition with Harbor Bay.⁹

⁹ Regulatory decisionmakers have struggled, literally for centuries, with the tension between the exclusive proprietary nature of a ferry franchise and the salutary effects of

(Footnote continues on next page)

As to the magnitude of potential diversion of passengers--and thus revenue--from the Alameda/Oakland ferry, the record is unclear. On the basis of a survey of East Bay ferry commuters conducted aboard the Alameda/Oakland ferry for Red and White in November 1990 (Ex. 74.), Blue and Gold predicts that 31% of Alameda residents and 38% of all passengers using the ferry would use the alternative Harbor Bay service. Harbor Bay, by contrast, relies upon the results of a survey conducted in April 1991 by Deakin/Harvey/Skabardonis as part of a study of Bay Area ferry service conducted for MTC. (Ex. 78.) The findings of that survey indicate that, of the passengers boarding the Alameda/Oakland ferry at Alameda, 14% reside on, and originated their journey to work at, Bay Farm Island, and an additional 10% originated on Alameda Island south of Broadway.

Although the survey results vary, there is no doubt that a substantial proportion (perhaps a quarter) of the Alameda/Oakland ferry passengers may switch to the Harbor Bay ferry when it starts; Harbor Bay's own witness, Greig Harvey, testified that the loss would be a "very large proportion" of the 24% identified by the Deakin/Harvey/Skabardonis survey, if the fares and travel time are competitive. Consistent with this estimate, Blue and Gold predicts that it will lose 157 of the 621 weekday passengers it requires to break even.

But Blue and Gold is not, in fact, breaking even on its passenger revenues. As explained in its Brief,

(Footnote continued from previous page)

competition, where there are changing demographic circumstances. See, for example, Huzzey v. Field, 150 Eng. Rep. 186 (Ct. of Exchequer, 1835), reproduced in Fessler, Developmental Legal History: Cases and Materials (Unpublished, Univ. of Calif. Law School, Davis, 1975), pp. 106-111.

"The loss of passengers would result in a corresponding loss in fare box recovery which, in turn, would require a corresponding increase in public subsidy to recover the cost of the service." (p. 35.)

This underscores the fact that Blue and Gold's subsidy arrangement with the cities of Alameda and Oakland is the wild card in its hand. If the subsidy is eliminated, the Alameda/Oakland ferry would likely not survive. It is up to the policymakers who furnish the money, and not this Commission, to make that decision. The subsidy is thus a partial reflection of overall public demand for the service, and is an economic power in the hands of the funding agencies and municipalities that decide how to expend public funds.

As Blue and Gold concedes, this Commission "neither determines the qualifications for nor grants public subsidy funds for the operation of ferry services." (Brief, p. 39.) Any consideration of the question whether the commencement of Harbor Bay's ferry service will deprive Blue and Gold of its subsidy falls outside our jurisdiction, and is therefore immaterial, irrespective of its practical effect. Moreover, the protestants' dire predictions are pure speculation, for nobody can foresee whether

MTC, or any other funding agency, will be willing or able to subsidize any particular transit facility in the future.¹⁰

"The public interest is synonymous with public convenience. In determining the public interest, the Commission weighs the respective advantages and disadvantages of competitive and limited monopoly services." D.87-02-025 Re California Cruising, Inc. and Re H. Tourist, Inc. (unpublished decision 1987, p. 14), 23 CPUC 2d 631. In this instance the balancing process has resulted in a clear finding that the new ferry service is not contrary to the public interest. It will serve a heretofore unserved market for public transit, mitigating the traffic growth from the development of Harbor Bay Island, precisely as the City of Alameda intended when it required operation of the ferry as a condition of development.¹¹ We will not stand in the way of this worthy effort in order to protect a publicly subsidized ferry whose

¹⁰ Blue and Gold characterizes the competitive issue of subsidies thus:

"If the [Harbor Bay] application is granted, the Blue and Gold position will become muddled. Passenger diversion will be a certainty. The continuation of public subsidy will be an uncertainty. The risk of loss will become significantly larger and...the Alameda/Oakland ferry may simply cease operation." (Brief, p. 39.)

This is clearly not a sufficient basis for finding that the new ferry would not be in the public interest.

