

ORIGINAL

Decision No. 92621 JAN 21 1981

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
SKIPPER'S 22nd STREET LANDING,)
INC., a California corporation, for)
a certificate of public convenience)
and necessity to operate passenger)
and baggage service between appli-)
cant's landing at 141 West 22nd)
Street in San Pedro, to San Miguel)
Island, Santa Rosa Island and Santa)
Cruz Island, and return.)

Application No. 59900
(Filed August 25, 1980;
amended October 30, 1980)

O P I N I O N

Skipper's 22nd Street Landing, Inc. (Skipper's) seeks a certificate of public convenience and necessity to transport passengers and their baggage by vessel on a charter basis only between San Pedro (Los Angeles Harbor) and the islands of San Miguel, Santa Rosa, and Santa Cruz, all within the State of California and located off its southern coast. The proposed service will be in addition to present service provided to Santa Catalina Island, Santa Barbara Island, Anacapa Island, San Clemente Island, and San Nicholas Island, pursuant to authority granted by D.84748 dated August 5, 1978 in A.54834 for a certificate of public convenience and necessity to provide such service.

Skipper's provides transportation services through written agreements with owner-operators. The services are used by tour groups such as scout, YMCA, and whale-watching groups. Other services are for sport fishing and some diving. Skipper's provides docking facilities, advertises services, publishes rates, collects fares, and supervises safety standards.

D.84748, supra, provided that transportation is to be performed in vessels not over 75 feet in length and restricted departure time from San Pedro to between the hours of 9:00 p.m. and 5:00 a.m. In addition to extending its service to include San Miguel Island, Santa Rosa Island, and Santa Cruz Island, Skipper's initially requested authorization to increase vessel size to 105 feet and to depart from San Pedro at any time for charter-party vessels leaving for any of the islands presently certificated or to be certificated. H. Tourist, Inc. (Tourist), dba Catalina Island Cruises, protested the granting of the requested authorization on the grounds that removal of the above restrictions for Santa Catalina Island would result in diversion of passengers from Tourist to Skipper's with an adverse effect on both the quantum and quality of Tourist's service to and from Santa Catalina Island. Tourist's service is limited to service between numerous points on Santa Catalina Island and the Port of Long Beach and the Port of Los Angeles (San Pedro). On October 30, 1980 Skipper's amended its application to retain the departure restriction from San Pedro for Santa Catalina Island to between the hours of 9:00 p.m. and 5:00 a.m., as imposed by D.84748, supra, but to eliminate this restriction for departures from San Pedro to other islands served or to be served by Skipper's.

The present rates for vessels up to 75 feet were established by D.91301 dated January 29, 1980 on Skipper's A.59340 for a rate increase. Skipper's proposes to retain these existing rates for vessels up to 75 feet and to establish new rates for vessels in the 75- to 90-foot class and for vessels in the 90- to 105-foot class. Skipper's alleges the higher rates for the larger vessels are justified because these vessels have larger engines and consume more fuel and require more manpower to operate. The proposed rates do not appear unreasonable.

The vessels and their owners that operate from Skipper's 22nd Street landing and which Skipper's proposes to use if the requested authorization is granted are set forth in Appendix A.

D.84748, supra, provided that Skipper's and the individual vessel operators shall maintain in effect written agreements giving Skipper's substantially the same degree of control over vessel operators and the individual vessels as is provided in the agreements received as Exhibits 17 through 39 in A.54834. The order that follows will contain similar provisions.

Findings of Fact

1. Skipper's proposes to transport passengers and their baggage from its facilities at San Pedro (Los Angeles Harbor) to the islands of San Miguel, Santa Rosa, and Santa Cruz, and return, in addition to the islands of Santa Catalina, Santa Barbara, Anacapa, San Clemente, and San Nicholas presently served under authorization granted by D.84748, supra.

2. Skipper's proposes to operate vessels in the 75- to 90-foot class and in the 90- to 105-foot class in addition to operating vessels up to 75 feet in length as previously authorized by D.84748, supra.

3. Skipper's proposes to use the vessels identified in Appendix A pursuant to written agreements. Negotiations are in progress for a vessel which is 105 feet in length.

