

Decision 03-07-018 July 10, 2003

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the application of Antone Sylvester Tug Service, Inc., for authorization to sell and transfer common carrier by vessel operating authority and property; and of Pacific Maritime Freight, Inc., to purchase and acquire operating authority; and of San Diego Towing and Marine Services, Inc., to purchase and acquire, and to encumber public utility property.

Application 02-07-019
(Filed July 3, 2002)

O P I N I O N

Summary

This decision grants the application to transfer, pursuant to Pub. Util. Code § 851 et seq., a vessel common carrier certificate from Antone Sylvester Tug Service, Inc. (Transferor), a corporation, to Pacific Maritime Freight, Inc. (Transferee), a corporation, and for Transferor to sell public utility property to San Diego Towing and Marine Services, Inc. (Buyer).

Discussion

Transferor is authorized by Decision (D.) 96-09-029, as amended, to operate as a vessel common carrier (VCC-75) to transport passengers and their baggage and/or property within and between all points in Los Angeles, Long Beach, and Redondo Beach harbors, ships inside and outside the harbor areas, and points offshore of Los Angeles County; and to transport property between the harbor areas and all points on Santa Catalina Island, except Avalon and the Isthmus.

This application requests approval for Transferor to transfer its VCC certificate to Transferee and to sell public utility property, specifically the vessels *Christopher-G* and *Tug Clive*, to Buyer, an affiliate of Transferee. The owners and officers of Transferor desire to cease operations as a VCC and devote their time and effort to other business. The three parties involved in the transaction have agreed on a total purchase price of \$475,000 for the certificate and vessels. Of this, \$340,000 is allocated to the *Christopher-G*, payable pursuant to terms of a promissory note secured by the vessel.

Transferee states its management and operating personnel have experience in the proposed transportation, and that it has the financial resources needed to adequately serve the public. Operations will be conducted with the same facilities presently being used by Transferor. This includes the vessels, which Buyer will make available to Transferee through time charter agreements. By letter dated May 22, 2003, Transferee submitted supplemental information, including a balance sheet dated December 31, 2002, that discloses a net worth of \$681,644. Upon receipt of the authorization requested, Transferee will adopt the rates, rules and regulations now applicable to Transferor in its vessel common carrier tariff on file with the Commission.

Notice of filing of the application appeared in the Commission's Daily Calendar on July 19, 2002. In Resolution ALJ 176-3092 dated August 8, 2002, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protest has been received. Given this status, public hearing is not necessary, and it is not necessary to alter the preliminary determinations made in Resolution ALJ 176-3092.

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 being waived.

Assignment of Proceeding

Richard Clark is the assigned Examiner in this proceeding.

Findings of Fact

1. Transferor is operating as a vessel common carrier pursuant to D.96-09-029, as amended.
2. Transferor requests approval to transfer its VCC authority to Transferee and to sell public utility property to Buyer, an affiliated entity of Transferee. The purchase price will be paid, in part, by a promissory note secured by the vessel *Christopher-G*.
3. The proposed transfer will not be adverse to the public interest.
4. No protest to the application has been filed.
5. A public hearing is not necessary.
6. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Conclusions of Law

1. The proposed transfer is in the public interest and should be authorized.
2. The Transferor should be authorized to transfer its VCC certificate to Transferee and to sell its public utility property as described in the application to Buyer.
3. Since the matter is uncontested, the decision should be effective on the date it is signed.
4. Only the amount paid to the State for operative rights may be used in rate fixing. The State may grant any number of rights and may cancel or modify the monopoly feature of these rights at any time.

O R D E R

IT IS ORDERED that:

1. Within 120 days from the effective date of this decision, Antone Sylvester Tug Service, Inc. (Transferor), a corporation, may transfer the operative rights specified in this application to Pacific Maritime Freight, Inc. (Transferee), a corporation, subject to the conditions contained in the following paragraphs.

2. Transferee shall:

- a. File a written acceptance of this certificate within 30 days after this order is effective.
- b. Within 120 days after this order is effective, establish service and adopt Transferor's tariffs, state in them when service will start, make them effective 10 or more days after this order is effective, and allow at least 10 days' notice to the Commission.
- c. Comply with General Orders Series Orders Series 87, 104, 111, and 117.
- d. Maintain accounting records in conformity with the Uniform System of Accounts.
- e. Remit to the Commission the Transportation Reimbursement Fee required by Pub. Util. Code § 423 when notified by mail to do so.

3. Transferee shall comply with all the rules, regulations, and requirements of the United States Coast Guard, including applicable Vessel Traffic System requirements, in the operation of the service authorized.

4. Transferee is authorized to begin operations on the date that the Consumer Protection and Safety Division mails a notice to Transferee that its evidence of insurance and other documents required by Ordering Paragraph 2 have been filed with the Commission.

5. The certificate of public convenience and necessity (CPCN) granted to Transferor by Decision 96-09-029, as amended, is revoked on the date Transferee is notified that it may commence operations as provided in Ordering Paragraph 4.

6. The CPCN to operate as VCC-88, granted herein, shall expire unless exercised within 120 days after the effective date of this order.

7. Within 120 days after the effective date of this order, Transferor is authorized to sell and San Diego Towing and Marine Services, Inc. is authorized to purchase the vessels described in this application. The terms of payment may include a promissory note secured by the vessels.

8. The Application, as supplemented by letter of May 22, 2003, is granted as set forth above.

9. This proceeding is closed.

This order is effective today.

Dated July 10, 2003, at San Francisco, California.

MICHAEL R. PEEVEY
President

CARL W. WOOD
LORETTA M. LYNCH
GEOFFREY F. BROWN
SUSAN P. KENNEDY
Commissioners

Appendix VCC-88

Pacific Maritime Freight, Inc.
(a corporation)

Original Title Page

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
AS A VESSEL COMMON CARRIER
VCC-88

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.

Issued under authority of Decision 03-07-018, dated July 10, 2003, of the Public
Utilities Commission of the State of California in Application 02-07-019.

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

Pacific Maritime Freight, Inc., a corporation, by the certificate of public convenience and necessity granted by the decision noted in the foot of the margin, is authorized to conduct nonscheduled common carrier services by vessel for the transportation of passengers and their baggage, and/or property, between the points described in Section II subject to the authority of this Commission to change or modify this authority at any time, and 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. Nonscheduled service under Section IIA shall be operated on an "on-call" basis. The term "on-call," as used, refers to service which is authorized to be rendered dependent on the demands of passengers and/or customers. The tariffs and timetables shall show the conditions under which each authorized on-call service will be rendered.
- C. Transportation of passengers and their baggage shall not be performed between points in Section IIB.

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SECTION I. (Continued):

- D. The Isthmus includes Isthmus Cove, defined as landward of a line drawn between 33° 26'45" N latitude, 118° 29'54" W longitude and 33° 26'37" N latitude, 118° 29'27" W longitude, and Catalina Harbor, defined as landward of a line drawn between 33° 25'20" N latitude, 118° 30'45" W longitude and 33° 25'35" N latitude, 118° 30'20" W longitude.

SECTION II. ROUTE DESCRIPTION.

- A. **Los Angeles Harbors**
Between all points in the Los Angeles, Long Beach, and Redondo Beach Harbors, ships inside and outside these harbor areas, and points offshore of Los Angeles County.
- B. **Los Angeles Harbors/Santa Catalina Island**
Between all points in the Los Angeles, Long Beach, and Redondo Beach Harbor areas, on the one hand, and all points and places on Santa Catalina Island except Avalon and the Isthmus, on the other hand.

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