

Decision No. 61557

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of JACK F. FREITAS and LORNA T. )  
FREITAS, for a Certificate of )  
Public Convenience and Necessity )  
to operate a ferry boat passenger )  
service on False River in the San )  
Joaquin Delta area. )

Application No. 42767

Jack Freitas and Lorna T. Freitas, for  
themselves.  
R. D. Broatch, for the County of Contra  
Costa, interested party.  
Charles W. Overhouse, for the Commission  
staff.

O P I N I O N

By this application, filed October 19, 1960, an order is sought authorizing Jack F. Freitas and his wife, Lorna T. Freitas, to operate a vessel for the transportation of persons and property, for compensation, between Jersey and Bradford Islands and Webb and Frank Tracts, located on False River, a tributary of the San Joaquin River in Contra Costa County.

This application contains the allegation that applicants have been awarded a five-year contract by the County of Contra Costa to perform this service for the public, in the amount of \$36,000 yearly, commencing May 10, 1960. A part of applicants' obligation is to maintain the ferry and also to maintain the four ferry slips which are furnished by the County. Also, it is asserted that this ferry service was established in 1926 by C. A. Lauritzen who operated up to May 10, 1960, at which time the County contract with applicants commenced.

Public hearing was held in Oakley on January 5, 1961, before Examiner Rowe, at which time evidence was adduced and the matter submitted.

Applicant Jack F. Freitas testified that his ferry boat named Victory II is duly licensed and inspected by the United States Coast Guard and that his operation is licensed by it. Applicants propose a scheduled operation as required by their contract with the County.

However, between the scheduled runs and after daylight hours when they are working for the County, they make additional movements for which they make cash charges. When transporting sheep on hoof a charge of \$24 per hour is imposed. This includes time for cleaning the vessel after the sheep are removed. When moving very heavy freight, either oil well rigs or gasoline trucks or cattle in trucks, the charge is based either on weight or the number of units involved.

He stated that his predecessor has been carrying on this operation without any Commission authorization and that such charges as have been made have not been pursuant to a filed tariff. The Commission is of the view that applicants' operations clearly fall within the terms of Section 1007 of the Public Utilities Code. Consequently, a certificate of public convenience and necessity is required. Also, all future charges for service should be made pursuant to tariffs filed with this Commission. These tariffs should include an appropriate reference to the County contract and a statement of all other charges to be made, as well as rules and regulations providing how such charges shall be made and the limitations and restrictions which will be enforced by applicants.

The evidence is sufficient to support the finding which the Commission makes that the proposed service is required by public convenience and necessity. Notice of the application and of the hearing thereon was duly given as required by the Commission. No one appeared to protest granting the requested authority. Applicants testified that there are no certificated competing vessel services.

Applicants have sufficient financial ability to carry on this service. After a consideration of all the evidence of record, we conclude that the application should be granted.

Applicants are 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

Application as above-entitled having been filed, public hearing having been held thereon, and based upon the above findings,

IT IS ORDERED that:

1. A certificate of public convenience and necessity is hereby granted to Jack F. Freitas and Lorna T. Freitas authorizing them to operate as a common carrier of vessels, as defined in Sections 211(b) and 238 of the Public Utilities Code, between the points as more particularly set forth in Appendix A attached hereto and made a part hereof.

2. In providing service pursuant to the certificate herein granted, applicants shall comply with and observe the following service regulations:

- (a) Within thirty days after the effective date hereof, applicants shall file a written acceptance of the certificate herein granted. By accepting the certificate of public convenience and necessity herein granted, applicants are placed on notice that they will be required, among other things, to file

annual reports of their operations and to comply with and observe the insurance requirements of the Commission's General Order No. 111. Failure to file such reports, in such form and at such time as the Commission may direct, or to comply with and observe the provisions of General Order No. 111, may result in a cancellation of the operating authority granted by this decision.

- (b) Within one hundred and twenty days after the effective date hereof, and upon not less than five days' notice to the Commission and to the public, applicants shall establish the service authorized and file in triplicate, and concurrently make effective, tariffs and time schedules satisfactory to the Commission.

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

Dated at San Francisco, California, this 21<sup>st</sup> day of FEBRUARY, 1961.

[Signature]  
President  
[Signature]  
[Signature]  
[Signature]  
[Signature]  
Commissioners

Jack F. Freitas and Lorna T. Freitas, by the certificate of public convenience and necessity granted in the decision noted in the margin, are authorized to conduct operations as a common carrier by vessel for the fulfillment of their contract with the County of Contra Costa and for the transportation of passengers and freight over False River between Jersey and Bradford Islands and Webb and Frank real estate tracts.

The common carrier service herein authorized shall be performed on a scheduled basis as provided in the contract with the County of Contra Costa and any additional service shall be on an "on-call" basis.

End of Appendix A

Issued by California Public Utilities Commission.

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