

ORIGINAL

Decision No. 77373

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SKYVIEW LIMOUSINE SERVICE, INC., a California corporation, for a certificate of public convenience and necessity to operate a limousine service between the Los Angeles Territory and points in and around Palm Springs, California.

Application No. 51515
(Filed November 26, 1969;
Amendment Filed December 19, 1969)

James H. Lyons, for Skyview
Limousine Service, applicant.
W. L. McCracken, for Greyhound
Lines; Eleanore R. Smith, for
Desert Hot Springs Yellow Cab
Company, protestants.
Jerry Hunt, for Palm Springs
Chamber of Commerce, J. M.
McFadden, for City of Desert
Hot Springs, Joe Sniderman,
for Desert Hot Springs Chamber
of Commerce, and George C. Mueller,
Councilman, for City of Desert
Hot Springs, interested parties.
John M. Johnson, for the Commission
staff.

O P I N I O N

This application was heard before Examiner DeWolf on February 10, 1970 at Palm Springs and submitted on the same date subject to concurrent briefs which have been filed.

The protestants are Greyhound Lines, Inc., and Eleanor R. Smith for Desert Hot Springs Yellow Cab Company.

Applicant requests authorization to institute and conduct operations as a passenger stage corporation for the transportation of passengers and their baggage.

Applicant alleges that it will secure additional limousines as required by public demand; that it is financially able to render the service by advancing \$10,000.00 to begin and up to an additional \$15,000.00 thereafter.

Applicant proposes to operate between the Los Angeles territory described as most parts of Los Angeles County southwest of the Angeles National Forest, and the Palm Springs territory about fifteen miles long and several miles wide, by the most direct and appropriate route.

Applicant proposes a door-to-door service to pick up at homes or hotels and discharge directly at destination.

The application states that the service is to be unique and different from existing service. Fares are to be \$10.00 each way and starting with one trip in the morning and one in the afternoon in each direction with twenty-four hours advance reservations.

On December 19, 1969 applicant changed the character of the proposal by filing an amendment and changing paragraph two of Exhibit D from: "Service will be rendered by eight passenger limousine type vehicle...." to "Service will be rendered by limousine-type vehicle not to exceed 11 passengers".

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The operation of the proposed service is described by applicant as follows: It will render door-to-door service between the Los Angeles territory, bounded generally on the north by the southern boundary of the Angeles National Forest, on the west and south by the Pacific Ocean, and on the east generally by the San Gabriel Freeway, and the Palm Springs desert resorts. The pick up time within the Los Angeles area would be between 7:20 and 8:30 a.m., leaving the Los Angeles area at approximately 9 a.m. and arriving in the Palm Springs area approximately two hours later. The vehicles would then drop the passengers off at their destinations, hotel or motel, and the driver at each end would go to the door for the passengers, pick the baggage up at their homes, and on arrival at their destinations would then take the baggage off of the vehicle and place it at the door of the hotel or wherever the passenger was going. Operating in the reverse direction, the vehicles of the applicant would commence picking passengers up in the Palm Springs area about noon and would depart from that area at 1 p.m., arriving back in the Los Angeles territory approximately 3 p.m. Applicant proposes to institute the service with a 1970 Cadillac limousine and a 1969 Oldsmobile Vista Cruiser station wagon.

Arrangements have been made with a local company to lease vehicles in the event a need therefor arises within a short time after the commencement of service. Applicant will train and provide his own drivers. As soon as applicant can make a determination, it is intended to purchase sufficient vehicles to be able to provide the service without the necessity of leasing additional limousines. The capacity of vehicles to be used by applicant will not exceed eleven passengers. It is proposed to use as many vehicles as are necessary to adequately serve the Los Angeles territory so that one vehicle would not have to go too far from one point to another. This would be for the benefit not only of the applicant but also of the passengers.