¹¹ Blue and Gold relies upon Re Castle Butte Water Co. (1962), 59 CPUC 500, in support of the proposition that the desire of an applicant to enter a public utility business so as to promote the sale of lots and homes is not sufficient to prove public convenience and necessity. We need not address that question here; the record amply demonstrates that the Harbor Bay Isle development is almost fully built out, and that a need for the service already exists.

only claim to such protection is the historical accident that it was first to be established.

3.4 Operational and Financial Fitness and Safety

It is clear to us that Harbor Bay's fitness to operate the new ferry service is not the principal issue before the Commission in this proceeding. Harbor Bay has demonstrated that it has available to it the facilities, equipment, experienced personnel, and financial wherewithal to operate the service safely and efficiently, at least through the initial three-year demonstration period. Accordingly, we will not dwell for long on these issues.

3.4.1 Operational Fitness and Safety

Harbor Bay has leased a Gulf Craft mono-hulled high-speed aluminum vessel, the "Harbor Bay Express," for a three-year period, with an option to purchase the vessel if it is needed beyond the lease period. This vessel recently operated for approximately six months between San Pedro and Catalina Island, on the open waters of the Pacific Ocean. It has a snack bar and restrooms, and is certified by the Coast Guard to accommodate 281 passengers, 3 deckhands, and 1 operator. It has a recently rebuilt generator and engines and new navigational equipment, passenger amenities, and cosmetic features. The draft of the vessel is five feet, sufficiently shallow to permit safe docking at both terminals. By the conclusion of the hearings the Harbor Bay Express had made at least 50 round trips between the Harbor Bay terminal and the Ferry Plaza dock without operational difficulty.

The main deck has fixed seating for 80 passengers, and tables and chairs for an additional 40. The upper deck has fixed seating for 80 passengers, to which movable seating can be added if needed. The upper deck is open, but can be enclosed with a canopy and side curtains in the event of inclement weather.

The vessel has a cruising speed of 24 knots and a top speed of 26 knots, but according to Harbor Bay's General Manager, it can maintain a 25-minute one-way scheduled run between Harbor Bay and San Francisco at a speed of 18 knots.¹² This schedule will allow half-hour turnaround trips in the morning and evening commute periods.

The vessel will be operated by a licensed captain over a route approved by the Coast Guard. Qualified crews will be hired by Harbor Bay, or obtained on a contract basis from an available labor pool.

Vessel maintenance, including fueling and watering, will be performed under contract at an appropriate maintenance facility. Arrangements have been made for emergency repairs and drydocking, as well as for routine maintenance.

Harbor Bay has made various contingency plans in the event of emergency mechanical failure or dangerously inclement weather conditions. On the Alameda side, in the case of a short-term emergency breakdown Harbor Bay has arranged with A/C that upon telephone notification, A/C express commuter bus line OX from Bay Farm Island to downtown San Francisco will be looped out to the Harbor Bay Landing Shopping Center a few minutes away. With overnight notification, A/C can use its large-capacity articulated buses on this line to accommodate the additional passengers from the ferry terminal to San Francisco. In addition, A/C will provide regularly scheduled bus service to and from the Harbor Bay terminal on lines 49 and 63, which tie into the rest of the A/C system. A/C is also operating a new line, number 319, which connects Harbor Bay terminal with the other Alameda/Oakland ferry terminal on the

¹² In last summer's complimentary demonstration service the vessel operated at 20 to 21 knots and achieved satisfactory schedule performance.

Estuary. Harbor Bay Business Park Association, in cooperation with the City of Alameda, also operates a system of shuttle buses with 15 minute headways to BART which, with notice the prior evening, can be deployed to shuttle ferry passengers to BART. If a service failure occurs during the day, Alameda-bound commuters can avail themselves of any of these alternative services by returning to Alameda on BART, A/C, or the Alameda/Oakland ferry.¹³

Harbor Bay has constructed a floating dock facility on offshore land owned by the Port of Oakland at Bay Farm Island. It is equipped with a new gangway to replace the one used for the surface effect ship demonstration, and was recently augmented with dolphins, special pilings placed on the south side of the float to facilitate safe docking operations when there is a north wind. Parking facilities and a shelter have also been constructed at the Harbor Bay Island terminal site. In San Francisco Harbor Bay has constructed a floating dock on the south side of Ferry Plaza near the Ferry Building, near San Francisco's financial district. Both facilities were built pursuant to various required permits and licenses, and the California Public Utilities Commission's (CPUC) Transportation Division staff has approved their safety.

