

Decision 89 07 028 JUL 6 1989

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 BLACK BALL VEHICLE FERRY SYSTEMS, a)
 California corporation, for a)
 Certificate of Public Convenience)
 Necessity authorizing (a) the)
 transportation, by vessel, of)
 vehicles and persons across the)
 Sacramento River between Collinsville)
 and Pittsburg, California, and)
 (b) for an order authorizing the)
 issuance of stock.)

Application 86-11-042
(Filed November 25, 1986)

In the Matter of the Application of)
 BLACK BALL VEHICLE FERRY SYSTEMS, a)
 California corporation, for a)
 Certificate of Public Convenience)
 and Necessity authorizing the)
 scheduled transportation, by vessel,)
 of trucks and slow moving vehicles)
 and their occupants across San)
 Francisco Bay between (1) the City)
 and County of San Francisco and)
 Oakland, Alameda County; (2) the)
 City and County of San Francisco)
 and Tiburon, Marin County;)
 (3) Richmond, Contra Costa County,)
 and San Rafael, Marin County;)
 (4) Redwood City, San Mateo County,)
 and Hayward, Alameda County.)

Application 87-01-006
(Filed January 7, 1987)

CORRECTION

**THIS DOCUMENT HAS
BEEN REPHOTOGRAPHED**

TO ASSURE

LEGIBILITY

CORRECTION

**THIS DOCUMENT HAS
BEEN REPHOTOGRAPHED
TO ASSURE
LEGIBILITY**

In the Matter of the Application of)
BLACK BALL VEHICLE FERRY SYSTEMS, a)
California corporation, for a)
Certificate of Public Convenience)
and Necessity authorizing the)
scheduled transportation, by barge)
of trucks, containers on chassis,)
and slow moving or oversized)
vehicles, without passengers,)
between San Jose, Santa Clara)
County, and Sacramento, Sacramento)
County, with way ports at Fremont,)
Santa Clara County; Redwood City,)
San Mateo County; Hayward, Alameda)
County; City and County of San)
Francisco; Oakland, Alameda County;)
Tiburon, Marin County, Richmond,)
Contra Costa County; San Rafael,)
Marin County; Selby/Crockett, Contra)
Costa County; Vallejo, Solano)
County; Collinsville, Solano County;)
Stockton Area, San Joaquin County;)
Rio Vista, Solano County; and)
Brannan Island, Sacramento County.)

Application 87-02-004
(Filed February 2, 1987)

SECOND INTERIM OPINION

On April 26, 1989, the Commission issued Decision (D.) 89-04-077 in the above-captioned matters. That decision granted to Black Ball Vehicle Ferry Systems (BBVFS), a California corporation, a certificate of public convenience and necessity authorizing it to operate as a vessel common carrier between Collinsville and Pittsburg. The decision also authorized BBVFS to issue 44,000 shares of \$10 par common stock. The order granting authority to issue stock was effective upon payment of a \$880 fee. (Public Utilities (PU) Code § 1904.1.)

On June 5, 1989, BBVFS filed a petition for modification of D.89-04-077, seeking to reduce the size of the authorized issue of common stock from 44,000 shares to 100 shares. Because of new

legislation, BBVFS intends to seek public funding for its proposed ferry operations.

Factual Background

BBVFS filed Application (A.) 86-11-042 in November, 1986. The application included a request for authority to issue 44,000 shares of \$10 par common stock. At the time of filing BBVFS intended to issue stock to finance its initial operations. However, in November, 1988, the voters in the City and County of San Francisco and in Alameda, Contra Costa, Marin, San Mateo, Santa Clara, and Solano counties passed Regional Measure No. 1, enacting, inter alia, Streets and Highways (S&H) Code §§ 30913(b) and 30914(b). Section 30913(b) provides:

"Up to 3[%] of the revenue derived from the toll increase on all bridges in the northern bridge unit [Antioch, Benecia-Martinez, Carquinez, and Richmond-San Rafael bridges] may be allocated by the [MTC] for transportation projects...which are designed to reduce vehicular traffic congestion on any bridge in that group. The plans for the projects may also be funded by these moneys."

