

Decision No. 84455

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of SKYVIEW LIMOUSINE SERVICE, INC., a California corporation, for authority to operate a limousine service between Los Angeles and San Diego Territories and intermediate points.

Application No. 55016
(Filed July 3, 1974;
amended October 30, 1974)

James H. Lyons, Attorney at Law, for applicant.
Russell and Schureman, by R. Y. Schureman, Attorney at Law for American Buslines, Inc.; Richard M. Hannon, Attorney at Law, for Greyhound Lines, Inc., Western Division; and Knapp, Stevens, Grossman & Marsh, by Warren N. Grossman, Attorney at Law, for The Gray Line Tours; protestants.

O P I N I O N

Applicant is a passenger stage corporation providing door-to-door service between Los Angeles, on the one hand, and Palm Springs, on the other hand. Service is provided in 11-passenger (plus driver) limousines, which pick up at the passenger's home and deliver the passenger to his hotel, or address requested, at destination. Two schedules per day are provided, in each direction. Drivers handle the luggage and provide necessary assistance if a passenger is elderly or disabled. The service is provided under authority of Decision No. 77373 dated June 16, 1970, as amended by Decision No. 78249 dated February 2, 1971 in Application No. 51515. Applicant also holds a charter-party carrier permit.

Applicant has applied for authorization under Section 1031 of the Public Utilities Code to extend service between any point in the Los Angeles area (within 12 miles of downtown L.A.), excluding the Los Angeles International Airport,^{1/} on the one hand, and any point in

^{1/} Excluding passengers originating at the Airport but including passengers destined to the Airport.

the Coast Territory (from Newport Beach, south along the Coast to San Diego), and/or any point in the San Diego Territory (area within a 12-mile radius of San Diego), on the other hand. No passengers are to be transported from any point in Laguna Beach or any point north or west thereof whose destination is the Los Angeles International Airport, nor shall anyone be transported from the airport to Laguna Beach or any point north or west thereof. Applicant alleges that the proposed operation will start with one round trip per day, which can be maintained without obtaining additional equipment. Protests were filed by The Gray Line Tours Company, Greyhound Lines-Western Division, and American Buslines. A public hearing was held on November 13, 14, and 22, 1974 in Los Angeles, before Examiner Fraser. All parties presented evidence except The Gray Line Tours Company. The proceeding was submitted on briefs, which have been filed.

The president of the applicant corporation presented the following testimony. He and his wife own and manage the applicant corporation. He has twenty years experience in transportation. First, operating taxicabs in New York; then limousines from Bergen County in New Jersey to Kennedy, La Guardia, and Newark Airports, and from New York City to resorts in the Catskill Mountains. Finally, between Los Angeles and Palm Springs, California, since 1970. The present application was filed on July 3, 1974 after repeated requests for service to the coast and San Diego were made by customers on the L.A. - Palm Springs route. These people would prefer to leave Palm Springs and Los Angeles during the summer and spend a few days in San Diego or at a beach resort. Some of the regular riders advised they will form family or neighborhood tours if the proposed service is initiated. Applicant owns three 11-passenger (excluding driver) limousines with full length roof racks for luggage and a seven-passenger Cadillac. The Cadillac is seldom used on the Palm Springs route because passengers frequently appear with an unexpected quantity of luggage which the smaller vehicle can not conveniently transport.

The Cadillac is used on charters, which comprise about 20 percent of the total business. Two schedules operate in each direction on the L.A. - Palm Springs route, seven days a week. Drivers leave from Los Angeles and Palm Springs every morning and pass each other about equidistant from their destination. In the afternoon each driver returns to his starting point, thus providing a morning and afternoon schedule in each direction, at a one-way fare of \$12.50, which is collected when the passenger enters the vehicle. The busy season extends from about Thanksgiving to the end of June. The third limousine is idle and will be employed on the San Diego route. It will leave applicant's office in Los Angeles about 8:00 a.m. and should be starting for San Diego between 9:00 and 9:30 a.m. The same vehicle will leave San Diego about 2:30 p.m. and should have dropped off all Los Angeles passengers by 4:45 p.m. Customers contact applicant by telephone and arrange to be picked up at home. The driver collects in cash when the rider enters the limousine. No tickets are sold or collected. No one pays in advance. If business warrants, a second limousine will be purchased and two daily schedules will be provided in each direction. Proposed one-way fares will be \$10.00 between the Los Angeles Territory and points in the coast territory north of Oceanside. The one-way fare to-or from Oceanside and points south will be \$12.50. No surveys were made to estimate passenger patronage or operating costs on the proposed route, but applicant's business has been increasing 20 percent per year since 1970 and expansion seems to be justified. Applicant's balance sheet for August 31, 1974 indicates total assets of \$38,144, current liabilities of \$434 and long term liabilities of \$12,200. The profit and loss statement for the twelve months ending August 31, 1974 lists \$95,428 as passenger revenue and \$10,387 as charter revenue, with a total operating revenue of \$105,815. Operating expenses are totaled at \$93,433, with a gross profit of \$12,382.

