

ORIGINAL

Decision No. 69672

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of LAHOE WATER TAXI, INC.,)
a corporation, for a certificate of)
public convenience and necessity for) Application No. 47585
the operation of vessels in the trans-) Filed May 17, 1965
portation of persons and baggage)
between points on California side of)
Lake Tahoe.)

Graham James & Rolph by Boris H. Lakusta
and E. Myron Bull, Jr., for applicant.
Edward B. Scott, for Lake Tahoe Naviga-
tion and Supply Co., protestant.
Hilton H. Nichols, for the Commission
staff.

O P I N I O N

Duly noticed public hearings were held at Bijou (on the south shore of Lake Tahoe) before Examiner Power, on July 22 and 23, 1965 and the matter submitted subject to receipt of a late-filed exhibit. This has been received and the matter is ready for decision.

Applicant requests authorization to institute and conduct operations as a common carrier by vessel for the transportation of persons and their baggage between all points on the California shores of Lake Tahoe. Applicant presently does not possess any authority to transport persons or property for compensation between points on the inland waters of California or upon the high seas between points within California.

Applicant is presently operating a common carrier passenger service in both interstate and intrastate commerce. This is carried on under the exceptions in Part III, Section 303(g) of the Interstate Commerce Act (49 U.S.C. 903(g)) and Section 238(a)

of the Public Utilities Code. The first statute exempts from regulation vessels "equipped to carry no more than 16 passengers." The second exempts boats "under the burden of five tons net register." Applicant is the owner of at least one boat that complies with both limitations.

Applicant is a Nevada corporation and therefore compliance with Section 704 of the Public Utilities Code which relates to foreign utility corporations is necessary. The Section prohibits the granting of any authority, "to any foreign corporation which is not at present lawfully transacting within this State a public utility business of like character."

Applicant stipulated that, if the Commission were inclined to grant a certificate, but believed that applicant did not comply with Section 704, the application might be deemed amended to substitute its stockholders, De Boe, Curry and Koenig as partner applicants. Applicant's operating witness testified that it will take all steps necessary to qualify to do business in California in the event the certificate is granted to applicant.

The business conducted with the small boats by applicant may be "of like character" even though these operations were not certificated. The operations are single fare, point-to-point operations and have been dedicated to the public service.

Applicant presented its vice president, a representative of its accounting firm and eight public witnesses. Geographically the public witnesses came: two from the North Shore, one from the West Shore and five from the South Shore. Occupationally they

included four motel or lodge operators, a bank manager, an electric company employee, a tour director and a ski area operator. Protestant testified in his own behalf.

Applicant's vice president testified that all vessels used would be inspected and licensed by the United States Coast Guard. There would be one qualified employee on each boat and each trip who is licensed by the Coast Guard and each vessel used in common carriage would be certified as safe by the Coast Guard.

The evidence shows that there is no common carrier service operating between the North and South Shores either by land or water except that being provided by applicant with craft that do not require authority. All the public witnesses expressed a need for such a service. It was alleged that this need exists at all seasons but is greatest in the winter when snow often blocks the roads.

The evidence also showed that the presently certificated carrier (protestant Scott) had not operated at all in 1965. For some years prior to that he had operated a minimal service which did not include all of the authorized points.¹ Protestant testified that in his opinion a common carrier service cannot be made to pay at the Lake. He made the point that, owing to the statutory exceptions above noted, the competition of small boats will dilute the traffic. The available traffic, he stated, will not sustain a common carrier operation in the face of this competition.

The evidence further shows that population growth has been large in the Lake Tahoe region. There is also a growing trend to year-round residence resulting from the development of winter

1. These are between Brockway, Kings Beach, Tahoe Vista, Sandy Beach, Cornelison Bay, Tahoe City, Tahoe Tavern, Sunnyside Bay, Homewood, Chambers Lodge, Tahoma, May-Ah-Mee Lodge, Meeks Bay, Emerald Bay, Vikingsholm, Camp Richardson, Al Tahoe, Bijou, Lakeside and Stateline. This service is scheduled only during the summer months, otherwise it is "on call."

sports in the area. Definitely, a common carrier service is needed in the area and none now exists. The application should be granted.

The Commission finds that:

1. Applicant has the necessary experience, equipment, personnel, facilities and financial responsibility to institute and maintain the proposed daily service, weather permitting.

2. Public convenience and necessity require that applicant be granted a certificate as a common carrier by vessel between the points as set forth in Appendix A, attached hereto.

The Commission concludes that the application should be granted as provided by the following order.

Tahoe Water Taxi, Inc., 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 Tahoe Water Taxi, 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, between the points and over the routes particularly set forth in Appendix A attached hereto and 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 it will be required, among other things, to file annual reports of its operations and to comply with and observe the insurance requirements of the Commission's General Order No. 111-A. 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-A, may result in a cancellation of the operating authority granted by this decision.
- b. Within one hundred twenty days after the effective date hereof, applicant shall establish the service herein authorized and file tariffs and timetables, in triplicate, in the Commission's office.
- 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 to the public, and the effective date of the tariff and timetable filings shall be concurrent with the establishment of the service herein authorized.
- 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 and 117.

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

Dated at Los Angeles, California, this 14th day of SEPTEMBER, 1965.

Friedrich B. Halbluff
President
George T. Grover
Commissioners

Tahoe Water Taxi, 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 between all points and places on the California shores of Lake Tahoe in Placer and El Dorado Counties. (See Note 1)

NOTE 1: Service shall be on a daily basis, weather permitting.

End of Appendix A

Issued by California Public Utilities Commission.

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