

Decision No. 64085**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 JOHN HUGH MORRIS for a certificate)
 of public convenience and necessity)
 to operate passenger excursion boat)
 service between REQUA and ROACH)
 CREEK.)

Application No. 44604
 Filed July 2, 1962

Erskine & Tulley, by William J. Boyd, Jr.,
 for applicant.
Vance C. Farmer in propria persona,
 protestant.

O P I N I O N

This application was heard before Examiner John Power, at Klamath, California, on July 27, 1962, on which date the matter was submitted. Copies of the application and the notice of hearing were served in accordance with the Commission's procedural rules. There was one protest.

Applicant requests authorization to institute and conduct operations as a common carrier by vessel for the transportation of persons between Requa and Roach Creek, following the natural course of the Klamath River, and serving intermediate points. Requa is located at the mouth of the Klamath River and Roach Creek is approximately 30 miles up the river. Applicant presently does not possess any authority to transport persons or property for compensation between points on inland waters of California or upon the high seas between points within California. Applicant proposes fares of \$5 per round trip for persons over 12 years and \$3.50 per round trip for children under 12 years for the full trip to Roach Creek and return.

Applicant testified that he had received a number of requests, for such a service as he proposes, from tourists and other

sojourners in this area. His boats are licensed by the United States Coast Guard. He owns two boats with bench type seats suitable for sightseeing service. A licensed operator will go on each trip.

Witnesses who testified in support of the application included a county supervisor, representatives of the Klamath Chamber of Commerce and Kiwanis Club and of the Del Norte County Chamber of Commerce.

A number of exhibits were presented. Some of these were from organizations which had witnesses at the hearing. Exhibits Nos. 2 and 3 were communications from the Eureka Chamber of Commerce and the Humboldt County Board of Trade supporting the application. Exhibit No. 5 was a certified copy of a resolution of the Humboldt County Board of Supervisors doing likewise.

In 1961 the Commission, by Decision No. 62694 in Application No. 43625, granted a certificate to Vance C. Farmer for a service covering most of the same route. It was to be operated commencing May 15 of this year. Farmer appeared at the hearing and protested. He was sworn and a written statement by him was received in evidence as Exhibit No. 7. From this exhibit it appears that Mr. Farmer has not operated and at the time of the hearing had no suitable boat, though he does propose to acquire one.

In view of the fact that the season is rapidly drawing to a close, the following order will be effective on its date.

Upon consideration of the evidence, the Commission finds and concludes as follows:

1. Applicant possesses the experience, equipment, personnel and financial resources to institute and maintain the proposed service.
2. Public convenience and necessity require that the application be granted as set forth in the ensuing order.

John Hugh Morris 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

Public hearing having been held and based upon the evidence therein adduced:

IT IS ORDERED that:

1. A certificate of public convenience and necessity be, and it hereby is, granted to John Hugh Morris, authorizing him 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 more particularly set forth in Appendix A attached hereto and hereby made a part hereof.

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

- a. Within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted. By accepting the certificate of public convenience and necessity herein granted, applicant is placed on notice that he will be required, among other things, to file annual reports of his operations and to comply with and observe the rules and regulations promulgated by the Commission and 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 such rules and regulations and the provisions of General Order No. 111 may result in a cancellation of the operating authority granted by this decision.

- b. Within one hundred twenty days after the effective date hereof, and on not less than five days' notice to the Commission and to the public, applicant shall establish the service herein authorized and file in triplicate, and concurrently make effective, tariffs and timetables satisfactory to the Commission.

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

Dated at San Francisco, California, this 7th

day of AUGUST, 1962.

George E. Grover
President

[Signature]

[Signature]

[Signature]

Fredrick B. Hallock
Commissioners

John Hugh Morris, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport persons between Regua and Roach Creek and all intermediate points upon and along the natural course of the Klamath River, from May 15 to October 15, both dates inclusive, of each year.

Between October 16 of each year and May 14 of the following year applicant may render such service on call.

Issued by California Public Utilities Commission.

Decision No. 64085, Application No. 44604.