Twelve of the regular Skyview Limousine Service riders testified for the applicant. They use the L.A. - Palm Springs service with a frequency that extends from three times a year to every two weeks. The visits are for therapy, to see relatives, or as a vacation. They are away for two or three days on most trips. No one has gone to Palm Springs and returned the same day. All were elderly or disabled. Most advised they cannot carry baggage or walk very far and are not able to climb the several steps in a bus or compete with younger people in the rush to get on or off public transportation. All will use applicant's proposed service to the coast and San Diego. Two have relatives in San Diego and will be making frequent visits. The others expect to use the proposed service at least twice a year. Several of the riders have their own cars and at least half drive, but all favored the limousine service compared to use of a personal automobile. An extra witness testified that she had never used the L.A. - Palm Springs service, but would ride the proposed L.A. - San Diego route. A protestant suggested that applicant's certificate be restricted to allow only the aged or infirm to be transported. It was also suggested that no passengers be permitted to take a round trip in one day. Both suggestions were rejected by the applicant. Counsel noted the drivers will have to enforce any restriction and they are not practical. Applicant's witness did not recall any occasion where a passenger completed a round trip in one day. He testified it might occur, however, where an attendant or friend accompanies an elderly or infirm person to the latter's destination and returns to point of origin.

A traffic manager testified for American Buslines as follows: It is a locally owned subsidiary of Continental Trailways; 133 buses are used in its Western Division; the Los Angeles and San Diego route use only luxury buses and operate at about 48 percent capacity; the one-way fare between L.A. and San Diego is \$5.53 or \$10.51 round trip;

American is competing with Greyhound Lines on this route and can not afford any more competition; each seat provided by other operators represents a potential loss to American Buslines. The witness emphasized that blind, handicapped, and elderly people are carried without difficulty and their patronage is actively solicited. The Director of Traffic testified for Greyhound Lines. Exhibits were introduced to list the 2,028 buses in service and to emphasize that a total of 8,129 tickets were sold during July 1974 on the route applicant seeks to serve. Greyhound Timetable No. 16 dated October 27, 1974 was placed in evidence; it concerns service to Los Angeles, San Diego, Indio, El Centro, and Calexico. The witness noted that the vehicles used on the L.A. - San Diego route cost about \$80,000 and have a 43-passenger capacity. Testimony from both protestants emphasized that they provide a seven-day-a-week service, through most intermediate points, using luxury buses costing \$80,000 per unit. Protestants' witnesses agreed that a vehicle with an 11-passenger capacity is competition for a 43-passenger bus, especially where the riders diverted are mostly through passengers.

Discussion

The briefs filed by protestants maintain that applicant has failed to establish a need for the proposed service. It is argued that protestants provide frequent service to all points on the proposed route with modern and comfortable equipment and there has been no showing that present service is inadequate. Protestants further argue that applicant's expansion to San Diego is economically unsound; that applicant is a family owned corporation with only the husband getting paid for service rendered. Protestants contend Section 1032 of the Public Utilities Code requires that the application be denied. Applicant argued that Section 1032 is not applicable since applicant's proposed service is different from that provided by protestants. They do not provide a door-to-door service with baggage handling included, and they charge half the fare proposed by applicant.

Protestants are providing a different service than proposed by applicant. Testimony furnished by the latter makes it apparent the limousines will be used primarily by the elderly or infirm, who are entitled to this specialized accommodation. Applicant will be charging double the standard fare and is not likely to attract protestants' customers. Applicant's financial resources are adequate to support the proposed service. It will be inaugurated with equipment on hand and drivers presently employed.

Findings

1. Applicant is a passenger stage corporation providing door-to-door service between Los Angeles, on the one hand, and Palm Springs, on the other hand, with 11- passenger limousines.
2. Applicant seeks authority to extend this service from Los Angeles, on the one hand, to the coast, or to San Diego, on the other hand.
3. Applicant will provide one daily round-trip, seven days a week, with its present drivers and equipment.
4. Protestants Greyhound Lines and American Buslines provide frequent scheduled service between Los Angeles and San Diego, serving all intermediate points.
5. Protestants pick up and deposit passengers at terminals or designated bus-stops.
6. Applicant will pick up at the passengers home and handle baggage; then deposit the rider at his hotel or other selected point, upon arriving at destination.
7. Applicant will provide a maximum of one morning and one afternoon round-trip.
8. Protestants' fares between points served by the applicant are approximately half of what applicant proposes to charge.

