

ORIGINAL

Decision No. 79987

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
FALCON CHARTER SERVICE for a Certifi-  
cate of Public Convenience and  
Necessity to operate as a Passenger  
Stage Corporation.

Application No. 52966  
(Filed November 2, 1971)

Eldon M. Johnson, Attorney at Law, for applicant.  
Gareth W. Sadler of Angell, Adams & Holmes,  
Attorney at Law, for City of Foster City, and  
Everett Milton King, in propria persona,  
interested parties.  
Sean A. Mahon, for the Commission staff.

O P I N I O N

By this application Falcon Charter Service (Falcon) requests a certificate of public convenience and necessity authorizing it to operate as a passenger stage corporation between Foster City and San Francisco.

Applicant specifically seeks authority to provide a commute service only between Foster City and the Financial District and Civic Center areas of San Francisco. The service northbound from Foster City will be provided during the morning hours, with pickups from 6:30 a.m. to 9:00 a.m. The service southbound from San Francisco will be provided with pickups from 4:00 p.m. to 6:30 p.m. The proposed service will operate each weekday except holidays. Applicant proposes fares as follows:

- a. A ten-ride, no-time-limit ticket ..... \$ 9.35
- b. A monthly ticket ..... \$35.00

Public hearing was held before Examiner O'Leary at San Francisco on February 16 and 17, 1972. The matter was submitted on the latter date.

The president of applicant testified that service between Foster City and San Francisco was initiated on May 1, 1970 with one

bus. A second bus was added in August 1971 during a strike by Southern Pacific Transportation Company. A third bus was added in January 1972. The president also testified that he believed applicant's "Class A" charter party carrier certificate authorized such service. Had he known that a passenger stage corporation certificate was needed the instant application would have been filed at an earlier date. Applicant's president further testified that Falcon's principal business is the chartering of buses from approximately 8:30 a.m. to 4:30 p.m. The operation of the commute service between Foster City and San Francisco complements the charter operation because of the time schedule.

Two persons who utilize the service testified that prior to the institution of service by Falcon they utilized the commute service offered by Greyhound and/or Southern Pacific. Both of them testified that the Falcon operation is much more convenient in that they can walk to and from their homes and places of employment because of the close proximity of embarkation and debarkation points in Foster City and San Francisco. The use of Greyhound and/or Southern Pacific necessitated local transportation to and from their homes and places of employment. It was stipulated that nine persons were present who if called to testify would present testimony substantially the same as these two witnesses.

A third person who utilizes the service testified that the service was a prime consideration when she and her husband purchased their home in Foster City. She testified that her husband is a semi-invalid and that if the service was discontinued she would be forced to sell their home.

Exhibit 3 contains copies of applicant's balance sheet as of September 30, 1971 and its statement of income for the year ended September 30, 1971. The balance sheet discloses total assets of \$265,680 offset by total liabilities of \$90,646. The statement of income shows a net income of \$29,921.

Mr. King, an interested party testified he is not opposed to the service but would rather see the embarkation and debarkation at a central staging area rather than having buses traverse the residential streets of Foster City. Mr. King also testified that he does not use the service offered by applicant.

The City of Foster City does not oppose the granting of the application, however, it requests that the granting of the application be subject to various conditions which are set forth in a resolution which was passed by the City Council of Foster City on February 16, 1972. A copy of the resolution was received in evidence as Exhibit 21.

The conditions set forth in the resolution can be summarized as follows:

1. That the Public Utilities Commission review and consider appropriate modifications whenever the population increases by 5,000 persons or every two years whichever occurs first.
2. That the proposed routes set forth in Exhibit A attached to the resolution be substituted for applicant's proposed routes.
3. That the City of Foster City general plan elements be complied with by applicant.
4. That a determination of public safety be approved by the Public Utilities Commission staff or local police and/or City Traffic Engineer concerning routes, bus stops parking and related safety considerations before granting the application.
5. That applicant provide reasonable parking facilities for commuters using the service.
6. That applicant provide a single fare in addition to its proposed fares.

