

ORIGINAL

Decision No. 86121

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of:  
 LORRIE'S TRAVEL & TOURS, INC., a  
 California corporation for a  
 Certificate of Public Convenience  
 and Necessity to operate as a  
 Passenger Stage Corporation, pursuant  
 to the provisions of Section 1031,  
 et seq. of the California Public  
 Utilities Code, offering on-call,  
 per capita passenger service, in  
 mini-buses, limited to a maximum of  
 eight passengers per one-way trip,  
 between San Francisco hotels, on the  
 one hand, and the San Francisco  
 International Airport, on the other  
 hand.

Application No. 55983  
 (Filed October 3, 1975;  
 amended March 1, 1976)

Eldon M. Johnson, Attorney at Law, for Lorrie's  
 Travel & Tours, Inc., applicant.  
Ivan McWhinney, Attorney at Law, for Airporttransit  
 of California, dba Airporter; James B. Brasil,  
 Deputy City Attorney, for City and County of  
 San Francisco; Martin A. Levy, for Associated  
 Limousine Operators of S.F., Inc.; Paul E. Rabin,  
 Attorney at Law, and William Lazar, for Luxor  
 Cab and California Taxicab Owners Association;  
Ben Ishisaki, for Ishi's Limousine; and James  
Strachan, for Chauffeurs Union No. 265; protestants.  
Richard M. Hannon, Attorney at Law, for Greyhound Lines,  
 Inc.; and Brian K. Willson, for Airport Limousine  
 Service of Sunnyvale, Inc., interested parties.  
R.E. Douglas, for the Commission staff.

## O P I N I O N

Lorrie's Travel & Tours, Inc. requests a certificate of  
 public convenience and necessity to operate as a passenger stage  
 corporation for the transportation of passengers and their baggage  
 between hotels located within a specified area of the city and county

of San Francisco (hereinafter jointly referred to as San Francisco) and the San Francisco International Airport (SFO). The hotels<sup>1/</sup> proposed to be served by applicant are located within an area of San Francisco described as:

"Commencing at a point at the northernmost point of Divisadero Street; southerly along Divisadero Street to its intersection with Fourteenth Street; thence easterly along Fourteenth Street to its intersection with Harrison Street; northeasterly along Harrison Street to the shoreline of San Francisco Bay; thence northerly and westerly along the shoreline of San Francisco Bay to the point of commencement."

Applicant proposes to establish an on-call service employing so-called mini-buses limited to a maximum of eight passengers per one-way trip, operating over the following route:

"From San Francisco (using any and all streets and highways), via Interstate Highway 280 and U.S. Highway 101, to the San Francisco International Airport, and return over the same route."

The proposed one-way fares are \$4 for adults and \$2 for children under twelve years of age. Children under 2 years of age would be transported without charge.

Copies of the application were served on several passenger stage corporations as well as other parties believed to be interested. Protests having been filed, public hearings were held before Examiner Gagnon in San Francisco on December 18 and 19, 1975 and March 9 and 10, 1976. The matter was submitted on the latter date.

---

<sup>1/</sup> The term "hotel" as used by applicant includes "any building containing 20 or more guest rooms designed or intended to be rented or hired-out for sleeping purposes to transient guests". The term "hotel" shall not include hospitals, institutions where housing is under legal restraint, or apartment houses where occupants generally occupy the houses upon a leased or month-to-month rental basis.

Applicant's Evidence

Lorrie's Travel & Tours, Inc. will be operated by Mrs. Maria King as president, Mrs. Joan Donohoe as secretary-treasurer, and Mr. Joe King, as vice-president. Mrs. Donohoe is the majority stockholder with 65 percent of the outstanding shares and Mrs. King owns the remaining 35 percent of outstanding shares.

Applicant's existing organization grew out of the travel and tour services initially established by Mrs. Donohoe in early 1975. Advertisement of her services resulted in numerous requests for travel accommodations from San Francisco hotels to SFO. To provide such travel accommodations Mrs. Donohoe chartered the services of Ace Mini-Bus Co., a charter-party carrier. Thereafter, Mrs. Donohoe joined forces with Mrs. Maria King to operate a mini-bus service.

