

**ORIGINAL**Decision No. 58701

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE CALIFORNIA

In the Matter of the Application of  
 CLYDE THOMAS and DON CHARLE, doing  
 business as PACIFIC-CATALINA PASSENGER  
 SERVICE, a partnership, for a certifi-  
 cate of public convenience and necessity  
 to establish and operate a passenger  
 service by vessels between Long Beach  
 and Catalina Island.

Application No. 41153

Clyde Thomas, for applicant.

James E. Lyons, for Clipper Transportation Company, Inc.;  
Leslie & Howard Thuet, for Avalon Navigation Company,  
 protestants.

B. W. Rice, Jr., for Island Transportation Company, Inc.;  
Bill Krug, in propria persona; Henry E. Jordan, for  
 Bureau of Franchises and Public Utilities, City of  
 Long Beach; Fred M. Paulson, Councilman, City of Avalon,  
 for City of Avalon, interested parties.

W. F. Hibbard, for the Commission staff.

INTERIM OPINION

The applicant is a partnership composed of Clyde Thomas, Don Charle, and Alfred G. Burke. They request authority to establish and operate a service as a common carrier by vessel between Pacific Landing in the City of Long Beach on the one hand, and on the other, Avalon, Catalina Island. This is a new venture, the partnership not now being engaged in this type of business. However, the evidence discloses that each partner, individually, has had considerable experience in the operating of vessels.

Don Charle has been in the boat building business for the past 15 years and additionally has been operating a fishing boat service for the past two years. Clyde Thomas is an attorney at law,

who, for many years last past has represented various boat operators. Alfred G. Burke has operated fishing boats in the San Diego area since 1934.

Two vessels are proposed to be used in this operation; one is called the "Vellron" and is approximately 100 feet in length, having a 21-foot beam. It is equipped with two No. 671 G.M.C. engines and has facilities for carrying 100 passengers, including restrooms and galley service. The "Queen of the Sea", the second vessel, is a new boat, having an over-all length of 65 feet with a 23-foot beam. It will be powered by three No. 671 G.M.C. Diesels and will be equipped to carry 150 passengers. It will have the necessary restrooms and galley service. This boat will be ready for operation by the latter part of June of 1959.

The partnership proposes to charter these vessels from the owners. Exhibit No. 1 is a charter agreement covering the "Vellron" and Exhibit No. 2 is a letter agreement to enter into a charter agreement covering the "Queen of the Sea".

The reasons advanced to show public convenience and necessity for this proposed operation center around the fact that the steamship "Catalina" is not now in operation due to labor difficulties. This steamer has been the main source of transportation to the island for many years. As a matter of fact it annually has transported more than 70 per cent of all passengers going to the island.

The Summer season is just commencing in Avalon and there is a great demand for transportation to the island. Under these circumstances applicant contended that additional service is now necessary. Various public witnesses testified to this effect, including the Mayor of the City of Avalon and representatives of various hotels and other businesses in the city. The applicant proposes one round trip per day leaving Pacific Landing in Long Beach at

approximately 9:00 A.M. and returning from Avalon about 4:30 P.M. Additionally, it proposes an on-call service for groups of twenty or more. It has made arrangements with the Pacific Landing to dock its boats and also the evidence indicates that it will be afforded facilities in Avalon for docking its boats there.

Opposition to the proposal was presented by the Clipper Transportation Company and Avalon Navigation Company. The last named of these companies now operates a boat from Pierpoint Landing in Long Beach which boat is known as "The Magic Isle" and carries approximately 250 passengers. The Clipper Transportation Company has authority to conduct operations from Pacific Landing, however, these operations are temporarily suspended pending negotiations for them to be taken over by a new operator.

Under these circumstances we now find that at the present time public convenience and necessity require the proposed operation. We are aware that the applicant does not now own any boats. However, the charter arrangement for the boat "Vellron" gives the applicant an option to purchase the vessel. Obviously any sound long-term arrangement would require that the holder of the certificate should have control over the vessels operated. While there may be some question as to this under the present arrangements of applicant we are disposed to authorize a certificate for the 1959 Summer season because of the emergency which now exists.

Financial statements for two of the partners were attached to the application. They indicate a financial ability to conduct the proposed operations.

Applicant submitted an exhibit setting out its proposed rates. It is noted that the over-all charges set out in this proposed tariff are the same as the existing rates of other certificated operators, being \$3.26 for a one-way fare for adults with no reduction for

round trips. Children under 12 are to be transported at half fare and under five they are to be transported free. Applicant also proposes to have charter fares for groups of 50 or more which would amount to \$5 for each round trip adult fare.

We now find that these proposed rates are reasonable and they will be authorized herein. Applicant will be required to file a tariff setting out these rates in a form satisfactory to this Commission.

The applicant 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, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the state, which is not, in any respect, limited as to the number of rights which may be given.

Hearings in this matter, held on June 16 and 17, 1959, before Grant E. Syphers, were submitted subject to the filing of briefs by the parties. However, due to the emergency which now exists all parties agreed to this matter being submitted to the Commission for consideration as to the issuance of a temporary certificate for the 1959 Summer Season. Accordingly, the ensuing order will be interim in nature and the Commission will give further consideration to the matter after the briefs have been submitted.

INTERIM ORDER

Application as above entitled having been filed, public hearing having been held thereon, the matter being submitted and the Commission being further advised in the premises,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity, as provided in Section 1007 of the Public Utilities Code, be, and it hereby is, granted to Clyde Thomas, Don Charle and Alfred G. Burke, a partnership doing business as Pacific-Catalina Passenger Service authorizing the establishment and operation of a service as a common carrier for the transportation of persons by vessel between the Pacific Landing in Long Beach and Avalon on Santa Catalina Island.

(2) That the foregoing certificate is granted subject to the following conditions and service regulations:

- a. That the authority herein granted shall terminate on October 31, 1959, unless otherwise ordered by this Commission.
- b. Within thirty days after the effective date hereof and on not less than one day's notice to the Commission and the public, applicant shall establish the service herein authorized and file in triplicate and concurrently make effective tariffs and schedules satisfactory to the Commission to reflect the authority herein granted.
- c. Within thirty days after the effective date hereof applicant shall file a written acceptance of the certificate herein granted.

This order shall be interim in nature and subject to change or modification as the Commission may hereinafter direct.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this

1st day of July, 1959.

[Signature]  
President

[Signature]

[Signature]

[Signature]  
Commissioners