Applicant proposes to advertise its service primarily with the hotel owners in the Palm Springs territory by supplying them with flyers which the hotels will include in their monthly mailings to their clients. Applicant also plans to advertise in local newspapers throughout the Los Angeles area and through the Convention and Visitors Bureau of Palm Springs which operates an extensive advertising campaign throughout Los Angeles. Applicant's witness testified that there are 300 to 400 hotels and motels in the area surrounding Palm Springs whose patrons would be potential users of this service.

Applicant's owner contacted many business people in the Palm Springs area and demonstrated his 1970 Cadillac limousine as the equipment he proposes to use in this service.

All of the witnesses were impressed by the availability of this kind of service. Eight witnesses testified substantially as follows: The president of the hotel division of the Chamber of Commerce of Palm Springs testified that at the present time 105 of the 225 hotels and motels in the Palm Springs area are members of the hotel organization, that their support was on the ground there are many tourists or people who would like the kind of service proposed by the applicant, that the chamber is very enthusiastic about the possibility of accommodating those people who would prefer this type of service to any other. Some people do not like to fly and some people find it inconvenient to travel by bus. He testified that he had a request recently for limousine service from a lady who is presently staying at the Fairmont Hotel in San Francisco. She is from New York City and does not like to fly, and if she were able to utilize the train to Los Angeles and have the service available as proposed by the applicant she would be delighted to come. She is not coming otherwise. He stated that this is the most recent experience he has had, but there are a number of other guests who would enjoy this service if they were aware of it.

The owner of the El Moro Villa testified that he is frequently asked by the guests who come there if there is any other way to get to Palm Springs besides the buses and the train (at the time when the train was running) or by plane. Passenger train service to Palm Springs is no longer conveniently available.

He also testified that he was familiar with the limousine service running between New York City and the Catskill Mountains. He testified that he thinks it's the finest thing that they could have because some people don't drive; there is no longer any train service and if they take the bus they have to take an additional bus or taxi to the hotel. In his experience with the limousine service in New York going to the Catskills he was picked up right at his door in the Bronx.

The general manager of the Chamber of Commerce of Palm Springs testified in support of the application; that as of December 2, 1969 there were approximately 810 members of the Palm Springs Chamber of Commerce. He testified that he felt there is a great need in their community for the particular type of service which is being proposed by the applicant. He testified that Palm Springs has a lot of older persons and he felt that the service offered by the applicant would be an advantage for those people in the greater Los Angeles area who would like to come to Palm Springs and find it difficult to travel by other means of transportation.

The manager of the Biltmore Hotel testified that he had been directed by the owners of the hotel to appear in support of the application.

The City of Desert Hot Springs was represented by George Mueller, a city councilman, who read into the record a resolution that was passed unanimously by the city council the Wednesday prior to the hearing date.

The manager of the Desert Hot Springs Chamber of Commerce testified in support of the application. He testified that the Chamber of Commerce has 201 business members and about 900 associate members. They have 134 licensed hotels and motels and apartments running close to 5,000 rooms. He testified that Desert Hot Springs had appealed to the Greyhound people and he personally had had correspondence with them on three different occasions for service, but that Greyhound felt that it was not economically feasible to establish a line to Desert Hot Springs. He stated there would be a very good possibility that the service proposed by the applicant would be utilized by people who are not coming to Desert Hot Springs at all at the present time. As far as the Chamber of Commerce is concerned, he stated that "we have discussed it with the hotel people and we are overwhelmingly enthusiastic and we would hope that the Public Utilities Commission acts favorably on the request".

The representative of the Linda Vista Lodge in Desert Hot Springs testified that a great number of the guests who come frequently do use the Greyhound Bus service but there are problems in proceeding from Palm Springs directly to the motel. The Desert Hot Springs taxi service cannot come to Palm Springs and pick up the guests. He testified that he does not call too frequently on the Palm Springs taxi service, but he has to at times when the guests cannot find their own taxi in Palm Springs to pick them up.