3.4.2 Financial Fitness

Harbor Bay's balance sheet shows total assets of \$465,234 as of June 30, 1991, and its income statement shows a net loss of \$34,000 from inception through June 30, 1991. Mr. Brimhall testified, however, that for cash management purposes, Harbor Bay Isle Associates clears out the accounts and keeps very nominal cash balances in all the Harbor Bay development operating entities, and consolidates cash for investment purposes. Harbor Bay's finances therefore do not provide a true picture of its financial strength.

¹³ Harbor Bay is also negotiating for a backup boat from Red and White.

Harbor Bay's 1991-93 Operations Forecast (Ex. 69) indicates that it anticipates it will lose \$421,000 the first year, \$289,000 the second year, and \$189,000 the third year of the ferry's operation.¹⁴ These losses are predicted upon an average daily 1-way ridership level of about 650 passengers, which is in the approximate range of the Alameda/Oakland ferry, at an average fare \$.50 higher than that of Blue and Gold.¹⁵ Since the ferry is not expected to be self-supporting during this period, the developer has arranged to pay for its operation in part through private subsidies from several sources.

Harbor Bay Business Park Association, which consists of the property owners of offices, research, and development facilities and supporting retail commercial buildings in the Harbor Bay Business Park, has agreed by resolution that it will contribute a subsidy at the rate of \$.06 per occupied square foot per year for as long as the ferry service operates. This is expected to amount to some \$60,000 to \$70,000 annually. The funding source is guaranteed, since the subsidy is included among assessments levied against the Business Park properties which are secured by liens.

Harbor Bay Isle Associates has committed to contribute an amount of subsidy needed to cure any deficit remaining after other subsidies have been paid. It has entered into a reimbursement agreement with Harbor Bay Village Five Associates, under which the latter must contribute 1/3 of the operating deficits of the ferry service for the first 3 years of operation, up to a total of \$500,000. (Exh. 23.) As of December 31, 1990, the market value of the partners' capital in Harbor Bay Isle Associates was approximately \$123 million, and Mr. Brimhall testified that in his

14 Exhibit 69 is reproduced in full as Appendix A.

15 See Ex. 70, Harbor Bay's Revenue Assumptions, which is included as Appendix B.

opinion Harbor Bay Isle Associates will have the resources to contribute its share of operating expenses for the full 3 years of initial operation.

Inasmuch as the subsidy commitment for the ferry, and its sponsors' available resources, appear sufficient to satisfy Harbor Bay's projected operating deficit for the first three years of operation, we find that Harbor Bay is financially fit to provide the proposed service.

4. Conditions to Regulate Competition

As part of its license agreement for use of the offshore lands belonging to the Port of Oakland, Harbor Bay Isle Associates has agreed to be bound by five conditions designed to minimize the effect of its ferry on the Alameda/Oakland ferry. These conditions, among other things, purport to place certain limitations on the fares, scheduling, and marketing of the new ferry.¹⁶

The protestants have asked that, if we grant Harbor Bay's request for a CPCN, we do so subject to these conditions. We express no opinion as to the legality of the conditions or the advisability of including them in the license agreement, but in view of our previous discussion of the public interest in inter-carrier competition, it would be inappropriate to impose such conditions on Harbor Bay. To do so would only negate what we seek to accomplish by granting the certificate. Accordingly, we decline the protestants' request.

¹⁶ Among these conditions are a requirement that Harbor Bay stagger its departure and arrival times vis-a-vis those of the Alameda/Oakland ferry, charge a fare of at least \$.50 per passenger higher than that of the Alameda/Oakland ferry (subject to this Commission's approval), and restrict its direct mailings to Alameda Island addresses west of Broadway unless approved by a joint marketing task force.

5. Cease and Desist Order

In light of the circumstance that we are granting Harbor Bay an unrestricted certificate to operate scheduled and unscheduled ferry service at filed tariff rates, Blue and Gold's request for a cease and desist order is moot, and is therefore denied. Harbor Bay's authority to operate demonstration services, as long as such operations are properly compensated through charter agreements or filed tariffs, is part of its general authority as granted by this decision. However, our denial is without prejudice to Blue and Gold's right to institute a complaint proceeding before this Commission in the event that Harbor Bay should ever abuse its authority by operating ferry service that varies from the terms and conditions of the certificate granted herein.

