

**PUBLIC UTILITIES COMMISSION**505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298**FILED**

07/16/24

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A2307003

July 16, 2024

Agenda ID #22764
Ratesetting

TO PARTIES OF RECORD IN APPLICATION 23-07-003:

This is the proposed decision of Administrative Law Judge Minh LeQuang. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's August 22, 2024 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

The Commission may hold a Ratesetting Deliberative Meeting to consider this item in closed session in advance of the Business Meeting at which the item will be heard. In such event, notice of the Ratesetting Deliberative Meeting will appear in the Daily Calendar, which is posted on the Commission's website. If a Ratesetting Deliberative Meeting is scheduled, *ex parte* communications are prohibited pursuant to Rule 8.2(c)(4).

/s/ W. ANTHONY COLBERT for

Michelle Cooke

Chief Administrative Law Judge

MLC:jnf

Attachment

Decision PROPOSED DECISION OF ALJ LEQUANG (mailed 7/16/2024)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Tideline Marine Group,
Inc. (VCC-93) to Discontinue
Scheduled and Unscheduled Service.

Application 23-07-003

**DECISION AUTHORIZING TIDELINE MARINE
GROUP, INC.'S APPLICATION TO DISCONTINUE
SCHEDULED AND UNSCHEDULED SERVICE**

Summary

This decision grants Tideline Marine Group, Inc.'s application to discontinue scheduled service between points in San Francisco Bay and Berkeley and unscheduled service between points in San Francisco Bay, Marin, and the East Bay.

This proceeding is closed.

1. Background

On September 29, 2016, Tideline Marine Group, Inc. (Tideline) was granted a certificate of public convenience and necessity (CPCN) and authorized to operate as a scheduled Vessel Common Carrier (VCC) between points in San Francisco Bay and Berkeley (Scheduled) and unscheduled service between

points in San Francisco Bay, Marin, and the East Bay (Unscheduled).¹ On July 12, 2023, Tideline filed an application seeking authority to discontinue its Scheduled and Unscheduled services as described in its CPCN.² No timely protests were filed.

A prehearing conference was held on December 12, 2023, to address the issues of law and fact, determine the need for hearing and set the schedule for resolving the matter. The assigned Commissioner issued a scoping memo on February 20, 2024, identifying the issues to be determined as follows:³

1. Is Tideline Marine Group Inc., operating the scheduled service between San Francisco and Berkeley and the unscheduled service between points in San Francisco, Marin, and the East Bay at a financial loss?
2. Have affected local and state agencies had an opportunity to explore options for providing subsidies to Tideline to allow it to continue operating the Scheduled and Unscheduled services at other than a financial loss?
3. Does the proposed discontinuation of Scheduled and Unscheduled services have a reasonably foreseeable effect on the environment?
4. Does the proposed discontinuation of scheduled and unscheduled service have any impact on the achievement of the Commission's Environmental and Social Justice Action Plan?

In the Scoping Memo, Tideline was provided the opportunity to submit additional evidence in support of its application.⁴ Tideline did not submit any additional evidence and the matter was submitted on January 26, 2024.

¹ Decision (D.) 16-09-045.

² Application at 1

³ Scoping Memo at 2.

⁴ Scoping Memo at 2.

2. Is Tideline operating the Scheduled and Unscheduled service at a financial loss?

Prior to COVID-19, Tideline's Scheduled service was well received by the public.⁵ In March 2020, Tideline suspended Scheduled and Unscheduled services due to the COVID-19 pandemic.⁶ On September 1, 2020, Tideline notified the Commission that based on ridership feedback, Tideline did not "anticipate a demand to justify the need to start service prior to late November/early December at the earliest."⁷ According to Tideline, by the end of 2020, it became clear that demand for their Scheduled service was unlikely to rise to any level close to that which would justify a resumption of Scheduled service.⁸ Tideline stated that fixed costs associated with running their business made matters worse.⁹ Tideline stated that ridership demand declined sharply between the years of 2020 through 2022.¹⁰ On November 3, 2022, Tideline provided its last Scheduled service and on May 10, 2022, Tideline provided its last Unscheduled service.¹¹ Tideline stated that today, it provides no vessel service at all.¹² Tideline contends that the effects of COVID-19, decline in office attendance, and online shopping have significantly impacted its ridership levels and it does not find the Scheduled and Unscheduled services to be profitable.¹³

⁵ Application at 3.

⁶ *Id.*

⁷ Application at 4.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ Application at 5.

After careful review of the evidence, the Commission agrees that due to the lack of demand for Scheduled and Unscheduled services, forcing Tideline to continue operating the Scheduled and Unscheduled services would place Tideline at a financial loss.

3. Have Affected Local and State Agencies Had an Opportunity to Explore Options for Providing Subsidies to Tideline to Allow it to Continue Operating the Scheduled and Unscheduled Services at Other Than a Financial Loss?

At the PHC, Tideline stated that it has never received public subsidies and that public subsidies have been given to publicly subsidized ferry services.¹⁴ Tideline stated that it is a private company and is unaware of any private company receiving public subsidies.¹⁵

Based on Tideline's statements at the PHC, the Commission agrees that local and state agencies have not provided Tideline with public subsidies.

