

Decision 88 02 019

FEB 10 1988

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
 of General Fishermen's Services, )  
 Inc., a California corporation, )  
 dba General Petroleum, dba Long )  
 Beach Marine, Ltd., for authority )  
 to establish common carrier ser- )  
 vice by barge within the Port )  
 of Los Angeles and Long Beach. )

Application 87-07-026  
 (filed July 14, 1987)

ORIGINAL

J. Terence Lyons, Attorney at Law, for  
 General Fishermen's Services, Inc.,  
 applicant.

Craig Wolfe, for Hydro Marine Company,  
 protestant.

J. W. Bohannon, for Mobil Oil Corporation;  
Jim Radcliffe, Attorney at Law, for  
 Catalina Freight Line; and Robert Bell,  
 for U.S. Water Taxi; interested parties.

OPINION

Applicant General Fishermen's Service, Inc. dba General Petroleum dba Long Beach Marine, Ltd. seeks a certificate of public convenience and necessity pursuant to Section 1007 of the Public Utilities (PU) Code to establish service as a common carrier by vessel to transport freight and packaged lubricants in conjunction with delivering bulk liquids in a United States Coast Guard approved tank vessel within the Long Beach and Los Angeles harbors. At the hearing applicant requested that a certificate, if granted, be in the name of Long Beach Marine, Ltd., a California partnership. Protests to the application were filed by San Pedro Marine, Inc., So. Cal Ship Services, and Hydro Marine Company. San Pedro Marine, Inc., and So. Cal Ship Services withdraw their

protests. Public hearing was held November 12, 1987 before ALJ Robert Barnett.

Applicant presented four witnesses: its president, its general manager, one shipper, and the Commander of the local Coast Guard inspection station.

Applicant's president testified that applicant has, since 1948, transported by vessel petroleum products to the industrial and commercial vessels in the Los Angeles and Long Beach harbors, primarily bulk liquid petroleum products. It presently provides the service with a Coast Guard approved nonself propelled tank barge. This service is not subject to regulation. (PU Code § 238.) There is only one other vessel capable of delivering liquid petroleum products in the harbor and that vessel is operated by San Pedro Marine. He said that many of his customers (approximately 25%) request package freight and ship stores service at the time they order the bulk petroleum service but he cannot provide package service without a certificate. He testified that there is a need in the Long Beach and Los Angeles harbors for a company that can deliver in one vessel lubricating oils and ship stores to ships at anchor. Presently, only San Pedro Marine has authority to perform this service. If a customer of applicant desires freight and ship stores service at the same time it orders bulk petroleum products, the customer must hire a different vessel for freight service at a considerable extra cost in time, money, and inefficiency. Applicant proposes to use its bulk tank vessel, which has ample deck storage space, to fill the existing need in the harbor area for a vessel that can deliver petroleum products, freight, and ships stores in one delivery.

The witness presented a letter from the Port of Long Beach which stated that the Port has no objection to applicant's application to transport package products in conjunction with delivering bulk petroleum products in its tank barge. The Port said: "Your service will eliminate the possible duplication of

transportation expenses by shipowners. We agree that a bulk petroleum carrier with package service capability is needed to help service the maritime industry. Please use this letter in connection with your proposed application." The witness also introduced into evidence letters from six shippers of petroleum products who supported the application.

The regional traffic manager of Mobil Oil Corporation testified to the need for the proposed service and described the method of operation. (Applicant is a distributor of Mobil products.) He said that Mobil manufactures and sells premium lubricants to marine customers (ships), and requires the services of applicant to deliver lubricants to ships at anchor in the Los Angeles - Long Beach harbor. Mobil utilizes the services of Long Beach Marine for the delivery of bulk lubricants because of the excellent service provided. This is a highly specialized service, necessitating isolated compartmentation, pumping, and piping to prevent contamination. Precise scheduling is required to prevent ship detention and loss of customers. Long Beach Marine utilizes the only bulk lubricant barge in the area. The vast majority of product delivered is in bulk, although occasionally customers require additional small quantities of special petroleum products in drums or in cases. These small quantities accompany the bulk delivery as deck cargo. Long Beach Marine transports these small shipments to the awaiting ships as an accomodation to the ships receiving bulk orders. While this is incidental to the primary service, it is, nevertheless, essential to serve the customer. If this service were not provided, two barge deliveries would be required, at prohibitive expense, and with the possibility that one barge could be delayed, thereby delaying the vessel and increasing expense. The only service available other than that of the applicant is provided by San Pedro Marine, a distributor of a competing oil company. Though Mobil has used their service extensively in the past, the growth in marine trade, and the number

of ships calling on the harbors, dictate that more than one service barge be available. Mobil would oppose the monopoly granted to San Pedro Marine if this application is denied. Mobil supports competition.