Applicant's president testified at length and introduced a series of exhibits in support of the proposed certificated authority. She explained that, based on both her national and local San Francisco experience in promotional hotel sales activities, she became aware of the urgent demand for and complete lack of an alternative form of travel accommodations for hotel patrons desiring to travel from or to SFO. This demand for service assertedly stems from the recent development and expansion of hotel facilities away from the downtown areas into such new locations as San Francisco's Fisherman's Wharf. Secondly, a significant volume of hotel tourists, convention, and other commercial hotel trade now consider present travel to or from SFO to be either too expensive or totally inadequate.

Applicant's president noted that hotels located in most major metropolitan areas outside of California provide or have available for their guests direct limousine or bus service to the major airports. As a hotel promotional sales director the witness

explained she was surprised to find travel accommodations available between the local hotels and SFO, for all practical purposes, restricted to taxicabs, Airporter, and the local multi-stop bus service of Greyhound Lines, Inc. The average cab fare from San Francisco hotels to the airport is \$15. Applicant contends that for many hotel patrons, especially tourists, the taxi fare is too expensive. It is, however, the only major form of transportation currently affording direct pickup service from the various San Francisco hotels. The Airporter provides a conventional bus service from its San Francisco Downtown Terminal to SFO. Its current fare is \$1.25 per passenger. No hotel pick-up service is currently provided. Hotel guests must be within walking distance of Airporter's terminal or hire a taxi from the hotel to Airporter's terminal. Greyhound Lines, Inc. provides a multi-stop local suburban bus service from San Francisco to various San Francisco peninsula destinations including SFO. This service is primarily a local commute or transit-type service and is not basically designed to serve the segment of hotel traffic involved in this proceeding.

Applicant's president explained her desire to provide the mini-bus service which she contends is so urgently needed by the various San Francisco hotels and especially those located outside the downtown area. In an effort to provide this service Mrs. King joined forces with Mrs. Donohoe and commenced operating on or about October 1, 1975 as Lorrie's Travel & Tours, Inc., without appropriate state or municipal authority. After about two months applicant ceased operations on or about December 2, 1975 upon advice of counsel pending receipt of the authority requested in Application No. 55983. It is applicant's contention that the premature operations were initiated entirely in good faith but without sufficient knowledge of the various legal prohibitions involved.

Applicant's two months of unauthorized operations were conducted with a vehicle chartered from Ace Mini Bus. Through prior promotional efforts arrangements were made with the bellcaptain of the various hotels to solicit and notify applicant when hotel guests desired transportation to the airport. For its services applicant assessed a one-way fare of \$3.50 per passenger, including baggage. A commission of fifty cents per passenger was paid to the hotel bellcaptain. The results of applicant's premature operations assertedly attest to the increasing demand for an alternative form of travel service for patrons of San Francisco's hotels.

In the event the sought certificated authority is granted it is understood that applicant will expand its initial operations to better meet the growing demand for its mini-bus service. To accomplish its objectives applicant has made arrangements to lease modern sport-vans from National Leasing Corporation. These vans have a carrying capacity of 11 passengers and their baggage. In an effort to comply with city and county regulations, applicant will restrict its operations to a maximum of eight passengers per trip. In addition, the president stated that, while Commission authority is sought to provide a complete mini-bus service between the San Francisco hotels and SFO, applicant will at first refrain from picking up passengers at the airport pending approval from local San Francisco authorities.

Applicant's secretary-treasurer and vice-president also presented evidence pertaining to the nature and objectives of the proposed mini-bus operation including applicant's financial ability to inaugurate and implement the proposed service. Upon the issuance of the sought certificate it is understood that applicant will have

some \$14,000 in cash to commence operations. The proposed on-call service will be initially radio dispatched from the private home of the secretary-treasurer. Lease arrangements have been made to occupy terminal garage and office facilities shortly after the first or second months of operation.

Applicant presented eleven witnesses who testified about the urgent need in San Francisco for the proposed mini-bus service. Eight of the witnesses were representatives of local San Francisco hotels who had either employed applicant's services or were fully acquainted with the type and need for such service. Two of the witnesses conducted travel and tour agencies in San Francisco. One other witness had nationwide hotel experience including hotel employment in San Francisco.

