

ORIGINAL

Decision No. 84362

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
California Sightseeing Tours, Inc.,  
a corporation, for a certificate of  
public convenience and necessity for  
passenger stage service between points  
in Orange County and Los Angeles  
County, on the one hand, and places of  
employment in Hawthorne and El Segundo,  
on the other hand.

Application No. 54743  
(Filed March 20, 1974;  
amended November 7, 1974)

Russell & Schureman, by Christopher Ashworth,  
Attorney at Law, for California Sightseeing  
Tours, Inc., applicant.

Ronald J. Hoffman, for Southern California Commuter  
Bus Service, Inc., protestant.

Stephen T. Parry, for S.C.R.T.D., interested party.

John DeBrauwere and Fred K. Hendricks, for the  
Commission staff.

O P I N I O N

California Sightseeing Tours, Inc. (CST) requests a certificate of public convenience and necessity to operate a passenger stage corporation to carry passengers during commuter hours between their residences in Orange County and their places of employment with Northrop Aircraft Corp., North American Rockwell, The Pacific Telephone and Telegraph Company, Xerox Corporation, Kresge's, McDonnell-Douglas, and the Los Angeles Regional Defense Contract Administration Service of the Department of Defense located in the Hawthorne and El Segundo areas, and return. Service is to be provided at points in Mission Viejo, Irvine, Huntington Beach, and Westminster in Orange County. The application was protested by Southern California Commuter Bus Service, Inc. (ComBus). A hearing was held on the application before Examiner Pilling in Los Angeles on November 7 and 8, 1974.

The witness for CST testified that CST is currently operating over the route applied for and has been so operating since April of 1974, carrying approximately 49 passengers each workday. CST uses a Motor Coach, Inc. Challenger (MCI) bus in the operation. The bus has reclining seats and is air-conditioned. A fare of from \$12.50 to \$14.50 per week will be charged depending on the passenger's point of origin. CST presented no financial statements of its own but submitted a consolidated balance sheet as of August 31, 1974 of its parent company, Educational and Recreational Services, Inc., which showed a net worth of \$4,399,996. One witness for CST testified that CST has held passenger stage authority from the Commission since 1970 but that its accounting records were not yet in conformity with the Commission's regulations but would be by January 1, 1975. The witness stated that CST has 11 buses which could be used in the operation. CST presented nine witnesses who were present and prospective riders of the bus and who testified that CST's service was satisfactory, dependable, and needed. Several of the public witnesses testified that prior to the time they used CST they used the bus service offered by protestant ComBus but starting in February 1974, ComBus' service and bus equipment used on the route deteriorated to the point where many of the ComBus passengers after a month and a half of repeated unsatisfied complaints to ComBus about the service requested CST to institute its present service. Witness Turner, who rode with ComBus, introduced Exhibit 5 which listed 10 instances of unsatisfactory service on as many occasions between February 1, 1974 and March 13, 1974. They were:

1. "No show" of bus in a.m. - vehicle ran out of gas at Mission Viejo.
2. Equipment "stalled-out" on Westminster East, unable to execute self-start, required push to start - 30 minute delay.
3. Headlights failed while heading north on San Diego Freeway - 40 minute delay.

4. Breakdown in p.m. - last passengers three (3) hours late.
5. Passengers late for work both a.m. and p.m., three (3) different drivers in one week, cause unknown.
6. Equipment stalled-out at Northrop, self-start inoperative, required push to start - 45 minute delay.
7. Equipment late due to dispatcher having issued incorrect routing directions - 22 minutes late a.m. and 1 hour and 50 minutes late p.m.
8. Engine blew-up on weekend tour - late arrival in a.m.
9. Equipment stalled-out on San Diego Freeway - moving southbound p.m. after freewheeling in left-hand lane for approximately 1/4 mile, started by engagement of clutch.
10. Equipment stalled-out at Crenshaw and El Segundo, no self-start, required push to start.

Witness Turner testified he acted as a bus captain for ComBus and that he resigned that job. (The witness for ComBus said Turner was fired.) Witness Miller, who also rode the ComBus route, testified that the president of ComBus rode the route one day and in answer to their complaints about the service stated: "This is the bus you are going to receive, and that's the way it was going to remain."

