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Decision 92-04-008 April 8, 1992

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of H. TOURIST, INC. doing business )  
as CATALINA CRUISES, a California )  
corporation, to amend its certificate )  
of public convenience and necessity )  
(VCC-46) as it relates to the trans- )  
portation of passengers between the )  
Port of Long Beach, on the one hand, )  
and points on Santa Catalina Island, )  
on the other hand. )

Application 91-11-023  
(Filed November 4, 1991)

O P I N I O N

H. Tourist, Inc., doing business as Catalina Cruises (H. Tourist), is a common carrier by vessel engaged in the transportation of passengers by vessel pursuant to a certificate of public convenience and necessity (certificate) set forth in Appendix A to Decision (D.) 90388, dated June 5, 1979 in Application (A.) 58641, as amended by D.90680, D.91022, and D.85-05-094.

The certificate authorizing the vessel common carriage by H. Tourist provides for both scheduled and nonscheduled service. The certificate contains the following "Restrictions, Limitations, and Specifications":

"Service between the Port of Long Beach and the points on Santa Catalina Island be conducted daily."

H. Tourist seeks to amend its certificate to delete the requirement that it provide daily service between the Port of Long Beach and points on Santa Catalina Island.

The application was protested by Catalina Island Marine Institute. By letter dated February 13, 1992, Catalina Island Marine Institute advised that it was withdrawing its protest

previously filed. The letter also advised that it had no conflict with the proposed reduction in service.

H. Tourist alleges that:

"Through the late 1970's and early 1980's, H. Tourist was the principal common carrier by vessel serving Santa Catalina Island, with the vast majority of the passengers being transported between either San Pedro or Long Beach on the one hand, and, on the other, Avalon. In 1981, the Commission issued Decision 93291 which authorized Catalina Channel Express, Inc. ("Express") to institute competitive service between San Pedro and Avalon. Express instituted service in the latter part of 1981 with one 60-passenger capacity vessel and in the next three or four years, it constructed three new 149 passenger vessels which cruised in the range of 22 to 25 knots and were placed into service for Avalon passengers (as well as for passengers to other Santa Catalina Island points).

"The competitive service of Express had a dramatic negative impact upon the market share of H. Tourist with regard to Avalon passengers. This impact was significantly exacerbated by the Commission's Decision 88-08-011, as corrected by Decision 88-12-018 (A.88-03-032), by which the certificate previously granted to Island Express, Inc. was authorized to be transferred to Express. This transfer enabled Express to provide a common carrier by vessel service between Long Beach and Avalon in addition to the service between San Pedro and Avalon. After the issuance of this decision in 1988, Express built and placed into service three new vessels, AVALON EXPRESS, SUPER EXPRESS, AND JET CAT EXPRESS, each with 30 knot cruising speed and certificated to transport 149, 149, and 400 passengers, respectively. Express now operates a total of six vessels between San Pedro or Long Beach and points on Santa Catalina Island.

"Over the past several years the competition of Express has caused a significant decline in H. Tourist's market share of Avalon passengers. This decline is shown in the following table:

<u>Year</u>	<u>Total One-Way Passengers Between Southern California Mainland Pts. and Avalon</u>	<u>Total By H. Tourist</u>	<u>% Market Share</u>
1982	1,091,794	970,766	88.91
1983	1,078,178	911,758	84.56
1984	1,209,480	986,466	81.56
1985	1,291,422	958,767	74.24
1986	1,261,328	852,037	67.55
1987	1,298,751	728,443	61.39
1988	1,335,805	741,918	55.54
1989	1,333,920	665,303	49.15
1990	1,365,950	446,174	32.66
1991	687,648 (Jan-July)	171,353	24.92

"As this table plainly demonstrates, H. Tourist's market share has dropped from almost 90 percent to slightly under 25 percent during the ten-year period of the competitive service of Express."

H. Tourist further alleges that:

"... between Long Beach and Avalon, Express provides several daily schedules with a published transit time of one hour and actual transit time of approximately 55 minutes. The H. Tourist vessels providing service between these same points were all constructed in the 1970's, are considerably slower, and provide a transit time of approximately two hours."

During the months of December 1990 and January 1991, H. Tourist operated the vessels, Catalina Prince, Catalina Empress, Catalina King, or Catalina Monarch, in service between Long Beach and Avalon. These vessels are certificated by the United States Coast Guard for a capacity of 700 passengers each. During these two months, H. Tourist provided two daily trips from Long Beach to Avalon and two daily return trips from Avalon to Long Beach. Attached to the application as Exhibits 6 and 7 are reports entitled "Catalina Cruises Traffic Report" which provide daily per trip and total passenger counts for the 31 days in each of these months. These reports demonstrate the onerous nature of the daily

service requirement now contained in the H. Tourist certificate, particularly during winter weekdays when there are no camp groups to transport.

For instance, during the Monday through Thursday periods for the first two weeks of December 1990, Exhibit 6 illustrates the following:

<u>Day-Date</u>	<u>Pass. Capacity (4 x 700)</u>	<u>Actual Passengers</u>	<u>% of Capacity Used</u>
Mon -Dec. 3	2,800	101	3.6
Tues -Dec. 4	2,800	145	5.2
Wed -Dec. 5	2,800	134	4.8
Thurs-Dec. 6	2,800	90	3.2
Mon -Dec. 10	2,800	108	3.9
Tues -Dec. 11	2,800	106	3.8
Wed -Dec. 12	2,800	48	1.7
Thurs-Dec. 13	2,800	55	1.9

For the entire month of December, H. Tourist transported 7,128 passengers of 8.2% of its capacity. A large number of those passengers were transported during the six days between the Christmas and New Year holidays.

