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Decision 92-06-010 June 3, 1992

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of CATALINA CHANNEL  
 EXPRESS, INC., a California  
 corporation, (VCC-52) for Removal  
 of Certain Certificate Restrictions,  
 for Authority to Carry Newspapers,  
 Periodicals, and Mail, and for  
 Suspension of Operations Between  
 Redondo Beach and Santa Catalina  
 Island.

ORIGINAL

Application 92-04-014  
(Filed April 9, 1992)

O P I N I O N

Catalina Channel Express, Inc., (Catalina Express or applicant) seeks authority to carry newspapers, periodicals, and mail, and to suspend operations between Redondo Beach and Santa Catalina Island (Catalina).

Applicant is a common carrier by vessel (VCC-52) and is authorized to transport passengers and their baggage in scheduled service between Berth 95-06 in Los Angeles Harbor (San Pedro) and Redondo Beach, on the one hand, and Avalon and Two Harbors on Santa Catalina Island, on the other hand, and between Long Beach and Dana Point, on the one hand, and Avalon on Santa Catalina Island, on the other hand. Applicant is also authorized to transport passengers and their baggage in nonscheduled (charter) service between San Pedro and Long Beach, on the one hand, and all points on Santa Catalina Island, on the other hand. Applicant is also authorized to transport passengers and their baggage in scheduled service between points on and along the shoreline of the Long Beach/Los Angeles Harbor.

By this application, Catalina Express seeks to modify its certificate of public convenience and necessity in the following respects: (a) To remove various certificate restrictions which have become obsolete and/or interfere with applicant's ability to serve the public most efficiently; (b) To authorize the transportation of newspapers, periodicals, and mail; and (c) To temporarily suspend operations between Redondo Beach and Santa Catalina Island because of low patronage and logistical problems until a better terminal can be secured to serve this market.

By this application, Catalina Express seeks to modify its certificate by removing the following restrictions:

- (a) The 4:30 departure;
- (b) The half-hour interference;
- (c) The Long-Beach restrictions; and
- (d) Consolidation of the daily year-round service requirement to the San Pedro Terminal.

The 4:30 Departure

When Catalina Express first obtained authority for cross-channel passenger transportation in Decision 93291, dated July 7, 1981, one of the restrictions imposed was:

"One schedule will be operated in the afternoon daily at 4:30 p.m. leaving Berth 94-05 (later changed to Berth 95-96) in the Los Angeles Harbor to Avalon, Santa Catalina Island."

This had the effect of requiring Catalina Express to operate at least one schedule daily year-round. Catalina Express has no quarrel with that restriction, and does not now seek to avoid such a restriction. But it also had the effect of fixing a precise time for operating that daily year-round schedule, and it is this effect that Catalina Express now wishes to remove.

This restriction was originally intended to protect the schedules of competitor, H. Tourist, Inc. dba Catalina Cruises, and is no longer necessary because Catalina Cruises has not operated

any schedules out of Los Angeles Harbor since the summer of 1990. If Catalina Express is to be the only carrier providing daily year-round service, it believes it should have the flexibility of scheduling that service at the hours most convenient to the public and most efficient to its operation.

The Half-Hour Interference

When Catalina Express first obtained Los Angeles-Catalina operating authority, it was restricted from scheduling vessels from Los Angeles Harbor destined for Avalon with a departure time within one hour before or after the scheduled departures of its competitor Catalina Cruises. This restriction was later reduced to one-half hour, so that the restriction now reads:

"No schedule will be operated from Berth 95-06 in Los Angeles Harbor to Avalon, Santa Catalina Island with a departure time within one-half hour before or after the scheduled departures of H. Tourist, Inc. on file with this Commission on June 18, 1981."

This restriction was intended to protect the schedules of Catalina Cruises and is no longer necessary as Catalina Cruises no longer provide year-round service and has many times changed its schedules since 1981. This restriction, in applicant's opinion, bears no relation to anything in the real world.