6. Conclusion

We find that Harbor Bay possesses the operational and financial ability to operate the requested ferry service, and that its doing so is not contrary to the public interest. We therefore conclude that Harbor Bay should be granted a CPCN to operate that service, subject to the terms and conditions contained in Appendix VCC-69 attached.

In recognition of the strong expressions of interest and support received from potential passengers and affected political jurisdictions, and of the expenses being incurred by the applicant and the public to provide the vessel and facilities for the proposed service, we conclude that the order herein should become effective immediately.

Granting this application will have no substantial adverse impact on the environment.

Findings of Fact

1. There is an appreciable segment of the population which would benefit from establishment of a direct ferry service between Bay Farm Island in the Cities of Alameda and Oakland, on one hand,

and Ferry Plaza in the City and County of San Francisco, on the other.

2. A new ferry service between San Francisco and Bay Farm Island would make possible the establishment of a direct and expeditious ferry and shuttle bus link between the San Francisco financial district and the Oakland International Airport, which does not presently exist.

3. Existing transit facilities between Harbor Bay Island and San Francisco's financial district are not adequate to meet the public need for service between those points as conveniently as the proposed Harbor Bay ferry.

4. A new ferry service between Harbor Bay Island and San Francisco would mitigate the traffic growth which has already occurred, and which will further increase, as the result of development of Bay Farm Island.

5. Approximately \$1.5 million in public funds has already been spent for the construction of parking, terminal, and docking facilities at Harbor Bay Island and Ferry Plaza.

6. The foregoing facts indicate that there is a present need for the ferry service proposed to be operated by Harbor Bay.

7. A substantial proportion, perhaps as much as one quarter, of the present passengers who utilize the Alameda/Oakland ferry service operated by protestant Blue and Gold may be diverted to the Harbor Bay ferry if the Commission grants this certificate.

8. The Alameda/Oakland ferry currently receives public subsidies from the City of Alameda and the City of Oakland, and through them, from MTC, of approximately \$700,000 annually.

9. It is probable that the Alameda/Oakland ferry would be unable to continue to operate if it did not receive public subsidies.

10. The CPUC lacks jurisdiction to award, or otherwise control, public or private subsidies furnished to passenger vessel carriers in the State of California.

11. Operation of a new ferry service between Harbor Bay Island and San Francisco is not contrary to the public interest.

12. Harbor Bay has the facilities, equipment, experience, and financial strength to operate a ferry service between Harbor Bay Island and San Francisco safely, reliably, and efficiently.

13. There exists, and Harbor Bay has further arranged, adequate alternative public transit service between Harbor Bay Island and the San Francisco financial district to serve Harbor Bay's passengers in the event of unexpected failure to the ferry service, severely inclement weather, major maintenance requirements, or other contingency.

14. Harbor Bay has sufficient public liability insurance to satisfy the insurance requirements of this Commission.

15. Granting Harbor Bay's application will have no significant adverse effect on the environment.

16. Filing of, and comments on, the proposed decision have been waived pursuant to motion by Harbor Bay under Rule 77.1.

Conclusions of Law

1. Harbor Bay's application for a CPCN to operate a passengers ferry service between its terminal facility on Bay Farm Island in the City of Alameda, on the one hand, and its docking facility at Ferry Plaza in the City and County of San Francisco, on the other hand, should be granted, subject to the terms and conditions set forth in the certificate.

2. The certificate should be granted without being subject to any conditions regulating competition in the fares for, or the scheduling or marketing of, Harbor Bay's ferry service.

3. This order should be made effective immediately.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Harbor Bay Maritime, Inc., a corporation, authorizing it to operate as a common carrier by vessel, as defined in PU Code §§ 211(b) and 238, between the points and over the routes set forth in Appendix A, to transport persons.

2. Applicant shall:

a. File with the Transportation Division written acceptance of this certificate within 30 days after this order is effective.

b. Establish the authorized service and file tariffs and timetables within 120 days after this order is effective.

