

ALJ/emk/jt

Decision ~~82-11-077~~ NOV 17 1982

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of PACIFIC TOWBOAT AND SALVAGE,)
a corporation, for the issuance,)
pursuant to Section 1007 P.U.)
Code, of a temporary and perma-)
nent certificate of public)
convenience and necessity to)
operate as a water vessel in)
connection with operations in)
the Long Beach and Los Angeles)
Harbors, and to establish rates.)

Application 60411
(Filed March 31, 1981)

INTERIM ORDER MODIFYING DECISION 82-07-110

Pacific Towboat and Salvage (PacTow), a corporation, filed on October 29, 1982 its petition to reopen for modification Decision (D.) 82-07-110 dated July 21, 1982 in Application (A.) 60411. PacTow seeks modification under Public Utilities (PU) Code Section 1708.

By D.82-07-110, PacTow was granted a certificate of public convenience and necessity (CPC&N) to operate as a common carrier by vessel for the transportation of passengers and their baggage and/or freight, any item of which does not exceed 15 tons, between all points in the Los Angeles and Long Beach harbor areas, including all docks, wharves, points, and places within this harbor area and to ships at anchor inside and outside the Los Angeles-Long Beach harbor, subject to conditions among which is the following:

- "1. Only the crew boat PACIFICO may be used for the transportation of passengers and their baggage and/or freight."

Protests to the application were received from three certificated carriers, H-10 Water Taxi Company (H-10), Universal Marine Corp. (Universal), and San Pedro Marine, Inc. (San Pedro). Of the three, San Pedro holds operating authority to transport only freight. San Pedro ultimately withdrew its protest, but remained in the proceeding as an interested party.

According to PacTow, since the submission of this matter and the issuance of D.82-07-110, both protestants have ceased operations in the Los Angeles-Long Beach harbor and PacTow is informed and believes that H-10 and Universal will not resume their passenger and freight water taxi operations in the Los Angeles-Long Beach harbor. Attached to the petition is the affidavit to this effect of PacTow's vice president of marketing and planning.

PacTow states that it receives frequent inquiries about its new service under the certificate issued in July and that calls for service have increased tremendously since Universal ceased operations.

The petition states that at the present time there is no regulated common carrier providing passenger service in the entire Los Angeles-Long Beach harbor other than PacTow. Before H-10 and Universal ceased operations, there were 16 water taxi vessels dedicated to the transportation of passengers and freight within the Los Angeles-Long Beach harbor. While there are some unregulated carriers providing passenger service with vessels under five tons, PacTow is informed and believes that this service is not adequate to meet the needs of the public. PacTow intends to initiate its passenger and freight service shortly. It has undertaken significant

modifications to the PACIFICO in order to prepare the vessel for common carrier service and it has received a temporary certificate of inspection by the U.S. Coast Guard for this vessel.

PacTow alleges that when it filed its application in 1981 it intended to devote only one water taxi vessel to its passenger carrier service. This was due to the large number of water taxi vessels then being provided by H-10 and Universal for passenger and freight service. Now that the situation has changed dramatically since last year, PacTow believes that it will not be able to meet the needs of the public for passenger water taxi service with the one vessel authorized by the Commission. It believes there is, and will continue to be, an immediate and urgent need for more service than can be provided with only one water taxi vessel. For this reason, PacTow believes the restriction in its certificate which limits passenger service to be provided with only the PACIFICO is no longer justified and seeks the removal of such restriction. PacTow believes it can obtain one water taxi vessel from one of its sister companies, and either lease or purchase other vessels from other companies that have vessels which are not presently being used. PacTow intends to supplement its water taxi vessel fleet by obtaining a minimum of four vessels, and PacTow urges that the situation requires the granting of an immediate ex parte order which will permit it to provide passenger service with more than one water taxi vessel.

Discussion

In granting the CPC&N to PacTow as a new water taxi entry into the Los Angeles-Long Beach harbor, there was some concern, given the financial resources available to PacTow at the time, whether the harbor was capable of supporting an unlimited number of new taxi vessels. It was our intention to limit PacTow to the use of only one vessel for the transportation of passengers initially and that once PacTow began operations and subsequent events indicated a need for additional vessels for the transportation of passengers and their baggage and/or freight, PacTow could request that the restriction be removed. We were also concerned that PacTow not cause irreparable harm to Universal or to H-10 with an unlimited number of vessels upon entry. The administrative law judge has verified with attorneys for H-10 and Universal that they have ceased operations in the Los Angeles-Long Beach harbor although H-10 does not rule out the possibility that it may resume operations some time in the future. Since the conditions which warranted imposing the restriction in D.82-07-110 no longer exist, the decision should be modified by removing the restriction from the CPC&N previously issued to PacTow.

PacTow urges that the requested modification be made ex parte. We have done so, but we will make the modification interim in nature, pending our determination of the need for a hearing and our final resolution of the matter. Accordingly, the modification we order today will expire in six months unless extended by further order.

Findings of Fact

1. By D.82-07-110, PacTow was granted a CPC&N to operate as a common carrier by vessel for the transportation of passengers and their baggage and/or freight between all points in the Los Angeles and Long Beach harbor areas including all docks, wharves, points, and places within the harbor area and to ships at anchor inside and outside the Los Angeles-Long Beach harbor, subject to the condition that:

"1. Only the crew boat PACIFICO may be used for the transportation of passengers and their baggage and/or freight."

2. Subsequent to the issuance of D.82-07-110, the two protesting and competing certificated carriers, H-10 and Universal, have ceased operations in the Los Angeles-Long Beach harbor.

3. Notice of the filing of the petition appeared on the Commission's Daily Calendar on November 2, 1982. No protests have been received. San Pedro indicated orally that it does not intend to protest PacTow's petition for interim authority.

4. The cessation of operations of H-10 and Universal has left a serious gap in the water taxi business in the Los Angeles-Long Beach harbor.

5. It is unknown whether H-10 and Universal will ever resume their passenger and freight water taxi operations in the Los Angeles-Long Beach harbor.

6. Restricting PacTow to the use of only the PACIFICO for the transportation of passengers will be insufficient to meet the needs of the public for passenger water taxi service.

7. There is an immediate and urgent need for more service than can be provided with only one water taxi vessel; therefore, the modification should be effective today.

Conclusion of Law

The request of PacTow for interim authority should be granted as set forth below.

IT IS ORDERED that:

1. Decision 82-07-110 is modified as follows:

Condition 1, Original Page 1, of Appendix A, is deleted.

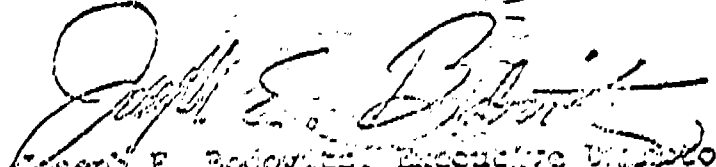
2. The modification granted by this decision shall expire on May 17, 1983 unless extended by further order of the Commission.

This order is effective today.

Dated NOV 17 1982, at San Francisco, California.

JOHN E. BRYSON
President
RICHARD D. GRAVELLE
LEONARD M. GRIMES, JR.
VICTOR CALVO
PRISCILLA C. CREW
Commissioners

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


Joseph E. Bodovits, Executive Director