#### Protestants' Evidence

Airporter operates as a passenger stage corporation between the San Francisco International Airport and downtown terminals located in San Francisco, Oakland, and San Jose. Airporter and the Yellow Cab Co. are wholly owned affiliates of Westgate California Corporation. They were awarded exclusive contracts by San Francisco to pick up passengers at designated SFO loading areas. No such local authority is necessary to deliver passengers to the airport. Any taxicab service other than the Yellow Cab Co. desiring to pick up passengers at SFO must obtain permission from Yellow Cab Co. to operate under its contractual authority and pay a designated fee. This fee is approximately the equivalent of the amount which Yellow Cab Co. must remit to San Francisco.

Airporter operates a scheduled service, 24 hours a day, 7 days a week between its San Francisco bus terminal and SFO employing buses with a 45 or more passenger seat capacity. At the present time it enjoys an overall 50 percent load factor. Airporter has demonstrated

it has more than adequate facilities and financial resources to accommodate additional passenger traffic. For this reason it opposes the granting of applicant's sought certificated authority.

The passenger traffic proposed to be served by applicant originates at the various hotels in San Francisco which are not directly served by Airporter. Hotel patrons wishing to employ the bus services of Airporter must either walk to protestant's terminal, employ a cab from the hotel to Airporter's terminal, or use other local means of travel.

The San Francisco hotel traffic proposed to be served by applicant constitutes a segment of the overall traffic destined to SFO considered to be not generally interested in Airporter's terminal to SFO bus service. In certain circumstances hotel patrons may be willing to put up with the obvious personal inconveniences entailed in a joint cab-Airporter combination service, especially when total resulting charges are less than the \$15 through cab fare or the \$4 fare proposed by applicant. The limitations and unsatisfactory level of service involved in such combined travel accommodations are not disputed by protestants.

Airporter announced that it is currently investigating the feasibility of establishing some form of travel service of its own between the various local San Francisco hotels and SFO. It is explained that such contemplated action is stimulated by and in direct response to the threatened competition deemed inherent in applicant's proposed certificated service. It is also clear that Airporter's concern constitutes, at least, a tacit admission that the existing travel services available between San Francisco hotels and SFO are generally unsatisfactory and an alternative form of service, such as proposed in this proceeding, is needed.

Luxor Cab and the California Taxicab Owners Association also jointly oppose the granting of applicant's proposed service. Luxor Cab operates local taxicabs between various San Francisco hotels and SFO. Its taxi service from SFO is performed with the concurrence of and under the exclusive contract awarded to Yellow Cab Co. The basis for Luxor's protests is similar to Airporter's in that they are fearful of the increased competition deemed inherent in applicant's proposal. Here again protestants overlook the fact that the hotel traffic most likely to be attracted to applicant's proposed mini-bus service is not necessarily taxicab oriented patrons.

Associated Limousine Operators of San Francisco, Inc. also appeared in opposition to applicant's sought authority. In lieu of presenting evidence it chose to file Application No. 56228 wherein authority similar to that sought by applicant in this proceeding is requested. This protestant's subsequent action also tends to confirm applicant's prior contention that an alternative travel service for San Francisco hotel guests is required.<sup>2/</sup>

San Francisco representatives also appeared in opposition to the granting of applicant's sought certificated authority. Such opposition stems first from an expressed concern over the contractual obligations incurred by San Francisco when it awarded Airporter, Yellow Cab Co., and Associated Limousine Operators of San Francisco, Inc. exclusive contracts to pick up passengers out of the SFO terminal. Secondly, San Francisco has not issued applicant any permit or license to pick up passengers at SFO, nor has applicant received clearance under the local police regulations to conduct the proposed for-hire bus operation between

---

<sup>2/</sup> Subsequent to submission of Application No. 55983, Application No. 56228 was amended to request only service in "luxury limousines" at a fare of \$10 per person with a minimum charge of \$18 per vehicle and service limited to a specified list of hotels.



hotels within San Francisco.<sup>3/</sup> Applicant has assured city officials that it has every intention of complying with all local regulations and will endeavor to obtain permission to pick up passengers at SFO prior to commencing operations in the event the sought certificate is granted.

San Francisco has issued permits to other carriers performing tour or charter group service to pick up passengers at SFO. Associated Limousine Operators of San Francisco, Inc. a charter-party carrier, has authority from San Francisco to pick up charters at SFO. If its Application No. 56228 is granted and it expands its current local authority to pick up passengers at SFO as a passenger stage operator with San Francisco's continued approval the rationale of San Francisco's objections to applicant's proposed operations is not clear.