Long Beach Restriction

Catalina Express obtained its certificate authority to operate between Long Beach and Avalon in Decision (D.) 88-08-011 which decision approved the transfer of that authority to Catalina Express from Island Express, Inc. The certificate as originally issued to Island Express in 1985 was restricted to operations conducted with vessels which were to cruise at 30 knots.

When the Commission authorized the transfer of the Long Beach certificate from Island Express to Catalina Express in D.88-08-011 the restriction relating to the type of vessel with which the service could be provided was modified to read:

"the authorized service shall be provided with vessels which cruise at a minimum speed of 30 knots."

This modification accommodated certain high speed vessels that had recently been developed by Catalina Express. At the present time, three of the six vessels operated by Catalina Express are high speed vessels cruising at speeds of more than 30 knots, and these three high speed vessels represent more than 65% of the seating capacity of Catalina Express's fleet. Catalina Express has every intention of continuing to use these high speed vessels and of developing additional high speed vessels, but there is no longer any reason to restrict Catalina Express in allocating its vessels between its mainland terminals. For this reason, the Long Beach speed restriction should be deleted so that Catalina Express can allocate its fleet of vessels between its mainland terminals to better serve the public and more efficiently conduct its operations.

By the same token, the restriction on Catalina Express's Long Beach authority to Avalon to the exclusion of Two Harbors is no longer warranted. Catalina Express presently operates service from Los Angeles Harbor to Two Harbors as well as to Avalon and between Avalon and Two Harbors. Such service may often be rendered by using a triangular route from Los Angeles to Avalon to Two Harbors to Los Angeles (or in the reverse direction). In order to provide Catalina Express with maximum efficiency in its scheduling for the benefit of the public as well as itself, Catalina Express requests that it be authorized to operate such triangular routes from Long Beach as well as Los Angeles Harbor. Also, Catalina Express has received requests from persons in both Long Beach and

Two Harbors for service between these points. Therefore, Catalina Express requests additional authority between Long Beach and Two Harbors.

Consolidation of Daily Service Requirements

Catalina Express obtained its Long Beach authority (and its Dana Point authority) by way of a transfer of the certificate previously issued to Island Express. That certificate contained a requirement that Island Express operate daily year-round service, and that requirement is still a part of the Long Beach and Dana Point authorities now in the hands of Catalina Express. Catalina Express is required to provide daily year-round service between Catalina Island and Los Angeles Harbor (its principal office), and asserts that there is insufficient business to require it to continue daily service requirements to the other mainland terminals.

Newspaper and Mail

By this application, Catalina Express also seeks authority to conduct common carrier services by vessel transporting newspaper, periodicals, and mail between Santa Catalina Island and the Southern California mainland. This service would be performed in conjunction with Catalina Express's existing regular scheduled and nonscheduled passenger service between these points. Catalina Express proposes to transport newspapers, periodicals, and mail on the same vessels and according to the same schedules as it is presently transporting passengers. Catalina Express has sufficient space at its existing terminals and on its vessels to accommodate this additional traffic. Accommodation of these items will in no way interfere with passenger comfort or safety.

Applicant asserts that there is a substantial public need for this proposed service. The only airport on Santa Catalina Island is often forced to close down due to low clouds and fog. Catalina Express is the only vessel carrier operating daily year-round service to Catalina Island, and therefore the only dependable

vessel service for the regular delivery of these commodities. As such, Catalina Express is in a very good position to ensure that Catalina Island residents receive consistent, reliable deliveries of mail, newspapers, and periodicals.

Catalina Express has not yet determined the rates it will charge for the proposed service. Transporters of mail must negotiate rates with the U.S. Postal Service and this can only be done once the required authority is granted. Newspapers and periodicals are also generally transported pursuant to rates negotiated with the publishers and distributors. Catalina Express contemplates establishing reasonable competitive rates for these services, with exact levels being subject to discussion with shippers.