ComBus contends that it presently operates 43 buses in commuter service in the southern California area and is presently certificated to conduct the requested service for the employees at 3 of the 7 facilities CST is seeking to serve, namely McDonnell-Douglas, Xerox, and Northrop Aircraft Corp. (The latter service is allegedly conducted under a certificate issued by Decision No. 83467 dated September 1974.)<sup>1/</sup> However, since the inception of CST's

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<sup>1/</sup> The Commission's records reveal that as late as March 7, 1975 ComBus has never filed any tariffs or timetables with the Commission. Decision No. 83467 requires the filing of tariffs and timetables with the Commission on or before February 4, 1975.

service ComBus has withdrawn service at two of the four Orange County points now served by applicant because of a lack of passengers though it states it is ready, willing, and able to reinstitute the service with its own buses if it can get enough passengers. The witness for ComBus stated that the reason its service over the route in question deteriorated in February and March of 1974 was that the charter-party carrier who furnished the bus and driver to operate the run was in financial straits and deferred maintenance of its buses resulting in poor service. The charter-party carrier later went bankrupt. On brief, ComBus contends that CST failed to prove its ability to safely and efficiently operate the proposed route; to prove public convenience and necessity; and to prove that ComBus has failed to provide adequate service either over the proposed route or in any other area ComBus operates. ComBus also contends that in the face of Section 1032 of the Public Utilities Code the temporary service problems experienced by ComBus on the route in question do not fall within the Commission standards for the granting of authority to a second carrier and that ComBus is ready, willing, and able to render a satisfactory service.

The Commission's staff representative presented a witness from the California Highway Patrol who testified that in October 1974 he and another patrol inspector formally inspected CST's bus equipment at the CST yard in Van Nuys for safety compliance and that after viewing the results of that inspection the witness's superior recommended that procedures be instituted to remove or suspend all charter-party transportation certificates held by CST because many of the vehicles did not pass the safety inspection. The witness for CST testified that the poor showing of the vehicles in the safety inspection was due to the fact that many of the vehicles had just returned from a lease operation at Yellowstone Park and that at the time of hearing of this case most of the discrepancies had been corrected.

Section 1032 of the Public Utilities Code is not meant to protect a bus operation, as in the case of ComBus, when it was shown to have been the lone operator over the route and arbitrarily disregarded the needs of its passengers by failing to heed their reasonable complaints about its obviously unsatisfactory service and, assertedly having the ability to improve its service, failed to do so.

Findings

1. CST proposes to operate as a passenger stage corporation rendering a commuter service during peak rush hours transporting persons residing in Orange County to and from their places of employment at seven facilities located in and around Hawthorne and El Segundo.
2. CST has the necessary equipment, drivers, and financing to satisfactorily perform the requested service.
3. Seven present and prospective riders appeared and testified as to the need for CST's service.
4. ComBus has not complied with Decision No. 83467 insofar as filing its tariffs and timetables, to conduct any of the requested service. Such compliance is overdue.
5. ComBus' authority when properly exercised would permit it to transport employees located at only three of the seven facilities sought to be served by CST.
6. ComBus' service along the route in question became unsatisfactory starting in the first part of February 1974 and no change in the upgrading of that service has been shown to have been accomplished.
7. ComBus received repeated reasonable complaints about its obviously unsatisfactory service, failed to heed those complaints, and was unwilling to improve its service.
8. We are not satisfied that ComBus is able to render satisfactory service between the involved points.

9. Public convenience and necessity require the granting of the application.

10. With reasonable certainty the project involved in this proceeding will not have a significant effect on the environment.

Conclusion

A certificate of public convenience and necessity to operate as a passenger stage corporation should be issued to CST as set out in the ensuing order.

Applicant is 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. 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 California Sightseeing Tours, 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 and over Route 20 set forth in the revised and original pages of Appendix A of Decision No. 76608, attached hereto and made a part thereof. Appendix A of Decision No. 76608 is amended by incorporating therein Second Revised Page 6, Third Revised Page 9, Original Page 9A, and Original Page 18, in revision of First Revised Page 6 and Second Revised Page 9, which revised and original pages are attached hereto and made a part hereof.

2. In providing service pursuant to the authority granted by this order, applicant shall comply with the following service regulations. Failure so to do may result in a cancellation of the authority.

- (a) Within thirty days after the effective date of this order, applicant shall file a written acceptance of the certificate granted. Applicant is placed on notice that if it accepts the certificate it will be required, among other things, to comply with the safety rules administered by the California Highway Patrol, the rules and other regulations of the Commission's General Order No. 98-Series, and the insurance requirements of the Commission's General Order No. 101-Series.
- (b) Within one hundred twenty days after the effective date of this order, applicant shall establish the authorized service 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 authorized service.
- (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-Series and 98-Series.

- (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 22nd day of 1 APRIL, 1975.