The commanding officer of the Coast Guard inspection station testified regarding safety in the harbor in transporting bulk petroleum and cited the various federal regulations applicable to such service. Applicant's barge is Coast Guard approved for the proposed service. He testified that the federal government defines bulk transport slightly different than the definition in the PU Code. PU Code § 238 exempts from regulation "transportation by a water carrier of commodities in bulk when the cargo space of the vessel in which such commodities are transported is being used for the carrying of not more than three such commodities. This subsection shall apply only in the case of commodities, in bulk, which are loaded and carried without wrappers or containers and received and delivered by the carrier without transportation mark or count." The Coast Guard accepts that definition but expands it to include bulk products in container provided the product is pumped from the container into the customer's vessel. There are now containers which can be loaded onto barges and transported to the vessel anchored in the harbor and the contents pumped into the customer's vessel. Under the PU Code applicant cannot transport that type of container without a certificate.

Applicant does not wish to compete with operators who transport only freight and ships stores and applicant was willing to accept a certificate limited to transporting freight and ships stores in conjunction with transportation of bulk petroleum products. But with the new type of bulk container, which requires a certificate under the current PU Code § 238 definition, a certificate limited to transporting freight and ships stores in conjunction with transporting bulk commodities would mean that applicant could not transport this new type of container unless it

also had a shipment of bulk commodities which fit the Section 238 definition, which would rarely, if ever, happen. Therefore, applicant requests that a certificate, if issued, permit it to carry petroleum products without other freight or ships stores. Applicant has proposed a certificate to serve as a common carrier by vessel to transport (a) freight only in conjunction with delivering petroleum products in a minimum amount of 500 gallons which are to be pumped from a U.S. Coast Guard inspected vessel, or (b) for petroleum products only. All parties except Hydro Marine Co. agree that this language is acceptable. Hydro Marine Co. objects on the ground that this certificate will permit applicant to compete with Hydro Marine to its detriment. Hydro Marine was certificated in May 1987 to provide freight and passenger service to vessels in the Los Angeles/Long Beach harbors and has only recently commenced service. It requests that we hold any additional freight certificates in abeyance until September 1988 in order to permit Hydro Marine to get established. Hydro Marine is not equipped to provide bulk petroleum service, just freight and passenger service. (However, as bulk petroleum service is unregulated, Hydro Marine could purchase the necessary equipment and perform the service being sought by applicant.)

In our opinion applicant's proposed service will not compete with Hydro Marine in any significant way and to the extent it does compete, the competition will benefit the public. We expect little or no competition because Hydro Marine transports passengers, ships stores, and freight in packages to vessels in the harbor, a specialized service distinct from applicant's. Applicant will not transport that kind of freight except in conjunction with the transportation of bulk lubricants going to the same vessel. The transportation of ships stores and freight cannot be done economically on applicant's barge except as incidental to a bulk lubricant movement, using available deck space. And in that instance applicant's service will result in only one movement to

the vessel rather than the two movements now needed. The savings to the shipper are obvious.<sup>1</sup> ✓

Findings of Fact

1. Numerous shippers require vessel service in the Los Angeles/Long Beach harbor in which one vessel can provide bulk liquid petroleum products and packaged freight and ships stores service in one delivery to ships anchored in the harbor.

2. At present only one operator in the Los Angeles/Long Beach harbor can now provide the service described in Finding 1. Shippers not desiring the services of that operator are compelled to hire two vessels to have bulk liquid petroleum products and ships stores delivered to their ships in the harbor.

3. Shippers will have lower costs if one vessel can provide the service described in Finding 1.

4. Shippers will have the benefits of competition if more than one operator can perform the services described in Finding 1.

5. The rates proposed by applicant are reasonable.

6. Public convenience and necessity require the service proposed by applicant.

7. The certificate of public convenience and necessity authorized by this decision should be issued to Long Beach Marine, Ltd., a California partnership.

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1 This decision was first issued as a proposed decision to which only Hydro Marine filed comments. Its comments repeated its position at the hearing that a certificate "for petroleum products only" will create unfair competition for newly certificated Hydro Marine. Although theoretically possible, we don't believe applicant will be in direct competition with Hydro Marine for a number of years, if at all. The quantity of petroleum products required for applicant to make a profitable delivery is so great as to make it the equivalent of a bulk liquid delivery: it is only the container that is different. We doubt if applicant will carry "cans of paint" and "pails of chemicals" in small amounts, without other cargo, on its large vessel. Hydro Marines' argument is not persuasive.

Conclusion of Law

Public convenience and necessity have been demonstrated and the application should be granted.

ORDER

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Long Beach Marine, Ltd., a California partnership, authorizing it to operate as a common carrier by vessel, as defined in PU Code §§ 211(b) and 238, between the points set forth in Appendix A, to transport petroleum products and freight in conjunction with petroleum products as described in Appendix A.
2. Long Beach Marine, Ltd. shall:
  - a. File with the Transportation Division written acceptance of this certificate within 30 days after this order is effective.
  - b. Establish the authorized service and file tariffs within 120 days after this order is effective.
  - c. State in its tariffs when service will start; allow at least 10 days' notice to the Commission; and make tariffs effective 10 or more days after this order is effective.
  - d. Comply with General Orders Series 87, 104, 111, and 117.
  - e. Maintain accounting records in conformity with the Uniform System of Accounts.
  - f. Remit to the Commission the Transportation Reimbursement Fee required by PU Code § 403 when notified by mail to do so.