4. A public hearing is not necessary.

5. Applicant has the ability, experience, and financial resources to perform the proposed services.

6. Public convenience and necessity require that applicant be authorized to provide on-call service for transportation of passengers and their baggage between its landing facility at Los Angeles Harbor and the islands of San Miguel, Santa Rosa, and Santa Cruz.

7. Public convenience and necessity require that the length limitation on vessels be increased from 75 feet in length to 105 feet in length.

8. The present restrictions that the hours of departure from San Pedro be between 9:00 p.m. and 5:00 a.m., as ordered by D.84748, supra, should be retained for vessels traveling to Santa Catalina Island, but there is no public need to limit the hours of vessel departures from Skipper's landing facilities in San Pedro for its present or proposed operations for other than Santa Catalina Island.

9. Each vessel operator should be required to maintain insurance in accordance with the General Order No. 111-Series, with Skipper's to be named as an additional insured, and copies of all such insurance to be maintained by Skipper's. Vessel operators are to file certificates of insurance with the Commission.

10. In compliance with the order which follows, Skipper's and the individual vessel operators should be directed to maintain in effect written agreements giving Skipper's substantially the same degree of control over vessel operators and the individual vessels as provided in the agreements received as Exhibits 17 through 39 of A.54834.

11. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

12. The proposed fares shown on Appendix B are just and reasonable.

Conclusions of Law

1. A public hearing is not necessary.
2. The Commission concludes that the application should be granted.

Skipper's 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 Skipper's 22nd Street Landing, 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, on call, between the points and subject to charges set forth in Appendix B and the conditions set forth in Appendix C of this decision.
2. In providing service pursuant to the certificate granted, applicant shall comply with and observe the following service regulations. Failure to do so may result in a cancellation of the operating authority granted by this decision.

- (a) Within thirty days after the effective date of this order, applicant shall file a written acceptance of the certificate granted. Applicant is placed on notice that if it accepts the certificate of public convenience and necessity granted, it will be required, among other things, to comply with and observe the insurance requirements of the Commission's General Order No. 111-Series. Compliance will be satisfied if each vessel operator engaged by applicant complies with and observes the insurance requirements of General Order No. 111-Series, names applicant as an additional insured, furnishes applicant with a copy of such insurance, and files a certificate of insurance with the Commission.
- (b) Within one hundred twenty days after the effective date of this order, applicant shall establish the authorized service and file tariffs and timetables, in triplicate, with the Commission.
- (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 authorized service.
- (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-Series and 117-Series.

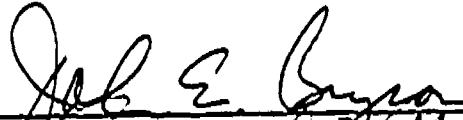
(e) Applicant shall maintain its accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of its operations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

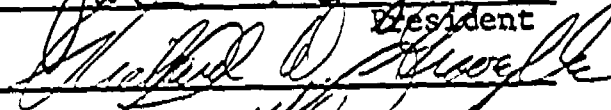
3. Applicant and the individual vessel operators shall maintain in effect written agreements giving applicant substantially the same degree of control over vessel operators and the individual vessels as is provided in the agreements received as Exhibits 17 through 39 of Application No. 54834.

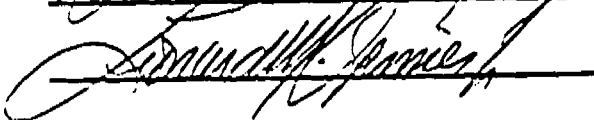
4. Applicant shall notify the Commission of any deletions or additions to the vessels listed in Appendix A.

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

Dated JAN 21 1981, at San Francisco, California.



President




Commissioners

APPENDIX A

The vessels and their owners that operate from SKIPPER'S 22nd STREET LANDING, INC., and which propose to operate pursuant to Application No. 59340, filed December 17, 1979, are as follows:

