

IB/bw

Decision No. 85971

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of James W. Porter and Deane C.)
Porter dba Newport Harbor Water)
Taxi, for a Certificate of Public)
Convenience and Necessity to)
operate passenger water taxi)
service in Newport Harbor.)

Application No. 56481
(Filed May 13, 1976;
amended May 27, 1976)

O P I N I O N

Applicants seek authority to transport passengers as a vessel common carrier between various points in the Newport Harbor area (city of Newport Beach). Three diesel-powered vessels would be leased, each capable of transporting more than 35 passengers. The vessels are 26 feet long and 10 feet wide, equipped with bench seats, and covered for weather. The vessels are inspected annually by the United States Coast Guard.

Initially, one radio-dispatched vessel would be used to transport passengers in taxi service on an on-call basis. This service would be reached through VHF and telephone facilities. A second vessel would be operated between eleven restaurants in a circular route. The third vessel would be a backup vessel for both the water taxi and restaurant services. Tickets would be sold on the vessels. The carrier's terminal would be at the Villa Nova Restaurant dock. Assertedly, no other comparable services are available to the area residents and restaurant customers.

A sketch of the proposed restaurant route is contained in Exhibit A to the application. Exhibit B shows fare zones for the taxi service. Proposed rates for both services are set forth in Exhibit C. The proposed time schedule for both services is in Exhibit G. A financial statement of Deane C. Porter and wife in Exhibit H reflects a net worth of \$204,490.

The application reflects support for the proposed services from potential customers, based on a survey. Applicants represent that the proposed services will eliminate much automobile traffic in the area between restaurants, and across the Lido Isle bridge. The Marine Department of the city of Newport Beach has considered the impact of the proposed operation on the harbor area, and concluded that there would be no adverse effects on the harbor, the waterfront, or the environment.

Copies of the application were served on two vessel common carriers in the area, government agencies, and other parties known to be interested. The application was noticed on the Commission's Daily Calendar of May 17, 1976. The City Council of Newport Beach approved the company's request on April 26, 1976. There are no protests.

Findings

1. Applicants propose to transport passengers as a vessel common carrier between various points in Newport Harbor.
2. Applicants propose to utilize three diesel-powered vessels which are 26 feet long, ten feet wide, and capable of carrying at least 35 passengers. The vessels are inspected annually by the United States Coast Guard.

3. Deane C. Porter, one of the partners, possesses the financial resources to conduct the proposed operation.

4. There are prospective patrons that need the types of services proposed by applicants.

5. Applicants' proposed services would replace in part certain private automobile and power boat operations.

6. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

7. Public convenience and necessity require that applicants be authorized to transport passengers between points within Newport Harbor, as sought in the application.

The Commission concludes 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 cancelled 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 James W. Porter and Deane C. Porter, doing business as Newport Harbor Water Taxi, authorizing them to operate as a common carrier by vessel, as defined in Sections 211(b) and 238 of the Public Utilities Code, between points and subject to the conditions particularly set forth in Appendix A of this decision.

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

- (a) Within thirty days after the effective date hereof, applicants shall file a written acceptance of the certificate herein granted. Applicants are placed on notice that, if they accept the certificate of public convenience and necessity herein granted, they will be required, among other things, to comply with and observe the insurance requirements of the Commission's General Order No. 111-B.
- (b) Within one hundred twenty days after the effective date hereof, applicants shall establish the service herein authorized and file tariffs and timetables, in triplicate, in the Commission's office. As the basis for the taxi fares applicants shall describe the fare zones by metes and bounds.
- (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 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.
- (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 the operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 15th day of JUNE, 1976.


 _____ President
 William J. Johnson


 Leonard L. Stanger

 _____ Commissioners
 Robert Bateman

Commissioner Leonard Ross, being necessarily absent, did not participate in the disposition of this proceeding.

James W. Porter and Deane C. Porter, dba Newport Harbor Water Taxi, by the certificate of public convenience and necessity granted by the decision noted in the margin, are authorized to transport persons as a vessel common carrier between points in Newport Harbor (city of Newport Beach), as follows:

I. Scheduled Service

From the dock of the Villa Nova Restaurant to and between other points in Newport Harbor along a regular route, and return.

II. Nonscheduled Service

From, to, and between any and all points in Newport Harbor, on call.

Issued by California Public Utilities Commission.

Decision No. 85971, Application No. 56481.