

Decision 88 04 053 APR 27 1988

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of ISLAND EXPRESS, INC. for a )  
Certificate of Public Convenience )  
and Necessity to Conduct opera- )  
tions as a common carrier by )  
vessel between Dana Point, Santa )  
Monica, and Long Beach, on the )  
one hand, and Avalon on Santa )  
Catalina Island, on the other )  
hand, and between various points )  
on the Island. )

Application 84-05-112  
(Filed May 31, 1984)

ORDER EXTENDING TIME

By Decision (D.)85-04-103 and D.85-07-128 dated April 17, 1985 and July 24, 1985, respectively, we granted Island Express, Inc. (Island Express) a certificate of public convenience and necessity (CPC&N) to operate as a common carrier by vessel, between the Queens Way Hilton Hotel in Long Beach and Dana Point Harbor, on the one hand, and the City of Avalon, on Santa Catalina Island, on the other hand. Pursuant to Ordering Paragraph 2(b) of D.85-04-103, we required Island Express to initiate the authorized service and file tariffs and timetables within two years after the effective date of the order.

By D.87-08-058, the Commission granted an extension of time for Island Express to establish service and to file tariffs and timetables on or before July 24, 1989. The extension was granted upon the condition that within 180 days from the date of issuance, i.e. from August 26, 1987, Island Express submit to the Commission evidence that it had submitted designs and plans for the construction of the HM-221 surface effect ship (SES) vessels to the U.S. Coast Guard (Coast Guard); that it has received approval from that agency; and that a licensing agreement has been executed by

Hovermarine International, Ltd. (Hovermarine) and the United States firm for the construction of the vessel.

By letter dated February 11, 1988, Island Express informed the Commission of the following:

1. On November 20, 1987, Hovermarine submitted an application to the Coast Guard to cover the construction of the HM-221 SES vessel. On December 24, 1987, the application was resubmitted and the detailed designs and plans were submitted to the Coast Guard. Letters attesting to this are shown in Attachments A and B to Island Express' request.
2. Hovermarine has established a subsidiary company (High Speed, Inc.) in Armonk, New York, which is in the process of making arrangements for the HM-221 SES vessels to be built by the Tacoma Boatbuilding Company. To date, approval by the Coast Guard of the designs and plans for the construction of the HM-221 SES vessel has not been granted.
3. In the fall of 1987, Island Express and Catalina Channel Express, Inc. (Catalina Express) commenced negotiations for the purchase by Catalina Express of Island Express' CPC&N which concluded in the execution of an agreement dated January 29, 1988. Both parties will file an application with this Commission requesting authority to transfer the CPC&N (the VCC-60) of Island Express, by February 16, 1988. The application will also request a modification of the certificate to permit use of a 149-passenger submerged foil hydrofoil vessel in addition to or in lieu of the 100-passenger HM-221 SES vessel.
4. Island Express intends to take the necessary steps to assure that the required information relating to the construction of the HM-221 SES vessel is given to the Coast Guard in order to obtain approval from that agency and to urge Hovermarine, through its U.S. subsidiary, to sign and execute a licensing agreement as soon as possible.

Based upon the foregoing and for all the reasons put forth by Island Express in its letter of June 24, 1987, requesting the initial extension, Island Express requests, under Rule 43 of the Commission's Rules of Practice and Procedure, that the time for receiving Coast Guard approval and the time for submission of the licensing agreement for the construction of the HM-221 SES vessel be extended to September 30, 1988. Accompanying the letter of February 11, 1988 is a certificate of service indicating that the letter was served upon all parties of record.

No protests to this request for an extension of time have been received. The facts stated by Island Express indicate a good faith effort to comply with the previous decisions of the Commission and are deemed to constitute sufficient good cause to grant the request for an extension of the condition set forth in D.87-08-058 (dated August 26, 1987) until September 30, 1988.

Findings of Fact

1. Island Express has made a good faith effort to comply with the conditions set forth in D.87-08-058.
2. Island Express has submitted designs and plans for the construction of HM-221 SES vessels to the Coast Guard.
3. Hovermarine has established a United States subsidiary company (Hy-Speed, Inc.) in Armonk, New York, to make arrangements with the Tacoma Boatbuilding Company for the construction of the HM-221 SES vessel.
4. To date, approval by the Coast Guard of the designs and plans for the construction of the SES vessel has not been given.
5. No protests to the request for extension of time have been filed.

Conclusion of Law

The facts indicate a good faith effort to comply with D.87-08-058 by Island Express. Since approval by the Coast Guard and construction of the vessel, which is contingent upon approval by the Coast Guard, are matters outside the direct control of

Island Express, the request for extension of time until September 30, 1988 to comply with the conditions set forth in D.87-08-058 should be granted.

IT IS ORDERED that:

1. The condition set forth in Ordering Paragraph 1 of D.87-08-058, which set an effective date of August 26, 1987 (180 days from the date of issuance of D.87-08-058) for Island Express, Inc. to submit certain evidence to the Commission, is extended to September 30, 1988.

2. Ordering Paragraph 2 of D.87-08-058 is modified to read as follows:

"2. In the event that the above conditions are not met, the certificate of public convenience and necessity issued to Island Express in D.85-04-103 and D.85-07-128 shall be revoked on October 1, 1988."

This order is effective today.

Dated APR 27 1988, at San Francisco, California.

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

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

  
Victor Weiss, Executive Director