The Commissioner of Transportation for the City of Desert Hot Springs testified in favor of the granting of this application. He testified that he was totally disabled and to get around he had to use a wheelchair. He testified that he had traveled extensively by air and at most airports they have a forklift to get a disabled person to and from the level of the plane. However, in Palm Springs a person must be bodily carried up the stairs, which is somewhat embarrassing. It is impossible for him in a wheelchair to get in and out of a bus, so that service would not be available for him or others in his condition. He testified that with people getting older there are so many who require some means of transportation and that the service proposed by the applicant would fit the needs of people in his condition. It would be about the only way to travel to and from Palm Springs aside from a private car.

The thrust of the application and testimony is that applicant has represented that it intends to provide a luxury, door-to-door, air-conditioned limousine service between Palm Springs and Los Angeles in a unique and different way than any now provided.

The amendment of the application enlarging capacity from eight to eleven passengers takes it out of the luxury limousine character. Applicant admitted that the limousines could not take more than seven passengers in comfort and testified that it intends to procure Checker Stretchout buses for the eleven passenger service.

Applicant gave general details as to how he would pick up or discharge passengers in the territory of Los Angeles with his present two vehicles and estimated costs of operations that would break even in the Cadillac with five passengers or \$50.00 each way itemized as follows:

Driver 8 to 10 hours @ \$2.25	\$22.00
Gasoline	10.00
Insurance	2.00
Repairs and service	3.00
Office and telephone equipment	4.00
Interest and amortization	9.00
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Total	\$50.00

A taxi service operating two taxi cabs in Desert Hot Springs appeared and its operator testified that its cabs make occasional one-way trips with passengers to Los Angeles and that applicant would take this business from them and also take some of their traffic which is enroute to Los Angeles and would duplicate a portion of their service.

The director of traffic for Greyhound Lines testified that the proposed operations would skim the cream of the traffic to Palm Springs. The traffic director further testified that Greyhound today offers a plethora of passenger bus services between the points applicant proposes to serve. The numerous routes, points of service, and round-the-clock schedules are depicted on Exhibits 2 and 3. This service is changed in response to the seasons and the demands of traffic. Greyhound's director of traffic testified "Greyhound blankets the area and makes a concerted effort to meet the needs of the traveling public."

Greyhound fears diversion of traffic if applicant's proposal is sanctioned and relies on Section 1032 of the Public Utilities Code which provides in part:

"The Commission may, after hearing, issue a certificate to operate in a territory already served by a certificate holder under this part only when the existing passenger stage corporation or corporations serving such territory will not provide such service to the satisfaction of the Commission." (Emphasis added)

Diversion has a great impact which should be considered by this Commission.

The traffic director testified that Greyhound's statewide operations are conducted at a minimal profit and that this total picture includes mainline operations, some of which like Los Angeles-Palm Springs are profitable, as well as local operations in the San Francisco Bay Area, Long Beach-Santa Monica, and the Santa Paula Valley, which are conducted at an annual loss approaching \$3,000,000. The Public Utilities Commission has historically required Greyhound to conduct these local operations at a loss, subsidized by its mainline operations.

It cannot be questioned that any diversion of traffic from the mainline (Los Angeles-Palm Springs) will lessen the ability of these operations to support uneconomical local services.

Exhibit No. 4 in evidence is a survey showing ticket sales to Palm Springs and vicinity for the month of December from the various stations of Greyhound, and shows ticket sales of 2,455 for the month of December, part of which are round trip tickets

and if return trip is counted, would show 3,278 trips sold outside of Palm Springs, and by adding tickets sold in Palm Springs of 2,102 makes a grand total of 5,380 trips to and from Palm Springs in December 1969.

The visitors bureau of Palm Springs estimates the number of visitors coming into Palm Springs as 1,420,000 annually with the major tourist season being in the winter.

Upon consideration of the evidence, the Commission finds and concludes as follows:

1. Applicant possesses the experience, equipment, personnel and financial resources to institute and maintain the proposed service.