NOV 20 1991
EVERETT, WA
VANDERBILT
State in its tariffs and timetables when service will start; allow at least 10 days' notice to the Commission; and make timetables and tariffs effective 10 or more days after this order is effective.

NOV 20 1991
Comply with General Orders Series 87, 104, 111, and 117.

e. Maintain accounting records in conformity with the Uniform System of Accounts.

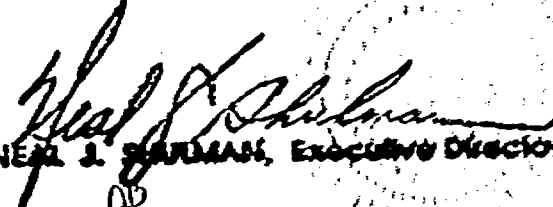
- f. Remit to the Commission the Transportation Reimbursement Fee required by PU Code § 403 when notified by mail to do so.

This order is effective today.

Dated March 11, 1992, at San Francisco, California.

DANIEL Wm. FESSLER
President
JOHN B. OHANIAN
PATRICIA M. ECKERT
NORMAN D. SHUMWAY
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY


NEAL J. SHUMAN, Executive Director
OB

APPENDIX A

HARBOR BAY MARITIME
FERRY OPERATIONS
1991-93 OPERATIONS FORECAST

XBMBU03

DESCRIPTION	1991					1992					1993					TOTAL
	10	20	30	40	TOTALS	10	20	30	40	TOTALS	10	20	30	40	TOTALS	
RECEIPTS																
Ticket Revenue	0	0	42	132	174	129	130	169	169	596	164	169	211	210	754	\$1,524
Concessions (Net)	0	0	3	8	11	8	8	10	10	35	9	10	11	11	41	87
NBPA	0	0	5	15	20	16	16	16	17	65	17	18	18	18	71	156
PVS	0	0	93	43	136	42	44	29	29	145	31	32	16	16	95	376
XIC	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL RECEIPTS	0	0	143	198	341	195	199	223	224	841	222	228	256	255	961	\$2,143
OPERATING COSTS																
Administrative	18	22	10	10	60	10	10	10	10	40	10	10	10	10	40	140
Accounting	3	4	6	6	19	5	5	5	5	20	5	5	5	5	20	59
Office Rent	2	2	2	2	8	2	2	2	2	8	2	2	2	2	8	24
Telephone	1	1	1	1	4	1	1	1	1	4	1	1	1	1	4	12
Office Services	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
License & Tax	0	2	0	5	7	2	2	2	2	8	3	3	3	3	12	27
Insurance	0	8	8	8	24	8	8	8	8	32	8	8	8	8	32	85
Boat Crew	3	3	72	72	150	76	76	76	76	304	80	80	80	80	320	773
Boat Parts & Expenses	0	0	18	26	44	23	26	26	26	101	23	26	26	26	101	246
Boat Engine Reserve	0	0	2	5	7	5	5	5	5	20	5	5	5	5	20	47
Boat Fuel	0	0	17	52	69	52	52	52	52	208	52	52	52	52	208	485
Boat Lease	51	51	51	51	204	45	45	45	45	180	45	45	45	45	180	564
Dock Rental-San Fran	0	2	6	6	14	6	6	6	6	24	6	6	6	6	24	62
Dock Rental-Alameda	0	5	4	4	13	4	9	4	4	21	4	9	4	4	21	55
Elk Monitoring	0	0	6	6	12	3	3	3	3	12	3	3	3	3	12	36
Uniforms	0	0	0	0	0	1	1	1	1	4	1	1	1	1	4	14
Security	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Promotion	3	8	10	10	31	10	10	10	10	40	10	10	10	10	40	111
Misc & Start Up	6	45	6	6	63	6	6	6	6	24	6	6	6	6	24	111
Depn-Boat Upgrade	0	0	7	20	27	20	20	20	20	80	20	20	20	20	80	187
Total Operating Costs	87	153	232	290	762	279	287	282	282	1130	264	292	287	287	1150	3,041
Net NBIA Cost	-87	-153	-89	-92	-421	-84	-88	-59	-58	-289	-62	-64	-31	-32	-169	-899
Cumulative NBIA Cost	-87	-240	-329	-421		-505	-593	-652	-710		-772	-836	-867	-899		
Fare Box Cost Recovery					22.83X					52.80X					65.54X	
Inc'l NBPA Subsidy					25.46X					58.55X					71.71X	

8-03-91

ASSUMPTIONS:

Ticket Revenue (See Attached Schedule)

Concessions Est @ \$.20/Rider (Net)

NB Bus Park Assn @ \$.605 per average S.F. Occupied

1	975,000 S.F.
2	1,075,000 S.F.
3	1,175,000 S.F.

