

Decision No. 85528

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ISLAND ENTERPRISES, INC.

Complainant,

vs.

JEFFRY W. STICKLER and
BRUCE PONCEL dba CATALINA
ISLAND WATER TRANSPORTA-
TION CO.,

Defendants.

Case No. 10012
(Filed November 26, 1975)

TEMPORARY RESTRAINING ORDER

D.84685 dated July 22, 1975 granted Island Enterprises Inc. (Island) a California corporation, a certificate of public convenience and necessity to operate as a common carrier by vessel pursuant to Section 1007(b) of the Public Utilities Code (Code), generally between the vessels in the West and Main Harbors, Avalon, Santa Catalina Island, and points on shore between Avalon and Long Point, Santa Catalina Island. The city of Avalon filed a petition for rehearing, which was denied by D.84936 on September 23, 1975.

On November 12, 1975 defendants filed A.56067 requesting a Section 1007 certificate for an area including, but broader than, the authority granted Island by D.84685. On November 26, 1975 complainant filed this action seeking a cease and desist order. The defendants in their answer here admitted performing unauthorized services, beginning about November 1, 1975, for which only Island had been granted authority. Defendants allege that the city of Avalon required the performance of these services pursuant to the city's Revocable Business Permit issued to defendants. Defendants also allege that at the time of their answer of December 8, 1975, they had discontinued any services for which a certificate was

required under the Code, pending decision in A.56067 . This application and C.10012 are presently set for hearing on April 19, 1976 and thereafter.

Because of the relationship between C.10012 and A.56067, these matters were consolidated for both prehearing and hearing by the presiding examiner.

A prehearing conference was held in these matters before Examiner Phillip E. Blecher on February 23, 1976 in Los Angeles. At this conference, pursuant to an amended complaint filed by Island on February 6, 1976, which alleged that defendants were still operating in Island's certificated area without any lawful authority, contrary to defendants' assertion in their answer, counsel for defendants admitted that defendants had occasionally so operated without any authority. Island then orally renewed its motion for a temporary cease and desist order in accordance with its complaint, alleging irreparable injury in that Island's revenues and patronage shall be lost during the off-season when the operations are not self-sustaining in any event.

The Commission finds that the unauthorized conduct of defendants has been admitted, and that Island will sustain an irreparable loss of revenues as a result of defendants' conduct. The Commission concludes that a temporary cease and desist order should be granted, pending final determination of the application and complaint.

O R D E R

IT IS HEREBY ORDERED that:

1. Defendants Jeffrey W. Stickler and Burce Poncel doing business as Catalina Island Water Transportation Co., immediately cease and desist from all vessel common carrier operations, pending further order of this Commission.

2. The Executive Director shall serve a true and correct copy of this order upon each defendant, at their place of business listed in A.56067, by certified mail.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 2nd
day of MARCH, 1976.

~~William J. ...~~
President
William J. ...
Thomas L. ...
Alan ...
Robert ...
Commissioners