A.87-07-026 ALJ/RAB/tcg

3. Long Beach Marine, Ltd., shall establish the tariff set forth in Appendix B.


This order becomes effective 30 days from today.

Dated FEB 10 1988, at San Francisco, California.

STANLEY W. HULETT  
President  
DONALD VIAL  
FREDERICK R. DUDA  
G. MITCHELL WILK  
Commissioners

Commissioner John B. Ohanian  
being necessarily absent, did not  
participate.

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

  
Victor J. Kohn, Executive Director



APPENDIX A

LONG BEACH MARINE, LTD.  
(a California Partnership)

Original Page 1

Long Beach Marine, Ltd., by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to conduct operations as a vessel common carrier as defined in Sections 211(b) and 238 of the Public Utilities Code for the transportation of (a) freight only in conjunction with delivering petroleum products in a minimum amount of 500 gallons which are to be pumped from a U.S. Coast Guard inspected vessel, or (b) for petroleum products only between: the ports of Los Angeles and Long Beach, on the one hand, and, on the other, all docks, wharves, ships, points, and places within the Los Angeles/Long Beach harbor.

Subject to the following restrictions:

1. No passenger shall be transported.
2. No vessel shall be operated unless it has met all applicable safety requirements including those of the United States Coast Guard.

(END OF APPENDIX A)

Issued by the California Public Utilities Commission.

Decision § 8-01-019, Application 87-07-026.

APPENDIX B

<u>Service</u>	<u>Crew</u>	<u>Hourly Rates</u>	<u>Holiday Rates</u>
Parts, Freight or Stores	2	\$125.00	\$165.00
Additional personnel	each	\$ 25.00	\$ 40.00

Per Gallon/Per Pound

Petroleum Products - Package \$ .28/.04

A minimum charge of \$750.00 (total of all services rendered) will apply to all deliveries. One hour minimum shall apply to all stores and package deliveries made in conjunction with bulk fuel and lube deliveries. Time will be computed to nearest half hour.

Cargo loading will be done at Berth 58 in Long Beach. Time for all cargo runs will be on a portal basis beginning from the required load time until such time as the tanker barge returns to Berth 58 and is unloaded. One half hour minimum load time will be charged for loading parts, freight or stores.

A one hour minimum will be charged on all cancellations or changes of orders effected with less than two hours notice. Changes of orders effected with less than two hours notice will be subject to barge availability.

A four hour minimum will be charged on a no show for services ordered. The order will be automatically cancelled after a two hour no show.

The following holidays will be observed by Long Beach Marine, Ltd. and holiday rates will apply: New Year's Day, President's Day, Easter, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, Christmas Day.

(END OF APPENDIX B)

the vessel rather than the two movements now needed. The savings to the shipper are obvious.

Findings of Fact

1. Numerous shippers require vessel service in the Los Angeles/Long Beach harbor in which one vessel can provide bulk liquid petroleum products and packaged freight and ships stores service in one delivery to ships anchored in the harbor.

2. At present only one operator in the Los Angeles/Long Beach harbor can now provide the service described in Finding 1. Shippers not desiring the services of that operator are compelled to hire two vessels to have bulk liquid petroleum products and ships stores delivered to their ships in the harbor.

3. Shippers will have lower costs if one vessel can provide the service described in Finding 1.

4. Shippers will have the benefits of competition if more than one operator can perform the services described in Finding 1.

5. The rates proposed by applicant are reasonable.

6. Public convenience and necessity require the service proposed by applicant.

7. The certificate of public convenience and necessity authorized by this decision should be issued to Long Beach Marine, Ltd., a California partnership.

Conclusion of Law

Public convenience and necessity have been demonstrated and the application should be granted.

ORDER

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Long Beach Marine, Ltd., a California partnership, authorizing it to operate as a common carrier by vessel, as defined in PU Code §§ 211(b) and 238, between the points set forth in

Appendix A, to transport petroleum products and freight in conjunction with petroleum products as described in Appendix A.

2. Long Beach Marine, Ltd. shall:

- a. File with the Transportation Division written acceptance of this certificate within 30 days after this order is effective.
- b. Establish the authorized service and file tariffs within 120 days after this order is effective.
- c. State in its tariffs when service will start; allow at least 10 days' notice to the Commission; and make tariffs effective 10 or more days after this order is effective.
- d. Comply with General Orders Series 87, 104, 111, and 117.
- e. Maintain accounting records in conformity with the Uniform System of Accounts.
- f. Remit to the Commission the Transportation Reimbursement Fee required by PU Code § 403 when notified by mail to do so.

3. Long Beach Marine, Ltd., shall establish the tariff set forth in Appendix B.

This order becomes effective 30 days from today.

Dated \_\_\_\_\_, at San Francisco, California.