A similar two-week period in January 1991 produced similar passenger counts on weekdays as illustrated by Exhibit 7 as follows:

<u>Day-Date</u>	<u>Pass. Capacity (4 x 700)</u>	<u>Actual Passengers</u>	<u>% of Capacity Used</u>
Mon -Jan. 7	2,800	72	2.6
Tues -Jan. 8	2,800	115	4.1
Wed -Jan. 9	2,800	61	2.2
Thurs-Jan. 10	2,800	101	3.6
Mon -Jan. 14	2,800	135	4.8
Tues -Jan. 15	2,800	100	3.6
Wed -Jan. 16	2,800	85	3.0
Thurs-Jan. 17	2,800	98	3.5

For the entire month of January 1991, H. Tourist transported 7,194 passengers or 8.3% of its capacity. A large percentage of those passengers were transported during weekend periods or they were camp groups.

H. Tourist further alleges that it is presently providing its ferry service at Long Beach at a loss. Attached to the application as Exhibit 10 is the H. Tourist income statement for Long Beach ferry service for the year ended December 31, 1990. During that calendar year, H. Tourist sustained a loss of \$352,367 which calculates to an operating ratio of 108%. Attached as Exhibit 11 is a similar income statement for the eight months ending August 31, 1991. During this period, which included the peak summer season, H. Tourist sustained a loss of \$30,887 which calculates to an operating ratio of 101%.

Based on the allegations set forth in the application, we see no need to require H. Tourist to continue to provide daily scheduled service between the Port of Long Beach and the points on Santa Catalina Island.

Findings of Fact

1. H. Tourist holds a certificate authorizing vessel common carrier operations between the Port of Long Beach and the points on Santa Catalina Island.

2. The certificate set forth in Finding of Fact 1 contains the following language:

"Restrictions, Limitations, and Specifications:

"Service between the Port of Long Beach and the points on Santa Catalina Island be conducted daily."

3. Catalina Channel Express, Inc. holds a certificate authorizing vessel common carrier operations between the Port of Long Beach and the points on Santa Catalina Island.

4. Catalina Channel Express, Inc. also provides scheduled daily service between the Port of Long Beach and Santa Catalina Island.

5. The vessels operated by Catalina Channel Express, Inc. are much faster and more luxurious than the vessels operated by H. Tourist.

6. Much of the business previously enjoyed by H. Tourist has been diverted to Catalina Channel Express, Inc.

7. H. Tourist is now operating its scheduled daily service between the Port of Long Beach and Santa Catalina Island at a loss.

8. Notice of the filing of the application appeared in the Daily Calendar on November 21, 1991 and the Transportation Division Calendar on November 22, 1991. Catalina Island Marine Institute filed a protest on December 23, 1991 but has since withdrawn it. A public hearing is not necessary.

Conclusions of Law

1. The requirement in the certificate of H. Tourist requiring it provide daily service between the Port of Long Beach and Santa Catalina Island is a financial burden.

2. The application should be granted to the extent set forth in the ensuing order.

3. Since there is an immediate need for the relief sought herein, this order should become effective on the date of signature.

ORDER

IT IS ORDERED that:

1. Original Page 1 of Appendix A attached to D.85-05-094 is hereby canceled and First Revised Page 1 attached hereto is made a part of the certificate of public convenience and necessity of H. Tourist Inc.

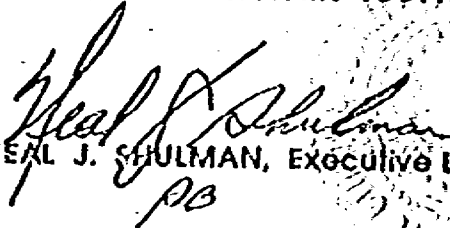
2. Within 30 days after the effective date of this order, H. Tourist shall amend its tariffs and timetables to reflect the change to its certificate.

This order is effective today.

Dated April 8, 1992, at San Francisco, California.

DANIEL Wm. FESSLER  
President  
JOHN B. OHANIAN  
PATRICIA M. ECKERT  
NORMAN D. SHUMWAY  
Commissioners

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

  
NEAL J. SHULMAN, Executive Director

H. Tourist, Inc., a corporation, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to conduct common carrier services by vessel, as described below, for the transportation of passengers and their baggage, mail, newspapers and periodicals:

**I. Scheduled Services**

A. Between the Port of Los Angeles (San Pedro) or the Port of Long Beach, on the one hand, and the following points on Santa Catalina Island, on the other land:

1. Avalon, 2. Gallagher's Beach, 3. Toyon Bay,
4. White's Landing, 5. Camp Fox, 6. The Isthmus
7. Howland Landing.

**Restrictions, Limitations, and Specifications:**

1. \*(deleted)
2. In transporting mail, newspapers and periodicals:
  - a) Service shall be provided following the same schedules and using the same vessels as are used by carrier in providing its scheduled passenger vessel service between the authorized points.
  - b) Carrier shall only accept for transportation those shipments which are tendered to it at its terminal facilities at Long Beach, Los Angeles (San Pedro) or Avalon and which are destined to one of said terminal facilities.

B. Between Avalon and Two Harbors (Isthmus Cove), serving the intermediate points of Gallagher's Beach, White's Landing, Toyon Bay and Camp Fox.

**Restrictions, Limitations, and Specifications:**

1. Services between Avalon and Two Harbors shall be conducted on a flag stop basis with advance

Issued by California Public Utilities Commission.

\*Amended by Decision 92-04-008, Application 91-11-023.