

lta

Decision No. 85191

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
CALIFORNIA INLAND PILOTS ASSOCIATION,  
a California nonprofit corporation,  
for certificate of public convenience  
and necessity to operate a Water-Taxi  
service between points on San Francisco,  
San Pablo and Suisun Bays.

Application No. 55589  
(Filed March 28, 1975)

In the Matter of the Application of  
MURPHY TUGBOAT COMPANY, a California  
corporation, for certificate of public  
convenience and necessity to operate a  
Water-Taxi service between points on  
San Francisco, San Pablo and Suisun Bays.

Application No. 55590  
(Filed March 28, 1975)

Spolter, McDonald & Mannion, by Jerry Spolter,  
Attorney at Law, for California Inland Pilots  
Association, <sup>1/</sup> applicant.

James E. Ratcliff Jr., Attorney at Law, for  
Murphy Tugboat Company, applicant.

John G. Lyons, Attorney at Law, for Harbor  
Carriers Inc., protestant.

Marc E. Gottlieb, for the Commission staff.

### O P I N I O N

Murphy Tugboat Company (Murphy), a California corporation,  
and California Inland Pilots Association (California), a California  
nonprofit association, request certificates of public convenience

---

<sup>1/</sup> James E. Ratcliff, Jr., appeared for both applicants. Following  
submission the law firm of Spolter, McDonald & Mannion was  
substituted as attorney of record for California Inland Pilots  
Association. James E. Ratcliff, Jr., remained as attorney of  
record for Murphy Tugboat Company.

and necessity as a vessel common carrier for transportation of passengers and property between points on San Francisco and San Pablo Bays.<sup>2/</sup>

A public hearing was held before Examiner Daly on June 27, 1975, and the matters were submitted upon concurrent briefs.

Both applications were filed pursuant to the "grandfather" clause of recent legislation which amends Section 1007 of the Public Utilities Code and reads as follows:

"(b) Any corporation or person which owns or controls, and any corporation or person which operates, any watercraft propelled by steam, gas, fluid naphtha, electricity, or other motive power under the burden of five tons net register for the transportation of persons or property for compensation between points in this state on January 1, 1975, may, on or before April 1, 1975, file with the commission an application for a certificate of public convenience and necessity for the type of service performed by the vessel. The commission shall issue such certificate authorizing such service without further proceedings."

The record indicates that because of a strike in 1969, California, a nonprofit association of individuals engaged in the piloting of ships in and out of San Francisco Bay and its tributaries, first commenced using its own vessel to meet incoming and outgoing ships. In 1972 California chartered the boat to Murphy, which has subsequently provided the same service for members of the pilot association pursuant to the terms of a lease agreement.

---

<sup>2/</sup> Both applications originally requested authority to serve points on San Francisco, San Pablo, and Suisun Bays. During the course of hearing the applications were amended by excluding points on Suisun Bay.

The vessel "Inland Pilot" was constructed in 1966. It is 46-feet in length and has a fiberglass body. It is propelled by twin diesel engines and has a burden of four tons net register.

Although the service provided is primarily pilot changes, the vessel has also been used for the purpose of transporting seamen and their luggage to and from ships lying at anchorage.

According to late-filed Exhibit 4 applicants were serving the following points of call as of January 1, 1975:

1. San Francisco Front
2. Oakland
3. Alameda
4. Off Point Blunt
5. Off Pier 45
6. Anchorage 9
7. Anchorage 7
8. Anchorage 13
9. Anchorage 5
10. Pier 36

Although protestant raised a question about two certificates being granted for a single operation, the grandfather provision specifically covers "any corporation or person which owns or controls, and any corporation or person which operates, any watercraft..." In this instance the vessel, Inland Pilot, while owned by California, was at the same time under the control and operation of Murphy. Each, therefore, is entitled to a certificate.

After consideration the Commission finds that:

1. As of January 1, 1975, California was owner of the twin diesel engine vessel, Inland Pilot, a vessel under the burden of five tons net register, and that as of the same date said vessel was being operated by Murphy.

