

Decision No. 85158

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
HERB BAUER'S SPORTING GOODS, INC.,
a California corporation, for
certificate of public convenience
and necessity to operate passenger
and baggage service between Fresno
and China Peak and between Fresno
and Yosemite National Park.

Application No. 55381
(Filed December 13, 1974;
amended January 14, 1975)

In the Matter of the Application of
JACK PIERONI & CO. SKI & SPORT, a
California corporation, for certifi-
cate of public convenience and
necessity to operate a passenger
stage and baggage service between
Fig Garden Village, Fresno,
California, and Huntington Lake,
California, (China Peak Ski Area).

Application No. 55494
(Filed February 18, 1975)

O P I N I O N

By these applications Herb Bauer's Sporting Goods, Inc. (Bauer) and Jack Pieroni & Co. Ski & Sport (Pieroni) seek certificates of public convenience and necessity to operate seasonal passenger stage and baggage services during the winter ski season each year, primarily to transport skiers between the Fresno area and the China Peak ski area via State Highway 168.

Initially, Bauer had also requested certification for similar service between Fresno and Yosemite National Park. However, on January 14, 1975, after learning of existent service on that route furnished by Yosemite Park and Curry Co., a common carrier of passengers and express under certification by this Commission, Bauer withdrew its application insofar as the Yosemite route was concerned.

Pieroni, on October 24, 1974, applied for a charter-party carrier permit from the Commission, but failed to furnish a requested insurance certificate, and the permit accordingly never was issued.

Aware of the seasonal nature of the proposed operations, by Decision No. 84188 dated March 18, 1975, the Commission granted temporary authority to each applicant with the provision that at a subsequent date the Commission would make a final determination as to the applications.

Both applicants have their principal places of business in Fresno. Bauer proposes to operate a 1973 Dodge Sportsvan, 360 hp V-8, seating capacity of 14, 1-ton vehicle in the service. As of September 30, 1974 Bauer indicated a net worth of \$261,147.79. Depending upon road and weather conditions, Bauer proposes the following daily schedule, business warranting, to operate from his place of business in downtown Fresno with a round trip fare of \$5.00:

Depart:	Fresno	7:00 a.m.	China Peak	5:00 p.m.
Arrive:	China Peak	9:00 a.m.	Fresno	7:00 p.m.

Pieroni proposes to operate a 1973 Dodge "Maxi-Van", model 300 D, seating capacity of 14, 1½-ton vehicle in the service. As of March 31, 1974 Pieroni indicated a net worth of \$44,886.00. Pieroni proposes the following schedule operating Tuesday, Thursday, Saturday, and Sunday from the Fig Garden Village in North Fresno with a round-trip fare of \$6.00:

Depart:	Fresno	7:30 a.m.	China Peak	4:30 p.m.
Arrive:	China Peak	9:00 a.m.	Fresno	6:00 p.m.

There are no other certificate holders servicing this territory. In this instance, each initially protested the other's application; however, on September 11, 1975 at the Examiner's suggestion the parties stipulated to remove these impediments and to request that both applications be granted by the Commission. There were no other protests. The staff has no objection to certification of both applicants.

Although the proposed service in each application is primarily to be provided for the customers of each applicant, the general public will be accommodated. Public transportation of this type during the skiing season would eliminate a number of private automobiles from the highway, thus reducing air pollution and traffic congestion, as well as conserving petroleum.

Findings

1. Public convenience and necessity require that applicants be authorized to engage in operation of passenger stage service between their respective places of business in Fresno and the China Peak ski area.
2. Applicants possess the desirable experience, appropriate equipment, and financial resources to provide the proposed services.
3. The proposed fares are reasonable.
4. With reasonable certainty the projects will not have a significant effect on the environment.
5. A public hearing is not necessary.

Conclusion

The applications should be granted as set forth in the ensuing order.

Applicants are 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 cancelled 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. Certificates of public convenience and necessity are granted to Herb Bauer's Sporting Goods, Inc., and Jack Pieroni & Co. Ski & Sport, both California corporations, authorizing them to operate as passenger stage corporations, as defined in Section 226 of the Public Utilities Code, between the points and over the routes, and subject to the specific additional restriction, set forth in Appendices A and B, respectively, attached to this decision.

2. In providing service pursuant to the authority granted by this order, applicants 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, applicants shall file written acceptances of the certificates granted. Applicants are placed on notice that if they accept the certificates each 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. 101-Series.
- (b) Within one hundred twenty days after the effective date of this order, applicants shall establish the authorized services 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 services.
- (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) Applicants shall maintain their 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, on or before March 31 of each year, an annual report of their operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

3. The certificates of public convenience and necessity granted in paragraph 1 of this order shall supersede the temporary certificates

of public convenience and necessity granted by Decision No. 84188 which certificates are revoked effective concurrently with the date of filing of the written acceptance required by paragraph 2(a).

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

Dated at San Francisco, California, this 18th day of NOVEMBER, 1975.

William J. ... President
Thomas L. ...
...
... Commissioners

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Appendix A

HERB BAUER'S SPORTING GOODS, INC. Original Page 1
(a corporation)

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.

85153

Issued under authority of Decision No.
dated NOV 18 1975, of the Public Utilities Commission
of the State of California, in Application No. 55381.

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

Herb Bauer's Sporting Goods, Inc., by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to operate a passenger stage corporation transporting passengers and their baggage between Herb Bauer's Sporting Goods, Inc. in Fresno and China Peak over and along the route hereinafter described, subject, however, to the authority of this Commission to change or modify said route 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) Service shall be operated on a round-trip schedule every Wednesday, Saturday, Sunday, and holiday during the California winter ski season only.
- (d) Transportation of passengers by the carrier shall be only between China Peak on the one hand and 1316 North Blackstone Avenue, Fresno on the other hand.

Issued by California Public Utilities Commission.

Decision No. 85153, Application No. 55381.

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Appendix A

HERB BAUER'S SPORTING GOODS, INC. Original Page 3
(a corporation)

SECTION 2. ROUTE DESCRIPTION.

Commencing at 1316 North Blackstone Avenue, Fresno, via Highway 41, Shaw Avenue, Clovis Avenue, Toll House Road, and Highway 168 to China Peak.

Issued by California Public Utilities Commission.

Decision No. 85153, Application No. 55381.

Appendix B

JACK PIERONI & CO. SKI & SPORT
(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. 85153,
dated NOV 18 1975, of the Public Utilities Commission
of the State of California, in Application No. 55494. ✓

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

Jack Pieroni & Co. Ski & Sport, a corporation, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to operate a passenger stage corporation transporting passengers and their baggage between Fig Garden Village, Fresno and Huntington Lake (China Peak Ski Area), over and along the route hereinafter described, subject, however, to the authority of this Commission to change or modify said route 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) Service shall be operated on a round-trip schedule every Tuesday, Thursday, Saturday and Sunday during the California winter ski season only.
- (d) Transportation of passengers by the carrier shall be only between Fig Garden Village in Fresno and Huntington Lake (China Peak Ski Area).

Issued by California Public Utilities Commission.

Decision No. 85153, Application No. 55494.

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Appendix B

JACK PIERONI & CO. SKI & SPORT
(a corporation)

Original Page 3

SECTION 2. ROUTE DESCRIPTION.

Commencing at Fig Garden Village, at the intersection of Shaw and Palm Avenues, in Fresno, thence over Palm Avenue, Herndon Avenue, State Highway 168 and to Huntington Lake (China Peak Ski Area).

Issued by California Public Utilities Commission.

Decision No. 85153, Application No. 55494.