

Decision 84 05 070

MAY 16 1984

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application of)
 AMERICAN-HAWAII CRUISES, a joint)
 venture owned by AMERICAN-HAWAII)
 CRUISES, INC. and AMERICAN GLOBAL)
 LINE, INC., for approval of an)
 alternate plan of insurance protec-)
 tion for the public, pursuant to)
 General Order No. 111-B.)

Application 84-04-086
 (Filed April 16, 1984)

O P I N I O N

In this application American Hawaii Cruises (AHC) seeks approval of an alternate plan of insurance protection for its passengers different from that required under our General Order (GO) 111-B.

AHC has been granted a certificate of public convenience and necessity by Decision (D.) 82-08-046 dated August 4, 1982 and D.83-07-039 dated July 20, 1983 to transport passengers and their baggage between the Port of Los Angeles/Long Beach and the Port of San Francisco, when AHC sails between those points in connection with its Trans-Pacific routes.

Approval Sought

By this application, AHC seeks approval pursuant to GO 111-B of a plan of insurance protection to assure the Commission that it carries insurance at levels that equal or exceed the minimum levels of insurance set forth in that general order.

The normal short cruise capacities of the AHC's SS Independence and SS Constitution are 750 and 800 passengers, respectively. Under GO 111-B, vessels carrying 500 to 999 passengers are required to carry insurance of \$100,000 for bodily injury to or death of one person and \$1,000,000 for bodily injury to or death of all persons injured or killed in any one accident and \$50,000 for

loss or damage in any one accident to the property of others, and \$1,000,000 as a minimum for single limit coverage.

AHC's insurance for bodily injury or death and for property damage has been and continues to be, with one exception, unlimited. The only limitation is for pollution damage which is limited to US\$300,000,000 for any one accident or occurrence. The unlimited insurance is underwritten by Steamship Mutual Underwriting Association (Bermuda) Limited. The broker for this insurance is C. E. Heath & Co. (Marine) Limited. Neither the underwriter nor the broker is authorized to write insurance or act as an insurance broker in the State of California. As such, neither the underwriter nor the broker is qualified to execute a certificate of insurance pursuant to GO 111-B. Such a certificate is the most common method for establishing proof of insurance and complying with GO 111-B.

The application states that the only way in which AHC can comply with GO 111-B is to offer an alternate plan of protection for the public and to have that plan of protection approved by the Commission upon the filing of formal application. (See GO 111-B, Rule 3(d) and (6).)

Attached to the application as Appendix A is a copy of AHC's renewal policy, dated April 18, 1983, issued by C. E. Heath & Co. (Marine) Limited in London, England, and underwritten by Steamship Mutual Underwriting Association (Bermuda) Limited.¹ Also attached to the application as Appendix B are the Rules of the Steamship Mutual Underwriting Association, which underwrites insurance for numerous oceangoing vessels.

¹ This policy was renewed again in February of 1984. A copy of this current renewal policy has not yet been issued. AHC expects to receive it in the near future. A copy will be forwarded to the Commission as soon as it is received.

As additional proof of insurance, AHC attached in Appendix C to the application, Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passenger, or Other Persons, issued by the the Federal Maritime Commission for both the SS Constitution and SS Independence.

AHC asks that we approve its renewal policy as meeting the requirements of GO 111-B in lieu of a policy issued by a California underwriter.

The application asserts that the insurance held by AHC for the voyages between Los Angeles and San Francisco (as well as the Trans-Pacific and Inter-Island cruises) provides coverage which exceeds the minimum requirements set forth in GO 111-B.

Request For Ex Parte Relief

AHC is scheduling two cruises for 1984, the first of which is scheduled to depart Los Angeles for San Francisco on July 7, 1984. AHC requests that the Commission approve the alternate plan of insurance protection as set forth above no later than July 5, 1984, and that such approval be made effective on the date it is issued so that this approval will become effective by the time AHC proposes to operate its Los Angeles-San Francisco leg of Trans-Pacific voyage between Hawaii and the United States Mainland. AHC therefore requests that the Commission issue its decision, effective on the date of issuance, at the earliest possible date.

Findings of Fact

1. GO 111-B establishes the minimum public liability insurance requirements for the transportation of passenger vessel common carriers.
2. AHC is a common carrier of passengers subject to GO 111-B.
3. The underwriter of AHC's current policy of insurance is not qualified to do business in California and, therefore, is not qualified to issue insurance coverage under the terms of GO 111-B.
4. The present insurance held by AHC provides coverage which exceeds the minimum requirements of GO 111-B.

5. AHC proposes that its insurance policy issued by a foreign corporation be accepted as an alternate to the requirements of GO 111-B.

Conclusions of Law

1. AHC's present policy of insurance meets or exceeds all requirements of GO 111-B except that it was not issued by an underwriter qualified to do business in California.

2. AHC's current policy should be accepted and the requirements of GO 111-B should be waived.

3. AHC should retain on file with the Commission a copy of its current policy of insurance providing public liability protection for its passengers.

4. The application should be granted as provided in the following order.

5. In order to provide evidence of insurance coverage for voyages commencing in July 1984, this order should be effective on the date of issuance.

O R D E R

IT IS ORDERED that:

1. American-Hawaii Cruises (AHC) is authorized to file with this Commission the current policy of insurance issued by C. E. Heath & Co. (Marine) Limited in London, England, and underwritten by Steamship Mutual Underwriting Association (Bermuda) Limited as evidence of the insurance protection for AHC passengers required by the Commission's General Order 111-B.

2. Copies of future renewals of the policy referred in Ordering Paragraph 1 shall be filed annually with the Commission.

3. The application is granted as set forth above.

This order is effective today.

Dated MAY 16 1984 , at San Francisco, California.

LEONARD M. GRIMES, JR.
President

VICTOR CALVO


PRISCILLA C. GREW

DONALD VIAL

Commissioners

Commissioner William T. Bagley
being necessarily absent, did
not participate.

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.


Joseph E. Bodovitz, Executive Director