

ALJ/SHL/jva

Decision 99-02-032 February 4, 1999

Mailed 2/4/99

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In Re Applicant pursuant to Sections 851 - 854 and 1009 of the California Public Utilities Code of Milton McDonogh, dba Angel Island - Tiburon Ferry, to transfer, and Angel Island - Tiburon Ferry, Inc., a California corporation, to acquire, Certificate of Public Convenience and Necessity and all other assets related to the business of common carriage by vessel between Tiburon and Angel Island State Park.

Application 98-11-021
(Filed November 18, 1998)

O P I N I O N

Summary

Application to transfer the certificate and assets of Angel Island-Tiburon Ferry from an individual to a corporation granted.

Discussion

Applicant Milton McDonogh operates the Angel Island-Tiburon Ferry on the San Francisco Bay as a sole proprietorship. By this application he requests authority to transfer the certificate of public convenience and necessity issued to him to a corporation named Angel Island-Tiburon Ferry, Inc. McDonogh is the sole shareholder of the corporation. The application asserts that under the corporate ownership neither the fares, operation or quality of service will be changed or affected. Thus, the transfer should be transparent to the public. The reason for the transfer is asserted to be the personal financial planning of McDonogh. Accompanying the application are all of the requirements of the Commissions Rules of Practice and Procedure for transfer of a common carrier vessel.

The application was filed on November 18, 1998. It was preliminarily designated as ratesetting and not requiring hearing, pursuant to Resolution 176-3005. There has been no protest to the application and the Commission has no reason to independently require an evidentiary hearing.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Public Utilities Code Section 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

Findings of Fact

1. Martin McDonogh holds a certificate of public convenience and necessity to operate a common carrier vessel on San Francisco Bay under the name of Angel Island-Tiburon Ferry.
2. McDonogh wishes to transfer the certificate and assets to Angel Island-Tiburon Ferry, Inc., a corporation in which he is the sole shareholder.
3. McDonogh is the President of the new corporation.
4. There will be no change in the fares, operations or quality of service resulting from this transfer.
5. The application was filed on November 18, 1998. There have been no protests to the application.

Conclusions of Law

1. The applicant has fulfilled all the formal requirements for transfer of a certificate of public convenience and without protest the application should be granted.
2. Since the application is noncontroversial, the order should be made effective on the date that it is signed.

O R D E R

IT IS ORDERED that:

1. On or before May 31, 1999, Milton McDonogh (transferor), an individual, may transfer and sell the operative rights specified in the application to Angel Island-Tiburon Ferry, Inc., (transferee), a corporation.

2. Transferor shall:

- a. File a written acceptance of this certificate within 30 days after this order is effective.
- b. Amend or reissue transferors' tariffs and timetables, within 120 days after this order is effective.
- c. State in the 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 Public Utilities (PU) Code § 403 when notified by mail to do so.
- g. Comply with all rules, regulations, and requirements of the United States Coast Guard, including applicable Vessel Traffic System requirements in operating the services authorized herein.

3. When the transfer is completed, and on the effective date of the tariff a certificate of public convenience and necessity (CPCN) is granted to transferor, authorizing it to operate as a vessel common carrier, as defined in PU Code §§ 211(b) and 238, between the points and over the routes set forth in Appendix VCC-82, to transport persons and their baggage.

4. The CPCN granted by Decision 60037 is revoked on the effective date of the tariffs and timetables filed by the transferor.

5. Transferor is authorized to begin operations on the date that the Rail Safety and Carriers Division mails a notice to applicant that its evidence of insurance and other documents required by Ordering Paragraph 2 have been filed with the Commission.

6. The CPCN to operate as a vessel common carrier (VCC-82), granted herein to the transferor, expires, unless exercised within 120 days after the effective date of this order.

7. The Application is granted as set forth above.

8. This proceeding is closed.

This order is effective today.

Dated February 4, 1999, at San Francisco, California.

RICHARD A. BILAS

President

HENRY M. DUQUE

JOSIAH L. NEEPER

Commissioners

T/MM

Appendix VCC-82

Angel Island - Tiburon Ferry, Inc.
(a corporation)

Original Title Page

**CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
AS A VESSEL COMMON CARRIER
VCC-82**

Showing vessel common carrier operative rights, restrictions, limitations, exceptions,
and privileges.

All changes and amendments as authorized by
the Public Utilities Commission of the State of California
will be made as revised pages or added original pages.

Supersedes the authority heretofore granted to
Milton McDonogh, by D.60037.

Issued under authority of Decision 99-02-032, dated February 4, 1999, of the
Public Utilities Commission of the State of California in Application 98-11-021.

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

This certificate supersedes all vessel common carrier operative authority granted to Milton McDonogh, an individual.

Angel Island - Tiburon Ferry, Inc., by the certificate of public convenience and necessity granted by the decision noted in the foot of the margin, is authorized to conduct common carriage by vessel, for the transportation of passengers and their baggage, between Tiburon and Angel Island State Park, 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. "On-call service will be permitted during winter months. The term "on-call", as used herein, refers to service which is authorized to be rendered dependent on the demands of passengers.
- c. Scheduled service will be rendered at least one trip per day in each direction on Saturdays, Sundays and holidays from May 1 through September 30 of each year.

Issued by California Public Utilities Commission.

Decision 99-02-032, Application 98-11-021.