Boat Crew

Escalate @ 5% Per Year

Fuel Cost Est @ \$.80 Gal

Sep 1 - Start of Service

Operating Hours:

254 - 8 Hr Days	= 2032	Consult
104 - 4 Hr Days	= 416	Midday
104 - 8 Hr Days	= 832	Weekends

Total 3280 Hrs/Year

(END OF APPENDIX A)

A.91-03-058

APPENDIX B

HARBOR BAY MARITIME
REVENUE ASSUMPTIONS

XBMSUC9

CPUO Proceeding A 91-05-028	
Sponsor/Witness Brumhall	
Date Ident. 8/5/91	Recd. 9/20/91
Victor D. Ryerson Administrative Law Judge	

**** DATES ****

9/1/91--6/30/92
7/1/92--6/30/93
7/1/93--6/30/94

**** FARES ****

FULL	DISCOUNT
\$4.00	\$3.00
\$4.25	\$3.25
\$4.50	\$3.50

**** DAILY 1 WAY RIDERS ****

COMPUTE	MIDDAY	WEEKEND
500	100	200
600	120	240
700	140	280

1991	***** # DAYS	***** COMPUTERS RIDERS	***** REVENUE	***** # DAYS	***** MIDDAY RIDERS	***** REVENUE	***** # DAYS	***** WEEKENDS RIDERS	***** REVENUE	***** RIDERS	***** TOTALS REVENUE	***** AVG
9/91	20	10,000	\$32,000	8	800	\$3,040	9	1,800	\$6,840	12,600	\$41,880	\$3.32
10/91	23	11,500	\$36,800	10	1,000	\$3,800	8	1,600	\$6,080	14,100	\$46,680	\$3.31
11/91	20	10,000	\$32,000	7	700	\$2,660	9	1,800	\$6,840	12,500	\$41,500	\$3.32
12/91	21	10,500	\$33,600	8	800	\$3,040	9	1,800	\$6,840	13,100	\$43,480	\$3.32
TOTAL	84	42,000	\$134,400	33	3,300	\$12,540	35	7,000	\$26,600	52,300	\$173,540	\$3.32
1992												
1/92	22	11,000	\$35,200	9	900	\$2,880	8	1,600	\$6,080	13,500	\$44,160	\$3.27
2/92	19	9,500	\$30,600	8	800	\$2,560	9	1,800	\$6,840	12,100	\$39,800	\$3.29
3/92	22	11,000	\$35,200	9	900	\$2,880	9	1,800	\$6,840	13,700	\$44,920	\$3.28
4/92	22	11,000	\$35,200	9	900	\$2,880	8	1,600	\$6,080	13,500	\$44,160	\$3.27
5/92	20	10,000	\$32,000	8	800	\$2,560	10	2,000	\$7,600	12,800	\$42,160	\$3.29
6/92	22	11,000	\$35,200	9	900	\$2,880	8	1,600	\$6,080	13,500	\$44,160	\$3.27
7/92	22	13,200	\$45,540	9	1,080	\$3,726	8	1,920	\$7,776	16,200	\$57,042	\$3.52
8/92	21	12,600	\$43,470	8	960	\$3,312	10	2,400	\$9,720	15,960	\$56,502	\$3.54
9/92	21	12,600	\$43,470	9	1,080	\$3,726	8	1,920	\$7,776	15,600	\$54,972	\$3.52
10/92	22	13,200	\$45,540	9	1,080	\$3,726	9	2,160	\$8,748	16,440	\$59,014	\$3.53
11/92	20	12,000	\$41,600	7	840	\$2,898	9	2,160	\$8,748	15,000	\$53,066	\$3.54
12/92	22	13,200	\$45,540	10	1,200	\$4,140	8	1,920	\$7,776	16,320	\$57,456	\$3.52
TOTAL	255	140,300	\$468,160	104	11,440	\$38,168	104	22,860	\$90,064	174,620	\$556,392	\$3.42
1993												
1/93	20	12,000	\$41,600	8	960	\$3,312	10	2,400	\$9,720	15,360	\$54,432	\$3.54
2/93	19	11,400	\$39,330	8	960	\$3,312	8	1,920	\$7,776	14,280	\$50,418	\$3.53
3/93	23	13,800	\$47,610	9	1,080	\$3,726	8	1,920	\$7,776	16,800	\$59,112	\$3.52
4/93	22	13,200	\$45,540	9	1,080	\$3,726	8	1,920	\$7,776	16,200	\$57,042	\$3.52
5/93	20	12,000	\$41,600	8	960	\$3,312	10	2,400	\$9,720	15,360	\$54,432	\$3.54
6/93	22	13,200	\$45,540	9	1,080	\$3,726	8	1,920	\$7,776	16,200	\$57,042	\$3.52
7/93	21	14,700	\$54,390	9	1,260	\$4,662	9	2,520	\$10,836	18,420	\$69,888	\$3.78
8/93	22	15,400	\$56,980	9	1,260	\$4,662	9	2,520	\$10,836	19,180	\$72,478	\$3.78
9/93	21	14,700	\$54,390	9	1,260	\$4,662	8	2,240	\$9,632	18,200	\$68,624	\$3.77
10/93	21	14,700	\$54,390	8	1,120	\$4,144	10	2,800	\$12,040	18,620	\$70,574	\$3.79
11/93	21	14,700	\$54,390	8	1,120	\$4,144	8	2,240	\$9,632	18,060	\$68,166	\$3.77
12/93	22	15,400	\$56,980	9	1,260	\$4,662	8	2,240	\$9,632	18,900	\$71,274	\$3.77
TOTAL	254	165,200	\$592,340	103	13,400	\$48,050	104	27,040	\$113,152	205,640	\$753,542	\$3.66