Redondo Beach Suspension

Catalina Express obtained authority to operate passenger vessel service between Redondo Beach, on the one hand, and both Avalon and Two Harbors on Santa Catalina Island, on the other hand in D.88-04-009. The certificate stipulated that a minimum of one round-trip schedule per day would be operated between Redondo Beach and Avalon between June 15 and September 15 of each year, and that a minimum of two round-trip schedules per week would be operated between Redondo Beach and Two Harbors during the same summer period each year. By this application, Catalina Express requests that the minimum service restriction on its authority to operate between Redondo Beach and Catalina Island be deleted from the certificate as part of the consolidation of its minimum service requirements to both Avalon and Two Harbors at the Los Angeles Harbor terminal. As a separate matter, Catalina Express requests that this certificate authority to operate between Redondo Beach and Catalina Island be suspended for a period of two years.

Catalina Express alleges that it has operated service between Redondo Beach and both Avalon and Two Harbors for three full summers (1989, 1990, and 1991). Patronage of the service has

been considerably less than anticipated. As a result the Redondo Beach/Catalina routes operated at a loss during all three summers. The two principal causes for the poor patronage are the long distance between the Redondo Beach terminal at Redondo Beach Marina and any freeway access, and the lack of adequate parking facilities at the Redondo Beach terminal. Catalina Express believes it is necessary to suspend service on the Redondo Beach/Catalina routes for a period of two years so that an alternate terminal facility can be secured, and so that the losses suffered by Catalina Express on the Redondo Beach routes do not impair the company's ability to serve the public on its other routes to Catalina Island.

Findings of Fact

1. Notice of this application appeared on the Commission's Calendar on April 14, 1992. There are no protests. A public hearing is not necessary.
2. Applicant has the ability, experience, equipment, and financial resources to perform the proposed service.
3. Applicant should be authorized to carry newspapers, periodicals, and mail on its vessels at prices to be negotiated with shippers.
4. Applicant need not maintain daily service to Catalina Island from its mainland terminal except from its principal office in Los Angeles Harbor.
5. Applicant need not operate a minimum of one round-trip schedule per day between Redondo Beach and Avalon between June 15 and September 15 of each year, nor a minimum of two round-trip schedules per week between Redondo Beach and Two Harbors during that same period.
6. Applicant may suspend service between Redondo Beach and Catalina Island for an approximate two-year period beginning on the effective date of this order until June 1, 1994.
7. Applicant may remove the following restrictions from its tariff:

- a. The 4:30 p.m. departure from Los Angeles Harbor.
- b. The half-hour interference in regard to the schedules of H. Tourist, Inc.
- c. The minimum speed restriction on service between Long Beach and Avalon.

8. Applicant should be authorized to operate between Long Beach and Two Harbors on Catalina Island.

Conclusion of Law

The application should be granted.

Only the amount paid to the State for operative rights may be used in rate fixing. The State may grant any number of rights and may cancel or modify the monopoly feature of these rights at any time.

ORDER

IT IS ORDERED that:

1. The certificate of public convenience and necessity granted to Catalina Channel Express, Inc., a corporation, authorizing it to operate as a vessel common carrier as defined in PU Code §§ 211(b) and 238, to transport persons and their baggage, between the points and over the routes set forth in Appendix A of Decision 93291 as amended, is further amended by replacing Sixth Revised Pages 1 and 2, First Revised Page 3 and Original Page 4 with Seventh Revised Pages 1 and 2, Second Revised Page 3, and First Revised Page 4.
2. Applicant 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 and timetables within 120 days after this order is effective.



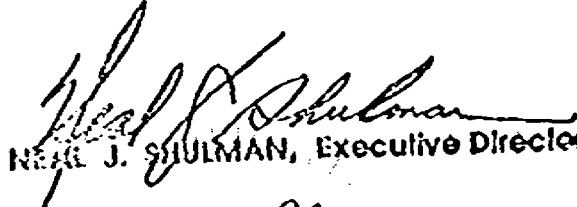
- c. State in its tariffs and timetables when service will start; allow at least 10 days' notice to the Commission; and make timetables and tariffs effective 10 or more days after this order is effective.
- d. Comply with General Orders Series 87, 104, 111, and 117.
- e. Maintain accounting records in 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.

This order is effective today.