2. There are no door-to-door services available to the segment of the public which desires to use the proposed service, and the existing passenger stage corporations serving in the territory will not provide door-to-door services for the public.

3. The protestants Greyhound and the Smith Cab Service do not provide door-to-door, round trip luxury limousine passenger service between Palm Springs and vicinity and Los Angeles and vicinity such as applicant proposes and they do not desire to provide such service.

4. The Greyhound passenger service to Palm Springs is essential for the large majority of people who use the service and the fares charged are reasonable.

5. The operation of the proposed service with a fare of \$20.00 round trip will not adversely affect the traffic of the Greyhound Lines with round trip fare of \$7.09 between Los Angeles and Palm Springs.

6. We find and conclude that the public convenience and necessity require operation by applicant as a common carrier by motor vehicle, over irregular routes, of passengers and their luggage, in nonscheduled door-to-door service, limited to the transportation of not more than seven passengers in any one vehicle, not including the driver thereof and children under three years of age who do not occupy a seat or seats in round trip special operations between points in the Los Angeles territory (excluding Los Angeles International Airport) on the one hand and points in the Palm Springs territory on the other hand in limousine type air-conditioned vehicles and otherwise limited to operation of no more than four trips each way per day.

7. Public convenience and necessity require that the application be granted in part and denied in part in order to protect the operation of protestants as set forth in the ensuing order. The Commission concludes that no passenger service shall be authorized in this area which will take traffic from the Greyhound Lines to such an extent that it would impair the service or cause any increase in rates. The service proposed by applicant will only be authorized so that it will not compete to any significant extent with the present service conducted by Greyhound.

8. The applicant will be restricted from picking up and discharging passengers whose origin and destination points are both within the Los Angeles territory or the Palm Springs territory and applicant may not pick up or discharge passengers at Los Angeles International Airport and will be required to sell round trip tickets only.

9. Applicant's proposed "Los Angeles Territory" extends approximately 40 miles north and south and the same distance east and west, encompassing all of the City of Los Angeles and a multitude of neighboring cities. This is a vast area with a population of several million persons. For a fledgling operation seeking authority to establish a unique service with only two limousines now available, this service territory is not justified. The Commission concludes that the "Los Angeles Territory" to be authorized herein shall be restricted in area accordingly and for the same reasons, applicant's "Palm Springs Territory" shall be limited to the area as described in the appendix of this decision.

10. The money, property or labor to be procured or paid for by the issue of the stock and indebtedness herein authorized is reasonably required for the purposes specified herein, and such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

Skyview Limousine Service, Inc. is hereby placed on notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that

originally paid to the State as the consideration for the grant of these rights. Aside from their purely permissive aspect, such rights extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be modified or canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Skyview Limousine Service, Inc., a corporation, authorizing it to operate as a passenger stage corporation, as defined in Section 226 of the Public Utilities Code, between the points, over the routes, and under the under the conditions particularly set forth in Appendix A, Original Pages 1, 2, and 3, attached hereto and made a part hereof.

2. Skyview Limousine Service, Inc., a California corporation, may issue and sell, at par, 250 shares of its \$100 par value common capital stock to Ben Kalmuk, and shall use the proceeds for the purposes specified in the application.

3. The authority herein granted to issue stock will become effective when Skyview has paid the minimum fee prescribed by Section 1904.1 of the Public Utilities Code, which fee is \$50. In other respects the effective date of this order shall be twenty days after the date hereof.

4. The only fare that Skyview Limousine Service, Inc. is authorized to publish in tariffs filed pursuant to this order is a \$20.00 round trip fare per person between the Los Angeles and Palm Springs territories, as defined in Appendix A attached hereto and made a part hereof.

5. Service to be performed under this authority shall be limited to four round trips per day between said Los Angeles and Palm Springs territories.