9. Applicant proposes an on-call limousine service at premium rates.

10. The service proposed by applicant is entirely different from that operated by protestants.

11. Protestants will not provide the door-to-door service offered by applicant in the territory sought to be certificated to applicant.

12. Applicant should be authorized to establish the proposed service and its operating authorities should be combined in one certificate.

13. Applicant possesses the ability, experience, equipment, and financial resources needed to perform the aforesaid service.

14. Public convenience and necessity require that the service proposed by applicant be established.

15. It is reasonably certain that the project involved in this proceeding will not have a significant effect on the environment.

The Commission concludes that,

1. Section 1032 cannot be relied on by protestants since applicant's proposed service is different from protestants and cannot be provided by protestants.

2. The application should be granted.

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 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 and over the routes set forth in the revised pages of Appendix A of Decision No. 77373, attached hereto. Appendix A of Decision No. 77373, as amended, is further amended by incorporating Fourth Revised Page 2, First Revised Page 3, and Original Page 4 in revision of Third Revised Page 2 and Original Page 3, 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 20th
day of MAY, 1975.

Vernon L. Stegeman
President
William Synnott, Jr.
Stanley
Leonard Ross
Robert E. ...
Commissioners

Appendix A
(Dec. 77373)

SKYVIEW LIMOUSINE SERVICE, INC.
(a corporation)

Fourth Revised Page 2
Cancels
Third Revised Page 2

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

Skyview Limousine Service, Inc., a corporation, by the 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 Palm Springs Territory, on the one hand, and any point in Los Angeles Territory (excluding Los Angeles International Airport), on the other hand; also, FROM any point in Palm Springs Territory TO Los Angeles International Airport; said transportation to be performed over and along the most direct or appropriate route or routes.
 - (a) Service shall be limited to the transportation of passengers 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 11 passengers shall be transported in each vehicle, exclusive of driver.
- * 2. BETWEEN any point in the Los Angeles Territory (excluding the Los Angeles International Airport), on the one hand, and any point in the Coast Territory and/or the San Diego Territory, on the other hand; also, FROM any point in the San Diego Territory and/or the Coast Territory, on the one hand, and any point in the Los Angeles Territory (including the Los Angeles International Airport), on the other hand; said transportation to be performed over and along the most direct or appropriate route or routes.

EXCEPT no passengers will be transported from any point in Laguna Beach or any point north or west thereof whose destination is the Los Angeles International Airport, nor shall anyone originating at the Los Angeles International Airport be carried to any point in Laguna Beach or any point north or west thereof.

Issued by California Public Utilities Commission.

*Added by Decision No. 84455, Application No. 55016.

Appendix A
(Dec. 77373)

SKYVIEW LIMOUSINE SERVICE, INC.
(a corporation)

First Revised Page 3
Cancels
Original Page 3

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

Service shall be provided over and along the most direct or appropriate route or routes. Such territories are described below.

- * (a) Service shall be limited to the transportation of passengers who originate at or are destined to points within either the Los Angeles Territory, the Coast or San Diego Territories.
- * (b) No passenger shall be transported whose origin and destination are both within the limits of either the Los Angeles, Coast or San Diego 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 11 passengers shall be transported in each vehicle, exclusive of driver.

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, to the point of beginning.

Issued by California Public Utilities Commission.

* Added by Decision No. 84455, Application No. 55016.

SECTION 2. DESCRIPTION OF TERRITORIES. (Continued)

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.

* COAST TERRITORY

Commencing at the intersection of Newport Boulevard and Pacific Coast Highway (State Highway 1), Newport Beach, California, all points between a line one mile north and east of the Pacific Coast Highway (State Highway 1) and parallel thereto and the Pacific Coast. Said territory extending east and south along said Pacific Coast Highway (State Highway 1) to its junction with the San Diego Freeway (Interstate 5); thence south along Interstate 5 serving points between a line one mile north and east of said Interstate 5 and parallel thereto and the Pacific Coast. Said territory extending south and east to the intersection of Interstate 5 and Miramar Road in the City of San Diego.

* SAN DIEGO TERRITORY

Beginning at the intersection of Miramar Road and Interstate 5 in the City of San Diego, thence east along Miramar Road, south along Murphy Canyon, Ward Road, Wabash Road and Interstate 5 to the northerly boundary of National City; thence west on a prolongation of Division Street to the coast of South San Diego Bay, thence following the coast of San Diego Bay northerly, westerly and southerly around Point Loma and northward along the coast of the Pacific Ocean to a point due west of the intersection of Interstate 5 and Miramar Road, thence due east to said intersection, the point and place of beginning.

Issued by California Public Utilities Commission.

* Added by Decision No. 84455, Application No. 55016.