

Decision 99-05-029 May 13, 1999

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of CATALINA EXPLORER CO., INC. a California corporation (VCC-74), to amend its Certificate of Public Convenience and Necessity and to extend its operating authority to include the transportation of persons and baggage by vessel between Dana Point, Newport Harbor, Long Beach, and Redondo Beach, on the one hand and all points and places on Santa Catalina Island on the other hand.

Application 99-03-001
(Filed March 3, 1999)

O P I N I O N**Summary**

We grant the application of Catalina Explorer Co., Inc. (Explorer) for authority to establish new vessel common carrier services on a scheduled basis between Dana Point and Avalon, and on an unscheduled basis between Dana Point, Newport Harbor, Long Beach, and Redondo Beach, on one hand, and all points and places on Santa Catalina Island (SCI), on the other hand, along with common carrier authority to carry baggage and similar items between all of these points and places. Exercise of this authority is conditioned upon obtaining local approvals for docking and parking, as required for each service. Application 99-03-001 is closed.

Discussion

Explorer (VCC-74) operates cross-channel vessel common carrier services between Dana Point and Avalon on an unscheduled basis under authority granted in Decision (D.) 97-11-027. It now seeks to expand that authority to

operate scheduled passenger service between those points, and unscheduled passenger services between coastside points in Orange and Los Angeles Counties, on the one hand, and all Santa Catalina Island points, on the other hand. Explorer also seeks commensurate authority to transport newspapers, periodicals, mail, bicycles, surfboards, and scuba gear between these places. The application is unopposed.

D.97-11-027 expanded competitive access to Santa Catalina Island boat service operators. We took notice in that decision of the potentially expanding market for boat operators between coastside points and Santa Catalina Island to serve markets extending from San Diego County to the Los Angeles area. Currently those markets are served by only a limited number of operators, and on a limited number of routes.

Granting Explorer's present application would expand the availability of scheduled service on the Dana Point run, provide for the establishment of unscheduled service at one location where it presently does not exist, and expand competition at those locations where it does. This would be consistent with the policy we have adopted with respect to cross-channel vessel operations, if an aspiring carrier qualifies to provide the proposed service.

Explorer is now an experienced vessel operator. It owns a fast 149-passenger monohull vessel with appropriate amenities, which is adequate for operation of the proposed services. Explorer's most recent financial statements demonstrate that it is a going concern with total assets of more than \$1.3 million (including its vessel), liabilities of about \$778,500 (including the boat loan), and stockholder's equity of nearly \$554,000. Its revenue base includes whale watching trips and sales from the galley, and its pro forma revenue statement indicates that its revenues would exceed its expenses, even with low

off-season ridership. We find that Explorer is operationally and financially fit to operate the proposed services.

The only issue of concern to us is that local approval of contemplated docking and/or parking arrangements may not yet be final at coastside locations and Avalon Harbor. We therefore condition the exercise of authority granted herein upon the finalization of arrangements and the receipt of any local approvals necessary for the use of facilities required by the service.

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

Findings of Fact

1. The applicant is financially and operationally fit to operate the services proposed in Application 99-03-001.
2. There is a public need for the proposed services.

Conclusion of Law

The application should be granted, subject to any local approvals necessary for the establishment of docking and parking facilities and arrangements.

O R D E R

IT IS ORDERED that:

1. The Certificate of Public Convenience and Necessity of Catalina Explorer Co., Inc. (applicant) a corporation which authorizes it to operate as a vessel common carrier, as defined in Pub. Util. Code §§ 211 and 238, to transport persons their baggage and similar items, between the points set forth in Appendix VCC-74 of Decision 97-11-027, is amended by replacing Original

Page 2 with First Revised Page 2 and Original Page 3, subject to the conditions contained in the following paragraphs.

2. Applicant shall:

- a. File a written acceptance of this certificate within 30 days after this order is effective.
- b. Establish the authorized service and file 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, 111, and 117
- e. Remit to the Commission the Transportation Reimbursement Fee required by Pub. Util. Code § 403 when notified by mail to do so.

3. The applicant may not operate any service approved in this order until arrangements have been made for any parking or docking facilities or procedures required to operate the service, and until any required approvals have been obtained from local authorities with jurisdiction to regulate such arrangements and facilities.

4. Applicant is authorized to begin operations on the date that the Rail Safety and Carriers Division mails a notice to the applicant that its evidence of insurance and other documents required by Ordering Paragraph 2 and written approval notice from local authorities as set forth in Ordering Paragraph 3 have been filed with the Commission, and that the U.S. Coast Guard has approved the use of the applicant's vessels for service.

5. Authority to amend the certificate of public convenience and necessity to operate as a vessel common carrier (VCC-74), which is granted herein, shall expire unless exercised within 180 days after the effective date of this order.

6. The Application is granted as set forth above.
7. This proceeding is closed.

This order is effective today.

Dated May 13, 1999, at San Francisco, California.

RICHARD A. BILAS
President
HENRY M. DUQUE
JOSIAH L. NEEPER
Commissioners

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

Catalina Explorer Co., Inc., a corporation, by the certificate of public convenience and necessity granted by the *revised decision noted in the foot of the margin, is authorized to conduct scheduled and nonscheduled common carrier services by vessels, for the transportation of passengers and their baggage, newspapers, periodicals, mail, bicycles, surfboards, and SCUBA gear, between the points described in Section II, subject to the following conditions:

- a. No vessel shall be operated unless it has met all applicable safety requirements, including those of the United States Coast Guard.
- b. The term "on-call", service shall be performed at hourly or per diem rates which include the services of vessel and crew, regardless of the number of passengers transported. Transportation shall not be performed on an individual fare basis.
- c. The term "charter" service, as used herein refers to service in which the vessel is engaged, for a specified charge, by a person or group of persons for the exclusive use of said person or group of persons. The tariffs shall show the conditions under which each "charter" service will be rendered. Transportation shall not be performed on an individual fare basis.

Issued by California Public Utilities Commission.

*Revised by Decision 99-05-029, Application 99-03-001.

SECTION II. ROUTE DESCRIPTION.

A. ***Scheduled Service**

***Dana Point - Avalon, Santa Catalina Island**

Between Dana Point and Avalon, Santa Catalina Island.

B. ***Non-Scheduled Service**

On-call and Charter Service

Between Dana Point, Newport Harbor, Long Beach, and Redondo Beach, on the one hand, and all points and places on Santa Catalina Island, on the other hand.

Issued by California Public Utilities Commission.

*Revised by Decision 99-05-029, Application 99-03-001.