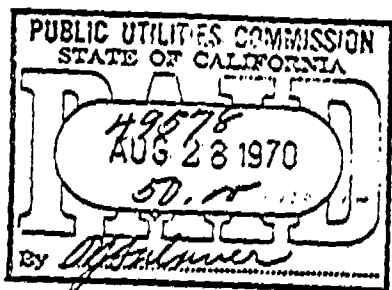
6. In providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations. Failure so to do may result in a cancellation of the operating authority granted by this decision.

- (a) Within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted. Applicant is placed on notice that, if it accepts the certificate of public convenience and necessity herein granted, it will be required, among other things to comply with and observe the safety rules of the California Highway Patrol, the rules and other regulations of the Commission's General Order No. 98-A and insurance requirements of the Commission's General Order No. 101-C.
- (b) Within one hundred twenty days after the effective date hereof, applicant shall establish the service herein authorized and file tariffs and timetables, in triplicate, in the Commission's office.

- (c) The tariff and timetable filings shall be made effective not earlier than ten days after the effective date of this order on not less than ten days' notice to the Commission and the public, and the effective date of the tariff and timetable filings shall be concurrent with the establishment of the service herein authorized.
- (d) The tariff and timetable filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs and timetables set forth in the Commission's General Orders Nos. 79 and 98-A.
- (e) Applicant shall maintain its accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of its operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 16th day of JUNE, 1970.



William J. ...
President
Augustine
J. P. ...
John ...
Yusuf L. ...
Commissioners

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Appendix A

SKYVIEW LIMOUSINE SERVICE, INC.
(a corporation)

Original Page 1

CERTIFICATE
of
PUBLIC CONVENIENCE AND NECESSITY

Showing passenger stage operative rights, restrictions,
limitations, exceptions, and privileges applicable thereto.

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 No. **77373**, dated
June 16, 1970, of the Public Utilities Commission
of the State of California, on Application No. 51515.

Section 1. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS,
AND SPECIFICATIONS.

Skyview Limousine Service, Inc., a corporation, by certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport passengers and baggage as follows:

1. BETWEEN any point in the Los Angeles Territory (excluding Los Angeles International Airport), on the one hand, and any point in the Palm Springs Territory, on the other hand, over and along the most direct or appropriate route or routes. Such territories are hereinafter described in Section 2.
 - (a) Service shall be limited to the transportation of passengers paying round trip fares who originate at or are destined to points within either the Palm Springs Territory or Los Angeles Territory.
 - (b) No passenger shall be transported whose origin and destination are both within the limits of either the Los Angeles or Palm Springs Territories, or whose origin or destination is outside such territories.
 - (c) Service shall be operated with limousine-type air-conditioned vehicles, and no more than 7 passengers shall be transported in each vehicle, exclusive of driver.

Issued by California Public Utilities Commission.

Decision No. _____, Application No. 51515.

SECTION 2. DESCRIPTION OF TERRITORIES

The territories within which Skyview Limousine Service, Inc. is authorized to pick up or discharge passengers are described and defined as follows:

LOS ANGELES TERRITORY

Beginning at the intersection of Los Feliz Boulevard and Interstate 5, thence by Interstate 5, Main Street (City of Los Angeles), Artesia Boulevard and its prolongation to the Pacific Ocean, thence via shore of the Pacific Ocean, Topanga Canyon Boulevard and Mulholland Drive to its intersection with Hollywood Freeway (U.S. 101), thence by direct line to Los Feliz Boulevard and Interstate 5, point of beginning.

PALM SPRINGS TERRITORY

All points within the Coachella Valley bounded by a north-south line through the intersection of Interstate 10 and State Highway 111 on the west (West Palm Springs); by a north-south line through the intersection of Interstate 10 and State Highway 111 on the east (Indio); on the north by the Little San Bernardino Mountains; and on the south by the San Jacinto Mountains.

Issued by California Public Utilities Commission.

Decision No. 77373, Application No. 51515.