4. Does the Proposed Discontinuation of Service Have a Reasonably Foreseeable Effect on the Environment?

The California Environmental Quality Act (CEQA) generally requires environmental review of proposed discretionary projects. A "project" is defined as (1) an action that presents a potential for a direct or reasonably foreseeable indirect physical change in the environment and (2) involves the issuance by a public agency of a lease, permit, license, certificate, or other entitlement for use.¹⁶ A discretionary project is one that requires the exercise of judgement or deliberation by a public agency in determining whether the project will be

¹⁴ Reporter's Transcripts (RT) at 6.

¹⁵ RT at 7.

¹⁶ Pub. Res. Code Section 21065.

approved.¹⁷ This application is not a project and therefore not subject to environmental review under CEQA because it does not present a potential for a physical change in the environment.

5. Does the proposed discontinuation of service have any impact on the achievement of the Commission’s Environmental and Social Justice (ESJ) Action Plan?

The Commission’s ESJ Action Plan recognizes the disproportionate impacts of environmental hazards in communities of color and identifies ways the California Public Utilities Commission can use its regulatory authority to address funding and resources for these communities to mitigate the outcomes of past inequities and barriers. This application is for the abandonment of specific services over water and does not have any impact on the Commission’s ESJ Action Plan.

6. Summary of Public Comment

Rule 1.18 allows any member of the public to submit written comment in any Commission proceeding using the “Public Comment” tab of the online Docket Card for that proceeding on the Commission’s website. Rule 1.18(b) requires that relevant written comment submitted in a proceeding be summarized in the final decision issued in that proceeding.

In this matter, there are no relevant public comments on the Docket Card.

7. Conclusion

Tideline successfully provided evidence that operating the Scheduled and Unscheduled services would result in a financial loss; that it has not received public subsidies from local or state agencies; and that the abandonment of the

¹⁷ CEQA Guidelines Section 15357.

Scheduled and Unscheduled services had no effect on CEQA and the Commission's ESJ Action Plan.

8. Procedural Matters

This decision affirms all rulings made by the Administrative Law Judge and assigned Commissioner in this proceeding. All motions not ruled on are deemed denied.

9. Comments on Proposed Decision

The proposed decision of Administrative Law Judge Minh LeQuang in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. No comments were filed.

10. Assignment of Proceeding

John Reynolds is the assigned Commissioner and Minh LeQuang is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. Tideline Marine Group, Inc. is authorized to operate a Vessel Common Carrier pursuant to D.16-09-045.
2. The application requests authority to discontinue scheduled service between points in San Francisco Bay and Berkeley (Scheduled) and unscheduled service between points in San Francisco Bay, Marin, and the East Bay (Unscheduled).
3. Tideline Marine Group, Inc. has not provided Scheduled service since November 3, 2022 and Unscheduled service since May 10, 2023.
4. Tideline Marine Group, Inc. provided sufficient evidence that the Scheduled and Unscheduled services are unprofitable and continuing the Scheduled and Unscheduled services would place Tideline Marine Group, Inc. at a financial loss.

5. Tideline Marine Group, Inc.'s application is not a project and therefore not subject to environmental review under the CEQA.

6. Tideline Marine Group, Inc.'s application is for the abandonment of specific water services and does not have any impact on the Commission's ESJ Action Plan.

7. No protest to the application has been filed.

Conclusions of Law

1. Public convenience and necessity no longer require Tideline Marine Group, Inc.'s scheduled service between San Francisco Bay and Berkeley (Scheduled) and unscheduled service between points in San Francisco Bay, Marin, and the East Bay (Unscheduled).

2. The abandonment of the Scheduled and Unscheduled services is not a project and therefore not subject to environmental review under the CEQA.

3. The abandonment of the Scheduled and Unscheduled services does not have any impact on the Commission's ESJ Action Plan.

4. The Scheduled and Unscheduled services should be deleted from Tideline Marine Group, Inc.'s certificate of public convenience and necessity.

5. Tideline Marine Group, Inc. should be granted authority to modify its certificate of public convenience and necessity to discontinue its Scheduled and Unscheduled services.

6. A.23-07-003 is closed.

O R D E R

IT IS ORDERED that:

1. Tideline Marine Group, Inc. is granted authority to modify its certificate of public convenience and necessity to discontinue scheduled service between

points in San Francisco Bay and Berkeley and unscheduled service between points in San Francisco Bay, Marin, and the East Bay.

2. Upon Tideline Marine Group, Inc. filing an acceptance of this amendment to its Certificate of Public Convenience and Necessity to the Consumer Protection and Enforcement Division within 30 days after this order is effective, VCC-93 shall be amended to delete all references to the scheduled service between points in San Francisco Bay and Berkeley and unscheduled service between points in San Francisco Bay, Marin, and the East Bay.

3. The written acceptance must include a revised, complete, and accurate tariff sheet reflecting the changes authorized in this decision within 10 calendar days from the date of this decision.

4. Application 23-07-003 is closed.

This order is effective today.

Dated _____, at San Francisco, California