<u>VESSEL</u>	<u>OWNER</u>	<u>LENGTH</u>	<u>PASSENGERS</u>	<u>BUNKS</u>
"Betty G"	James Branum	34'	19	12
"New Long Fin"	Donald Ferguson	38'	19	14
"Lison"	James D. Franz	40'	20	20
"Vaquero"	Kent Cook	47'	20	20
"Pacific Outdoor"	Tom Needles	55'	33	28
"Westerly"	James Ingram	55'	40	26
"New Hustler II"	George Mio	58'	33	28
"See Vue"	Ira Burdine	58'	30	0
"Sharpshooter"	Nils Jernstrom	62'	46	46
"Indian"	William Lovette	62'	49	30
"Blue Sea"	Dave Melson	63'	48	28
"Sea Sport"	Glenn A. Ladner	65'	50	0
"Atlantis"	William Lovette	65'	49	30
"Wild Wave"	Mickey Pittman	65'	49	25
"Golden Doubloon"	Eddie Tsukimure	65'	49	32
"Charisma"	Roger and Kenny Hess	75'	70	56
"Freedom"	Fred Carrozzo	85'	70	65
"Grande"	Frank Hall	85'	70	69

Negotiations are in progress for a vessel now under construction which is 105 feet in length.

APPENDIX B

Hourly Charter Rates

VESSELS UNDER 65 Feet

Operating Time	\$ 77	per hour
Standby Time	25	per hour
Anchor Time	60	per hour

VESSELS FROM 65 Feet to 75 Feet

Operating Time	\$ 150	per hour
Standby Time	33.50	per hour
Anchor Time	75	per hour

VESSELS FROM 75 Feet to 90 Feet

Operating Time	\$ 130	per hour
Standby Time	45	per hour
Anchor Time	85	per hour

VESSELS FROM 90 Feet to 105 Feet

Operating Time	\$ 150	per hour
Standby Time	50	per hour
Anchor Time	90	per hour

DEFINITIONS OF OPERATION

"Operating Time"---When boat engines are in operation. Minimum of three hours inside harbor and four hours outside harbor.

"Standby Time"---When boat engines are not in operation and when passengers are aboard the vessel.

"Anchor Time"---Any time other than Operating Time or Standby Time and when passengers are not aboard a vessel. Usually overnight and based on a twelve-hour period or any part thereof.

Prices listed above do not include food, beverage, air, or bait.

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
TO OPERATE AS
A COMMON CARRIER BY VESSEL
VCC - 38

Showing vessel operating 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. 92621,
dated JAN 21 1961 of the Public Utilities
Commission of the State of California, in Application No. 59900.

The certificate hereinafter noted supersedes all common carrier by vessel operative authority heretofore granted to Skipper's 22nd Street Landing, Inc.

SKIPPER'S 22nd STREET LANDING, INC., by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to transport persons and their baggage, on-call, between SKIPPER'S 22nd STREET LANDING at San Pedro (Los Angeles Harbor), on the one hand, and on the other hand, the islands of Santa Catalina, Santa Barbara, Anacapa, San Clemente, San Nicholas, San Miguel, Santa Rosa and Santa Cruz subject to the following conditions:

1. SKIPPER'S 22nd STREET LANDING, INC. shall provide in its tariff and timetable for an on-call service.
2. SKIPPER'S 22nd STREET LANDING, INC. shall require each vessel operator to submit to it a printed schedule of the available days and hours of operation of his vessel. The schedules, or any subsequent modifications, shall be posted in the office of SKIPPER'S and be made available for public inspection.
3. SKIPPER'S 22nd STREET LANDING, INC. shall provide in its tariff and timetable the following with respect to any trip where passengers are to disembark at Santa Catalina:
 - a. Transportation shall be performed at hourly rates which includes services of vessel, pilot, and crew, regardless of the number of passengers transported. Transportation shall not be performed on an individual-fare basis.

- b. Transportation shall be performed in vessels not over 105 feet in length and which are equipped for fishing and/or diving.
 - c. Transportation shall be performed in vessels that depart from San Pedro only between the hours of 9:00 P.M. and 5:00 A.M.
4. SKIPPER'S 22ND STREET LANDING, INC. shall provide in its tariff and timetable the following with respect to all trips to and from any authorized island, other than to and from Santa Catalina Island, subject to the following conditions:
- a. Transportation shall be performed at hourly rates which includes services of vessels, pilot, and crew, regardless of the number of passengers transported. Transportation shall not be performed on an individual-fare basis.
 - b. Transportation shall be performed in vessels not over 105 feet in length and which are equipped for fishing and/or diving.
 - c. Transportation shall be performed in vessels that depart from San Pedro to Santa Barbara, Anacapa, San Clemente, San Nicholas, San Miguel, Santa Rosa and Santa Cruz Islands at any time and return therefrom at any time.