

Decision No. 87731 AUG 16 1977

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

H-10 WATER TAXI CO., LTD.,

Complainant,

vs.

UNIVERSAL MARINE CORPORATION, a
corporation,

Defendant.

Case No. 10345
(Filed June 7, 1977)

TEMPORARY RESTRAINING ORDER

Complainant holds a certificate of public convenience and necessity to operate as a common carrier by vessel for passengers and freight between points and places in the Los Angeles-Long Beach Harbor area pursuant to authority granted by Decision No. 76436 in Application No. 51342, as amended.

The verified complaint alleges, among other things, that defendant has deliberately and flagrantly disobeyed the order of this Commission by violating the provisions of its certificate in that it is operating water taxi service to and from ships during a single stay in port when the vessel does not receive freight transported on defendant's barge equipped with a crane, contrary to the restriction in its certificate.

Complainant requests an immediate cease and desist order prohibiting defendant from operating its service in contravention of its certificate.

On July 19, 1977 defendant filed its answer wherein it is stated that defendant's boarding party services are not considered as water taxi service, but would appreciate the Commission's guidance on this question, and that during the period March 1, 1977 through

June 30, 1977 it rendered water taxi service on eighteen occasions where its barge/crane/tug was not used to carry freight to the subject vessels. Defendant alleges that such instances occurred, in the main, because the barge and crane were originally requested by an agent or owner and then subsequently cancelled, and that these situations occur routinely because of unavoidable changes in ship schedules and numerous factors affecting availability of berths.

On July 29, 1977 complainant filed its motion for a cease and desist order. Among other things it is alleged that if defendant is permitted to continue the operations complained of, it will lead to complainant's bankruptcy.

This is not the first time defendant has been ordered to cease and desist unlawful operations by us.^{1/} Defendant did not comply with our cease and desist order, but continued to operate in contravention thereof until April 18, 1976.^{2/}

We are of the opinion that the verified complaint and complainant's motion indicate that good cause has been shown for the issuance of a temporary restraining order pending further orders of the Commission.

IT IS ORDERED that Universal Marine Corporation shall cease and desist from conducting operations as a common carrier by vessel which is not performed in conjunction with the transportation of freight by its barges equipped with cranes. This restraint shall also include the water taxi service performed for boarding parties of port officials, customs inspectors, and the like.

^{1/} Decision No. 85656, Case No. 10076 dated March 31, 1976.

^{2/} Finding 14, Decision No. 86732, Case No. 10076 dated December 7, 1976.

A hearing to inquire into whether this cease and desist order should be continued in effect or terminated shall be held before Administrative Law Judge Bernard A. Peeters on Thursday, September 1, 1977, at 9:30 a.m. in the Commission Courtroom, State Office Building, 107 South Broadway, Los Angeles, California.

The Executive Director is directed to cause a certified copy of this order to be personally served on the defendant. Service may be made on complainant by mail.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 16th day of AUGUST, 1977.

Robert Baty
President
William Symon
William L. Spitzer
Charles D. Gensler
Clare L. Delrich
Commissioners

Commissioner Batinovich, Concurring:

I concur in the result reached by the majority on the basis of existing law. I do not believe that the water taxi business requires PUC regulation, and I suggest that the Commission endorse legislation to remove water taxis from our jurisdiction.

To the extent that there is a public interest in continued water taxi regulation, it appears that the local ports are much better able to decide for themselves the appropriate matters of rates and entry and, because of their proximity, might be more responsive to local needs.



ROBERT BATINOVICH, President

San Francisco, California,
August 16, 1977