FARE MIX

COMPUTERS
MIDDAY
WEEKEND

FULL FARE	DISCOUNT FARE
80.0%	20.0%
20.0%	80.0%
20.0%	80.0%

8-3-91

ur 8/5/91

(END OF APPENDIX B)

T/TEE/tee

Appendix VCC-69

Harbor Bay Maritime, Inc.

Original Title Page

CERTIFICATE

OF

PUBLIC CONVENIENCE AND NECESSITY

AS A VESSEL COMMON CARRIER

VCC-69

Showing vessel operative rights, restrictions,
limitations, exceptions, and privileges.

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 92-03-040, dated
March 11, 1992, of the Public Utilities Commission of the
State of California in Application 91-03-058.

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Appendix VCC-69

Harbor Bay Maritime, Inc.

Original Page 1

I N D E X

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SECTION 1. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS, AND SPECIFICATIONS.....	2
SECTION 2. ROUTE DESCRIPTIONS.....	3

Issued by California Public Utilities Commission.

Decision 92-03-040, Application 91-03-058.

SECTION 1. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS,
AND SPECIFICATIONS.

Harbor Bay Maritime, Inc. by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to transport passengers and their baggage, on a scheduled or unscheduled basis, between the Harbor Bay Terminal in Alameda and the Ferry Plaza in San Francisco along the route described in Section 2, subject, however, to the authority of this Commission to change or modify the route at any time and subject to the following provisions:

- (a) No vessel shall be operated unless it has met all applicable safety requirement, including those of the United States Coast Guard.
- (b) When route descriptions are given in one direction, they apply to operations in either direction unless otherwise indicated.
- (c) The tariffs shall show the conditions under which each authorized unscheduled service shall be provided.

Issued by California Public Utilities Commission.

Decision 92-03-040, Application 91-03-058.

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Appendix VCC-69

Harbor Bay Maritime, Inc.

Original Page 3

SECTION 2. ROUTE DESCRIPTIONS.

Route 1. ALAMEDA - SAN FRANCISCO

Between the Harbor Bay Terminal in the City of Alameda
and the Ferry Plaza in San Francisco

Issued by California Public Utilities Commission.

Decision 92-03-040, Application 91-03-058.