2. As of and prior to January 1, 1975, the vessel, Inland Pilot, was used for the purpose of transporting passengers and property between San Francisco, Alameda, and Oakland, on the one hand, and vessels on the waters of San Francisco Bay, on the other hand.

The Commission, therefore, concludes that pursuant to the grandfather provision of Section 1007(b) of the Public Utilities Code each applicant is entitled to a certificate to the extent hereinafter set forth.

Applicants are 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. 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. Certificates of public convenience and necessity are granted to California Inland Pilots Association and Murphy Tugboat Company, authorizing them to operate as common carriers by vessel, as defined in Sections 211(b) and 238 of the Public Utilities Code, between the points set forth in Appendices A and B of this decision.

2. In providing service pursuant to the authority granted by this order, applicants shall comply with the following service regulations. Failure so to do may result in a cancellation of the authority.

- (a) Within thirty days after the effective date of this order, applicants shall file written acceptances of the certificates granted. Applicants are placed on notice that if they accept the certificates they will be required, among other things, to comply with the insurance requirements of the Commission's General Order No. 111-Series.
- (b) Within one hundred twenty days after the effective date of this order, applicants shall establish the authorized services 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 the public, and the effective date of the tariff and timetable filings shall be concurrent with the establishment of the authorized services.
- (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) Applicants shall maintain their 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 their operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

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

Dated at San Francisco, California, this 2nd day of DECEMBER, 1975.

William Lyons President  
Vernon J. Stetson  
Leonard R. ...  
Paul ... Commissioners

CERTIFICATE  
OF  
PUBLIC CONVENIENCE AND NECESSITY

---

Showing vessel common carrier operative 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.

---

SECTION 1. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS  
AND SPECIFICATIONS.

California Inland Pilots Association, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized as a vessel common carrier to transport passengers, baggage and express between vessels in, and points along, San Francisco Bay, as described in Section 2, subject to the following conditions:

- (1) Service shall be operated with vessels of less than five tons net register only.
- (2) No vessel shall be operated unless it has met all applicable safety requirements, including those of the United States Coast Guard.

Issued by California Public Utilities Commission.

Decision No. 85191, Application No. 55589.



## SECTION 2. AUTHORIZED OPERATIONS.

(1) San Francisco Bay - Between Vessels and Shore

Between San Francisco, Oakland, Alameda, Emeryville, Berkeley and Richmond, on the one hand, and vessels in San Francisco Bay, as described below, on the other hand.

San Francisco Bay Description

All those waters generally known as San Francisco Bay, limited on the north by the Richmond-San Rafael Bridge and on the west by the Golden Gate sea-line.

Issued by California Public Utilities Commission.

Decision No. 85191, Application No. 55589.

VP

Appendix B

MURPHY TUGBOAT COMPANY  
(A California corporation)

Original Page 1

CERTIFICATE  
OF  
PUBLIC CONVENIENCE AND NECESSITY

---

Showing vessel common carrier operative 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. 85191  
dated DEC 2 - 1975, of the Public Utilities  
Commission of the State of California, in Application No. 55590.

SECTION 1. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS  
AND SPECIFICATIONS.

Murphy Tugboat Company, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized as a vessel common carrier to transport passengers, baggage and express between vessels in, and points along, San Francisco Bay, as described in Section 2, subject to the following conditions:

- (1) Service shall be operated with vessels of less than five tons net register only.
- (2) No vessel shall be operated unless it has met all applicable safety requirements, including those of the United States Coast Guard.

Issued by California Public Utilities Commission.

Decision No. 85191, Application No. 55590.

SECTION 2. AUTHORIZED OPERATIONS.

(1) San Francisco Bay - Between Vessels and Shore

Between San Francisco, Oakland, Alameda, Emeryville, Berkeley and Richmond, on the one hand, and vessels in San Francisco Bay, as described below, on the other hand.

San Francisco Bay Description

All those waters generally known as San Francisco Bay, limited on the north by the Richmond-San Rafael Bridge and on the west by the Golden Gate sea-line.

Issued by California Public Utilities Commission.

Decision No. 85191, Application No. 55590.