

ORIGINAL

Decision 82 02 115 FEB 17 1982

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)	
of Alaska Tour & Marketing)	
Services, Inc., doing business)	
as Exploration Holidays & Cruises,)	
and Exploration Cruise Lines, for)	
a certificate of public convenience)	Application 60935
and necessity to provide passenger)	(Filed September 24, 1981)
service as a common carrier by)	
vessel between Marina del Rey/Santa)	
Barbara and Ventura, Port Hueneme,)	
Oxnard, and points in the Channel)	
Islands National Park and Santa)	
Catalina Island.)	

O P I N I O N

Applicant Alaska Tour & Marketing Services, Inc., doing business as Exploration Holidays & Cruises, and Exploration Cruise Lines, requests a certificate to provide multiday, round-trip cruises as a common carrier by vessel of passengers and their baggage between Marina del Rey/Santa Barbara and Ventura, Port Hueneme, Oxnard, and points in the Channel Islands National Park and Santa Catalina Island as more particularly described in the application. Applicant is an Alaska corporation authorized to conduct business in California. The application shows that a copy of the application was served on each common carrier holding authority from the Commission to provide passenger service by vessel in the area involved, on county and municipal authorities affected, and on the U. S. National Park Service, Channel Islands National Park. The application was protested by Island Packers Company.

Applicant asserts that it currently holds authority from the Interstate Commerce Commission (ICC) to provide transportation of passengers and their baggage between ports and points in Washington, Oregon, and Idaho on the Columbia, Willamette, and Snake Rivers, and between ports and points in California, Oregon, Washington, and Alaska. Applicant currently provides multiday, round-trip cruise service between various points in the State of Alaska; between various points in the State of Washington, and British Columbia, Canada, originating and terminating in Seattle, Washington; and between various points in the States of Washington, Oregon, and Idaho, along the Columbia and Snake Rivers, originating and terminating in Portland, Oregon.

Applicant states that it will use one of four specially designed cruise ships from its fleet for the proposed service. The ships accommodate between 62 and 88 passengers, depending on the ship used. All passenger staterooms are on the outside. All rooms have complete private facilities and are equipped with a reading light, dresser, wardrobe, and clothes hanger space, in addition to sleeping accommodations. Each ship has a "Vista View" lounge capable of seating all passengers and is equipped with a piano and a bar with icemaker and has "Vista View" windows throughout. Each ship has an "Explorer" dining room which seats all passengers simultaneously and serves as a meeting room for audio-visual presentations, card games, and writing room during nonmeal hours. The ships are fully air-conditioned and have four passenger decks.

The proposed service will be offered initially during the months of April, May, October, November, and December 1982. 23 cruises are planned. One type of cruise will last six days and five nights at fares between \$645 and \$980 depending on the accommodations requested and the other type will last five days and four nights with fares between \$516 and \$784. Fares will include

nightly lodging accommodations on the vessel, all meals, and the use of the vessel's facilities and amenities. Each of the proposed cruises will originate and terminate in Marina del Rey or originate and terminate at Santa Barbara, and proceed to Ventura for a visit to the National Park Service's Channel Islands National Park Interpretive Center (currently under construction) and then to the following points of interest in the Santa Barbara Channel Islands: (1) Santa Barbara Island; (2) Avalon, Santa Catalina Island; (3) Cuyler Harbor, San Miguel Island; (4) Santa Rosa Island; (5) Santa Cruz Island; and (6) Anacapa Island. Applicant proposes an intermediate stop for its cruise tours at Ventura for the purpose of permitting cruise tour passengers to visit the National Park Service's Interpretive Center, and not for the purpose of embarking or disembarking passengers. Applicant requests authority to make intermediate stops at Port Hueneme and Oxnard in order to provide for alternative ports for visiting the National Park Service's Interpretive Center in the event that docking facilities are not available to applicant in Ventura. In the event that applicant is unable to make this intermediate stop at Ventura because of a lack of docking facilities, the intermediate stop will be made at one of these alternative ports and passengers will be transported to and from the National Park Service's Interpretive Center in Ventura by motor coach.

Discussion

Applicant's proposed service falls within the "loop exemption" established by the California Supreme Court in Golden Gate Scenic S.S. Lines v Public Utilities Commission (1962) 57 Cal 2d 373; 12 Cal. Rptr 657 and is not subject to regulation by the Commission under the Public Utilities Act (Division I of the Public Utilities (PU) Code). In Alaska Tours, Decision (D.) 93799 (1981) in Application (A.) 60824 this applicant proposed to conduct, in the

San Francisco Bay and Sacramento River Delta area, the exact same type of sightseeing cruise operation it proposes to conduct in this application. The facts are the same in both applications; only the area of operation is different. In the Alaska Tours case, we declined jurisdiction for the reason that applicant's proposed operations do not constitute "transportation...between points in this state" within the meaning of PU Code Section 1007 because the cruise began and ended at the same point. (See D.93799 for a fuller discussion of the application of the "loop exemption" principle to sightseeing cruises where passengers are allowed to temporarily off-board to go sightseeing.) We decline jurisdiction in this case for the same reason.

Findings of Fact

1. Applicant proposes to provide multiday sightseeing cruises by vessel for passengers and their baggage between specified points along and off the coast of southern California.
2. Each cruise will originate and terminate at the same point.
3. Cruises will last either five days and four nights or six days and five nights.
4. Fares will range between \$516 and \$784 and between \$645 and \$989 depending on the cruise taken and the accommodations requested.
5. Fares will include private stateroom accommodations aboard the vessel throughout the entire cruise, all meals, and the use of the vessel's facilities and amenities.
6. During each cruise the vessel will dock at several locations to allow passengers to temporarily off-board to go sightseeing for several hours.
7. After sightseeing at the sightseeing locations, all passengers who off-boarded will return to the vessel to continue the cruise.

8. No new passengers will be picked up at any of the temporary off-boarding locations.

9. No passengers will permanently leave the cruise at any of the off-boarding locations except in case of emergency.

10. Applicant's proposed operations involve operations over a loop, returning the passengers to the point of departure after the cruise.

11. Applicant intends to operate a for-hire vessel.

Conclusions of Law

1. Applicant's proposed operations do not constitute "transportation...between points in this state" within the meaning of PU Code Section 1007.

2. The Commission lacks jurisdiction under Part I of the PU Code to regulate applicant's proposed operations.

3. Applicant's operations come within the scope of PU Code Sections 4660 through 4669 and therefore applicant must abide by the insurance procurement and filing requirements of Commission General Order 121-A before commencing operations.

4. The application should be dismissed.

O R D E R

IT IS ORDERED that:

1. A.60935 is dismissed.
2. Alaska Tour & Marketing Services, Inc. shall not commence the proposed operations unless and until it has satisfied the insurance requirements set out in Commission General Order 121-A.

This order becomes effective 30 days from today.

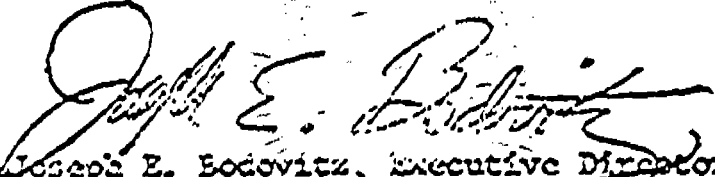
Dated FEB 17 1982, at San Francisco, California.

RICHARD D. GRAVELLE
LEONARD M. CREMES, JR.
VICTOR CALVO
PRISCILLA C. CREW
Commissioners

Commissioner JOHN E. BRYSON

Present but not participating.

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


Joseph E. Bodovitz, Executive Director