Vernon L. Sturgeon  
President  
William Synovitz  
Donald O. ...  
Leonard ...  
Robert ...  
Commissioners



Appendix A  
(Dec. 76608)

CALIFORNIA SIGHTSEEING TOURS,  
INC.  
(a corporation)

Second Revised Page 6  
Cancels  
First Revised Page 6

SECTION 1. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS AND  
SPECIFICATIONS. (Continued)

- (e) (1) Service to Hollywood Park and Santa Anita shall be rendered each racing day, except as shown in (1) and (2) above.
- (2) Service to San Ysidro shall be rendered each day thoroughbred horse racing is conducted at Agua Caliente.
- (3) Service on Routes 7, 7-A, 7-B, 7-C, 8, 8-A and 8-B shall be rendered on each work day at the Douglas Aircraft Company's plants named in such routes, and shall be limited to passengers destined to or originating at and employed by said plants.
- \*(4) Service on Route 20 shall be rendered on each working day and and limited to employees destined to or originating at Northrop Aircraft Corp., Pacific Telephone & Telegraph, DCASR, Kresge and North American Rockwell, at the locations designated herein.
- (f) Except at termini, passengers shall be picked up and discharged within the following areas only:

ROUTE 1. SAN PEDRO, WILMINGTON - HOLLYWOOD PARK RACE TRACK

Between the intersection of Avalon and Anaheim Streets and Carson Boulevard and Western Avenue, both points, inclusive.

ROUTE 2. LONG BEACH - HOLLYWOOD PARK RACE TRACK

At the intersection of Ocean Boulevard and Pacific Avenue.

ROUTE 3. SAN PEDRO - SANTA ANITA RACE TRACK

Between the intersection of Pacific Coast Highway and Western Avenue and Avalon Boulevard and Pacific Coast Highway, both points inclusive, with the exception of the intersection of Avalon and D Streets.

Issued by California Public Utilities Commission.

\* Added by Decision No. 84362, Application No. 54743.

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Appendix A  
(Dec. 76608)

CALIFORNIA SIGHTSEEING TOURS,  
INC.  
(a corporation)

Third Revised Page 9  
Cancels  
Second Revised Page 9

SECTION 1. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS, AND  
SPECIFICATIONS. (Continued)

ROUTE 17. Inglewood-Santa Anita Race Track

Within the city limits of Inglewood.

- (g) Service on Routes 7, 7-A, 7-B, 7-C, 8, 8-A, and 8-B may be rendered to points within 1/4 mile on either side thereof upon five days' notice to the Commission by filing appropriate timetable and tariff changes.

ROUTE 19. Palos Verdes Peninsula Unified School District

Any point within the authorized service area.

\*ROUTE 20. Mission Viejo - El Segundo Plants

At the following locations:

OSO Parkway and Goleta Drive (Golf Club), Mission Viejo; Culver Boulevard and San Diego Freeway (University Plaza), Irvine; Brookhurst and Adams, Huntington Beach; Westminster and San Diego Freeway (Albertson's Shopping Center), Westminster; Northrop Aircraft Corp., corner of Crenshaw and Broadway, Hawthorne; Pacific Telephone & Telegraph, DCASR, and Kresge, corner of La Cienega and Imperial, Los Angeles County; North American Rockwell, corner of Douglas and Imperial, Los Angeles County; and Northrop Aircraft Corp., corner of Nash and Mariposa, El Segundo.

Issued by California Public Utilities Commission.

\* Added by Decision No. 84362, Application No. 54743.

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Appendix A  
(Dec. 76608)

CALIFORNIA SIGHTSEEING TOURS,  
INC.  
(a corporation)

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SECTION 2. ROUTE DESCRIPTIONS.

\*Subject to the authority of this Commission to change or modify such at any time, California Sightseeing Tours, Inc. shall conduct said sightseeing passenger stage operations over and along the following routes:

Tour No. 110. Disneyland-Knott's Berry Farm

Commencing at the Los Angeles Harbor, San Pedro, and Wilmington, thence via the most appropriate route or routes to points of interest in order:

Vincent Thomas Bridge, City of Long Beach, Belmont Shore, Bay of Naples, Huntington Harbor, Los Alamitos Naval Air Station, Disneyland, Knott's Berry Farm, Hollywood Wax Museum, and return to the point of beginning via the most direct route.

\* Formerly on Second Revised Page 9.

Issued by California Public Utilities Commission.

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Appendix A  
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CALIFORNIA SIGHTSEEING TOURS,  
INC.  
(a corporation)

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SECTION 2. ROUTE DESCRIPTIONS

\*Route 20 - Mission Viejo-El Segundo Plants

Commencing atOSO Parkway and Goleta Drive (Golf Club), Mission Veijo thence west on OSO Parkway, San Diego Freeway, Culver Blvd. (University Plaza), Irvine, continue on San Diego Freeway, Brookhurst Street, Warner Avenue, San Diego Freeway, to Westminster (Albertson's Shopping Center), return on San Diego Freeway, Harbor Freeway, El Segundo Blvd., Crenshaw Blvd., Broadway, Prairie, Imperial, Nash Street and to Mariposa.

Issued by California Public Utilities Commission.

\*Added by Decision No. 84362, Application No. 54743.