

ORIGINAL

Decision 83 05 102 MAY 18 1983

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of PACIFIC TOWBOAT & 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)

O P I N I O N

Pacific Towboat & Salvage (PacTow) has filed a motion for an order which will permanently remove the restriction which was ordered temporarily removed by Decision (D.) 82-11-077 dated November 17, 1982.

By D.82-07-110 dated July 21, 1982, PacTow was granted a certificate of public convenience and necessity to operate as a common carrier by vessel for the transportation of passengers and their baggage and/or freight, any item which does not exceed 15 tons, between all points in Los Angeles and Long Beach harbor areas, including all docks, wharves, points, and places within the harbor areas and to ships that anchor inside and outside the Los Angeles/Long Beach harbor, subject to certain conditions, one of which was the following:

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

In D.82-11-077 we modified D.82-07-110 by deleting the above condition until May 17, 1983 unless extended by further order of the Commission. In its current motion to make the modification permanent, PacTow cites that the reasons for justification for permanent removal are the same as recited by this Commission as justification for the temporary removal in D.82-11-077. In D.82-07-110 the Commission, in adopting the restriction, was motivated by a desire to protect Universal Marine, Inc. (Universal) and H-10 Water Taxi (H-10), two existing common carriers, from possible irreparable harm which those carriers perceived would be inflicted upon them by PacTow's unrestricted entry into vessel transportation operations in the Los Angeles/Long Beach harbor. We noted in D.82-11-077 that H-10 and Universal had in fact ceased operations in the Los Angeles/Long Beach harbor and we concluded that the conditions which warranted the imposing of the restriction in D.82-07-110 no longer existed and should be removed.

According to the affidavit of Tom Opatz, president of PacTow, attached to the motion, the reasons for initially removing the restriction continue to exist. Neither Universal nor H-10 is providing water taxi service of passengers and stores and spare parts at this time. Universal is in bankruptcy and H-10, while reinstating service during the month of January 1983, has provided very limited service.^{1/} At present, other than PacTow, there are no regulated water taxi firms providing both regular passenger and freight service. San Pedro Marine, Inc.,

^{1/} It has been brought to the attention of this Commission that the assets of H-10, including all its vessels, were offered for sale at a public auction on April 13, 1983.

which was granted temporary authority to expand its operating authority and which has filed a motion for permanent authority, currently provides freight service in the harbor. Also, there are several carriers providing passenger water taxi service either in vessels under five tons or as unauthorized carriers.

Since the inception of PacTow service in November 1982, PacTow has averaged about one or two operations per week. While PacTow had anticipated providing service of a much greater frequency, it states that the current depressed water taxi market due to the decline in the sale of bunker fuel in the Los Angeles/Long Beach harbor has had a limiting effect on its operations. Another factor inhibiting PacTow from expanding its fleet is that PacTow is currently involved in a labor dispute over which union will represent the persons employed in this new service. Until such dispute is resolved, PacTow is not eager to expand its service. PacTow is close to resolution of the problem as the first part of the case is currently being reviewed by the National Labor Relations Board and should be resolved before year's end. It is the opinion of PacTow's president that the water taxi market in the Los Angeles/Long Beach harbor will improve during 1983 and in the ensuing years. It is believed that the economic recovery that is beginning to be experienced and the stabilizing of the price of oil should bring increased activity in the sales of bunker fuel in the Los Angeles/Long Beach harbor and that there will be a sufficient demand for water taxi service to warrant the expansion of PacTow's fleet as initially anticipated in the fall of 1982. The affidavit states that PacTow has available to it on very short notice a vessel which is a sister ship to the PACIFICO. This vessel,

which is currently in Hawaii, will be transferred to Long Beach when the service justifies a transfer. PacTow desires the permanent removal of the restriction in order to place this additional vessel in operation on very short notice.

Inasmuch as there has been no change in developments in the Los Angeles/Long Beach harbor since our interim order in D.82-07-110 and the fact that the conditions which existed at the time of D.82-11-077 still exist, we see no reason why the request to permanently remove the restriction that only the crew boat PACIFICO may be used for the transportation of passengers and their baggage and/or freight should not be granted. Since no protests to the application have been received, a public hearing is not required.

Findings of Fact

1. By D.82-07-110 PacTow was granted a certificate of public convenience and necessity 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/Long Beach harbor areas, including all docks, wharves, points, and places within the harbor area and to ships that 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. Universal has filed bankruptcy proceedings and H-10, which had reinstated service in the month of January 1983, has again ceased operations as of January 31, 1983.

4. No protests to PacTow's motion to make the modification contained in D.82-11-077 permanent have been received by the Commission.

5. The cessation of operations of H-10 and Universal leaves a gap in the water taxi business 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 in the Los Angeles/Long Beach harbor. There is an immediate need for more service than can be provided with only one water taxi vessel; therefore, the modification sought by PacTow should be made permanent effective today.

Conclusion of Law

The motion of PacTow to permanently delete Condition 1, Original Page 1, of Appendix A, should be granted.

O R D E R

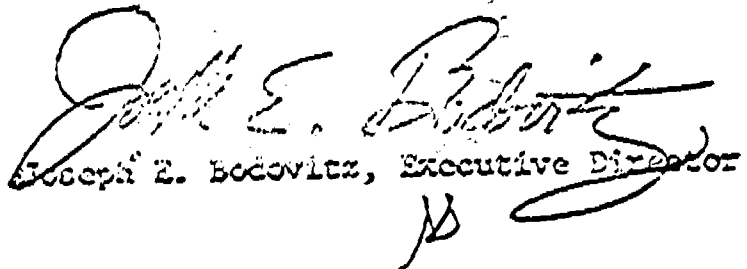
IT IS ORDERED that Condition 1, Original Page 1, of Appendix A of Decision 82-07-110 is permanently deleted by replacing Original Page 1 with the attached First Revised Page 1. In all other respects the decision remains in full force and effect.

This order is effective today.

Dated MAY 18 1983, at San Francisco, California.

LEONARD M. GRIMES, JR.
President
VICTOR CALVO
PRISCILLA C. GREW
DONALD VIAL
Commissioners

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


Joseph E. Bodovitz, Executive Director

Appendix A
(D.82-07-110)

PACIFIC TOWBOAT AND SALVAGE
(a corporation)
(VCC-55)

First Revised Page 1
Cancels
Original Page 1

Pacific Towboat and Salvage, a corporation, by the order contained in the decision noted in the margin, is granted a certificate of public convenience and necessity 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 harbors, subject to the following conditions:

- *1. Deleted
2. Pacific Towboat and Salvage may use its water barge for the transportation of freight either in connection with the transportation of potable water or not.
3. Bunker barges may be used by Pacific Towboat and Salvage for the transportation of freight carried upon the decks, providing the transportation is in conjunction with a shipment of bunker fuel, both being delivered to the same destination at the same time.

Issued by California Public Utilities Commission.

*Deleted by Decision 83 05 102, Application 60411.