Section 30914(b) is to the same effect for bridges in the southern bridge unit, i.e. Dumbarton, San Mateo-Hayward, and San Francisco-Oakland bridges. BBVFS now plans to seek an allocation of these toll bridge revenues from the MTC to finance its initial operations.

Petition for Modification

BBVFS alleges that it qualifies for public funding under the above provisions of Regional Measure No. 1, because its proposed Collinsville-Pittsburg ferry - the subject of A.86-11-042 - will divert traffic away from the Benecia-Martinez bridge by: (a) providing an alternate route for passengers and vehicles; and (b) providing a Solano County express bus system to BART trains at Concord. BBVFS further alleges that its

qualification for public funding under Regional Measure No. 1 significantly reduces its need for private capital.

BBVFS also alleges that in light of Regional Measure No. 1 it will need authority to issue only 100 shares of \$10 par common stock to be shared by certain active founders and major contributors. As soon as BBVFS establishes the amount of public funding available, it will seek authority to issue additional common stock, if necessary.

BBVFS seeks an order modifying D.89-04-077 to reduce the size of the authorized stock issue from 44,000 shares to 100 shares. An additional effect of such a modification will be to reduce the fee required by PU Code § 1904.1 from \$880 to \$2.00. We will grant the petition for modification.

Findings of Fact

1. Because of Regional Measure No. 1, BBVFS has an immediate need for only a nominal issue of common stock.
2. Depending on the amount of public funds available to BBVFS, it may seek authority to issue additional common stock at a later date.
3. Notice of the filing of the petition for modification appeared in the Daily Calendar of June 8, 1989. No protests have been filed.
4. A public hearing is not necessary.

Conclusions of Law

1. The petition should be granted.
2. Conclusion of Law 3 of D.89-04-077 should be modified to read:

BBVFS should be authorized to issue 100 shares of common stock.

3. Ordering Paragraph 3 of D.89-04-077 should be modified to read:

On or after the effective date of this order, but before December 31, 1989, for the purposes specified, BBVFS may issue up to 100 shares of

common stock with par or stated value of \$10.00 per share.

4. The first sentence of Ordering Paragraph 5 of D.89-04-077 should be modified to read:

The authority to issue stock, granted by this order, shall become effective when the issuer pays \$2.00, the fee set by PU Code § 1904.1.

5. The Executive Director should be directed to consolidate the mailing of this decision with the mailing of D.89-04-077.

6. The following order should become effective when the issuer pays \$2.00, the fee set by PU Code § 1904.1.

SECOND INTERIM ORDER

IT IS ORDERED that:

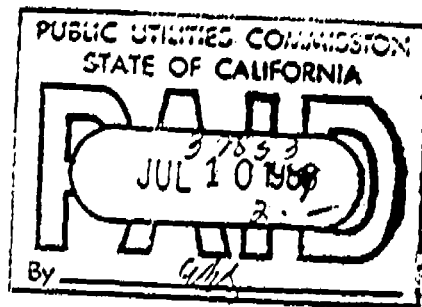
1. Conclusion of Law 3 of D.89-04-077 is modified to read:
BBVFS should be authorized to issue 100 shares of common stock.
2. Ordering Paragraph 3 of D.89-04-077 is modified to read:
On or after the effective date of this order, but before December 31, 1989, for the purposes specified, BBVFS may issue up to 100 shares of common stock with par or stated value of \$10.00 per share.
3. The first sentence of Ordering Paragraph 5 of D.89-04-077 is modified to read:
The authority to issue stock, granted by this order, shall become effective when the issuer pays \$2.00, the fee set by PU Code § 1904.1.
4. The Executive Director is directed to consolidate the mailing of this decision with the mailing of D.89-04-077.

5. The petition for modification is granted.

This order will become effective when the issuer pays \$2.00, the fee set by PU Code § 1904.1.

Dated JUL 6 1989, at San Francisco, California.

G. MITCHELL WILK
President
FREDERICK R. DUDA
STANLEY W. HULETT
JOHN B. OHANIAN
PATRICIA M. ECKERT
Commissioners



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

Victor Weisbur
Victor Weisbur, Executive Director

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