Dated June 3, 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

T/MM

Appendix A  
(D.93291)

CATALINA CHANNEL  
EXPRESS, INC.  
(a California corporation)

Seventh Revised Page 1  
Cancels  
Sixth Revised Page 1

SECTION I. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS, AND SPECIFICATIONS.

Catalina Channel Express, Inc., a California corporation, by this certificate of public convenience and necessity, is authorized to conduct common carriage by vessels, for the transportation of passengers and their baggage between the points as described in Sections II and III, and \*the transportation of newspapers, periodicals, and mail between points on Santa Catalina Island, as described in Sections II and III, on the one hand, and Long Beach, Dana Point, Los Angeles, and Redondo Beach, on the other hand, subject to the following provisions:

- a. No vessel shall be operated unless it has met all applicable safety requirements, including those of the United States Coast Guard.
- b. Nonscheduled service shall be operated on an "on-call" basis. The term "on-call", as used, refers to service which is authorized to be rendered dependent on the demands of passengers. The tariffs and timetables shall show the conditions under which each authorized on-call service will be rendered.

Issued by California Public Utilities Commission.

\*Revised by Decision 92-06-010, Application 92-04-014.

SECTION II. Scheduled Service

Long Beach/ Los Angeles Harbor

- A. Between any points on and along the shoreline of Long Beach/Los Angeles Harbor.

Los Angeles Harbor - Avalon, Santa Catalina Island

- B. Between Berth 95-96 in the Los Angeles Harbor, on the one hand, and Avalon, Santa Catalina Island, on the other hand, subject to the following condition:

1. \*Eliminated.
2. \*Eliminated.

\*A minimum of one round-trip schedule per day for a minimum of five days per week will be operated throughout the year.

Los Angeles Harbor - Two Harbors, Santa Catalina Island

- C. Between Berth 95-96 in the Los Angeles Harbor, on the one hand, and Two Harbors, Santa Catalina Island, on the other hand, subject to the following condition:

A minimum of one round-trip schedule per day for a minimum of five days per week will be operated throughout the year.

Issued by California Public Utilities Commission.

\*Revised by Decision 92-06-010, Application 92-04-014.

SECTION II. Scheduled Service (Continued)

Redondo Beach - Avalon, Santa Catalina Island

- D. Between Redondo Beach, on the one hand, and Avalon, Santa Catalina Island, on the other hand.

\*This service is suspended until June 1, 1994.

Redondo Beach - Two Harbors, Santa Catalina Island

- E. Between Redondo Beach, on the one hand, and Two Harbors, Santa Catalina Island, on the other hand.

\*This service is suspended until June 1, 1994.

Long Beach/Dana Point - Avalon, Santa Catalina Island

- F. Between the Queen Mary landing in Long Beach and Dana Point Harbor, on the one hand, and Avalon, Santa Catalina Island, on the other hand.

a. \*Eliminated.

b. \*Eliminated.

Issued by California Public Utilities Commission.

\*Revised by Decision 92-06-010, Application 92-04-014.

Appendix A  
(D.93291)

CATALINA CHANNEL  
EXPRESS, INC.  
(a California corporation)

First Revised Page 4  
Cancels  
Original Page 4

SECTION II. Scheduled Service (Continued)

Avalon - Two Harbors, Santa Catalina Island

- G. Between Avalon and Two Harbors, both points on Santa Catalina Island.

\*Long Beach/Dana Point - Two Harbors, Santa Catalina Island

- H. Between the Queen Mary landing in Long Beach and Dana Point Harbor, on the one hand, and Two Harbors, Santa Catalina, Island, on the other hand.

SECTION III. Nonscheduled Service

A. Los Angeles/Long Beach - Santa Catalina Island

Between Berth 95-96 in the Los Angeles Harbor and the Queen Mary landing in Long Beach, on the one hand, and all points on Santa Catalina Island, on the other hand.

Santa Catalina Island

- B. Between any points on Santa Catalina Island, provided that no vessel shall carry more than 49 passengers to any one location, other than Avalon and Two Harbors.

Issued by California Public Utilities Commission.

\*Revised by Decision 92-06-010, Application 92-04-014.