With respect to proposed condition 1 above applicant's president testified that applicant would be willing to apply to the Commission to revise its routes when the population increases provided it had reasonable assurance that the service would be utilized. Applicant has already done this when it added the third bus on January 1, 1972. The routes proposed by the City would require some of the residents to use their automobiles to reach the bus stops

rather than walk as they presently do, however, a minor deviation of routes is warranted and will be provided for in the ensuing order. Proposed condition 3 is a matter of local concern. With respect to condition 4 we are convinced that the routes set forth in Appendix A are safe. Any related safety considerations such as parking and safety of bus stops within Foster City are matters of local concern. Proposed condition 5 would cause an undue hardship upon applicant. Applicant is opposed to providing a single fare because the service is a commute service during the early morning and early evening rush hours utilized by regular commuters. Applicant believes the addition of a single fare may cause a standee problem which is undesirable.

The evidence presented by applicant discloses that it has been performing operations without a certificate in violation of the Public Utilities Code. While punitive action will not be taken at this time, applicant is placed on notice that any future unlawful operations will not be tolerated and any such operation will be dealt with severely.

Based on the evidence adduced, the Commission finds that:

1. Applicant possesses the experience, equipment and financial resources to institute and maintain the proposed service.
2. The establishment of a single one way fare could cause a standee problem which would cause a hardship on the regular commuters.
3. Public convenience and necessity require that the application be granted as set forth in the ensuing order.

The Commission concludes that the application be granted as set forth in the ensuing order.

Applicant 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 such 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 Falcon Charter Service, a corporation, authorizing it to operate as a passenger stage corporation, as defined in Section 226 of the Public Utilities Code, between the points and over the routes particularly set forth in Appendix A attached hereto and made a part hereof.

2. 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 the 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 25<sup>th</sup>  
day of APRIL, 1972.

William J. ... Chairman  
...  
Vernon L. Sturgeon  
... Commissioners

Commissioner J. P. Vukasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

CERTIFICATE  
OF  
PUBLIC CONVENIENCE AND NECESSITY

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

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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.

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Issued under authority of Decision No. 79987,  
dated April 2, 1972, of the Public Utilities  
Commission of the State of California, on Application No. 52966.

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

Falcon Charter Service is authorized to transport passengers by motor vehicles between the City of Foster City, on the one hand, and the City and County of San Francisco, on the other hand, over and along the routes hereinafter described, subject, however, to the authority of this Commission to change or modify said routes at any time and subject to the following provisions:

- (a) Motor vehicles may be turned at termini and intermediate points, in either direction, at intersections of streets or by operating around a block contiguous to such intersections, in accordance with local traffic regulations.
- (b) When route descriptions are given in one direction, they apply to operation in either direction unless otherwise indicated.
- (c) Applicant shall not pick up or discharge passengers except along the routes hereinafter described within the City of Foster City and/or within the limits of the specified districts (service areas) in the City and County of San Francisco as hereinafter set forth.
- (d) The "Financial District" as used herein includes that area bounded by Kearny Street, Jackson Street, Battery Street, and Market Street.
- (e) The "Civic Center District" as used herein includes that area bounded by Turk Street, Polk Street, Grove Street, and Larkin Street.

Issued by California Public Utilities Commission.

Decision No. 79987, Application No. 52966.



## SECTION 2. ROUTE DESCRIPTIONS.

## Route No. 1

Commencing at the intersection of Foster City Boulevard and Polynesia Drive, in the City of Foster City; thence via Polynesia Drive, Comet Drive, East Hillsdale Boulevard, Gull Avenue, Beach Park Boulevard, Shell Boulevard, Bounty Drive, Foster City Boulevard and East Hillsdale Boulevard to U.S. Highway 101; thence along U.S. Highway 101 to the "Financial District" as defined in Section 1 (d) and/or the "Civic Center District" as defined in Section 1 (e), in the City and County of San Francisco using the most appropriate streets or highways within the City and County of San Francisco to reach said Districts.

## Route No. 2

Commencing at the intersection of East Hillsdale Boulevard and Altair Avenue, in the City of Foster City; thence along Altair Avenue, Polaris Avenue to the first intersection of Beach Park Boulevard and Polaris Avenue; thence via Beach Park Boulevard, Edgewater Boulevard, East Hillsdale Boulevard, Gull Avenue, Beach Park Boulevard Foster City Boulevard and East Hillsdale Boulevard to U.S. Highway 101; thence along U.S. Highway 101 to the "Financial District" as defined in Section 1 (d) and/or the "Civic Center District" as defined in Section 1 (e), in the City and County of San Francisco, using the most appropriate streets or highways within the City and County of San Francisco to reach said Districts.