A San Francisco airport police officer presented testimony relative to various traffic control, safety, and regulatory enforcement problems experienced at SFO which would be aggravated if applicant's efforts to operate to or from the airport are successful. The officer stated that numerous mini-bus and limousine operators without proper San Francisco authority attempt to meet flight schedules at SFO and perform group or individual loading of passengers. The witness noted that such unauthorized carriers may or may not have passenger stage or charter-party certificated authority from the Commission.

---

<sup>3/</sup> It has been determined by the State Legislature and the courts that state authority must prevail where it conflicts with a municipal code or ordinance. "In any conflict between action by a municipality and a lawful order of the Public Utilities Commission, the latter prevails." (Harbor Carriers, Inc. v City of Sausalito (1975) 46 CA 3d 773, 774.)

It is apparent that enforcement of city ordinances at SFO is extremely complicated under existing dual municipal-state regulations. Increased coordination of such dual authority would be beneficial. Local municipal authorities bring to the Commission's attention alleged enforcement problems involving charter-party carriers at the time of or prior to the sought renewal of their certificate and appropriate action is taken. Similar procedures are available before this Commission with respect to the operations of passenger stage corporations. The airport officer contends that current travel accommodations out of SFO are adequate and that any additional service would only add to the existing acute traffic congestion.

In our opinion, the evidence is persuasive that existing carriers authorized to operate out of SFO are not meeting the travel requirements of San Francisco's hotel guests desiring travel accommodations from or to SFO.

#### Findings

1. Applicant requests a certificate of public convenience and necessity to operate an on-call mini-bus service for the transportation of passengers and their baggage between hotels located within a specified area of San Francisco and SFO.

2. Airporter protests the granting of applicant's sought authority on the basis that Airporter presently provides adequate service 24 hours a day, 7 days a week, and with only a 50 percent load factor has adequate capacity to handle any additional traffic.

3. Airporter operates a conventional service with buses having a passenger seat capacity of 45 or more out of designated bus stops on a published schedule.

4. Airporter is now considering the feasibility of establishing a service similar to that proposed by applicant in order to meet the competitive threat inherent in Application No. 55983.

5. Applicant proposes a one-way fare of \$4 for adults and \$2 for children. Current one-way fares between San Francisco hotels and SFO are approximately \$15 for taxicab and \$1.25 for airport bus. Those who take the bus may require additional public transportation to and from the downtown bus terminal.

6. The on-call mini-bus service proposed by applicant is different from that offered by protestants.

7. Protestants are not providing the direct service proposed by applicant between San Francisco hotels and SFO.

8. There is a current demand by the public for a convenient transfer service between hotel and airport which is less exclusive and therefore cheaper than taxi service, yet more convenient than airport bus service.

9. Applicant has shown it possesses sufficient ability, experience, and financial resources to commence and implement the proposed mini-bus service.

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

11. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

The Commission concludes that 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 Lorrie's Travel & Tours, Inc., a California 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 Appendix A of this decision.


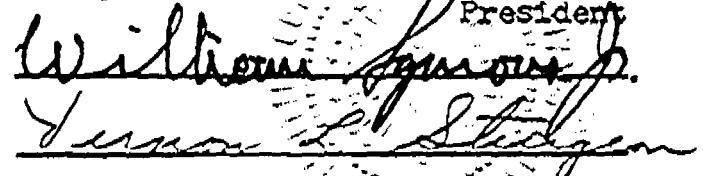
2. In providing service pursuant to the authority granted by this order, applicant shall comply with the following service regulations. Failure so to do may result in a cancellation of the authority.

- (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 Order 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 19<sup>th</sup> day of JULY, 1976.

  
\_\_\_\_\_  
President  
  
\_\_\_\_\_  
Commissioners

Commissioner Leonard Ross, being necessarily absent, did not participate in the disposition of this proceeding.

-13- Commissioner Robert Batinovich, being necessarily absent, did not participate in the disposition of this proceeding.

Appendix A

LORRIE'S TRAVEL & TOURS, INC.

Original Title Page ✓

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. 86121,  
dated 1111 19 1976, of the Public Utilities Commission  
of the State of California, in Application No. 55983.

INDEX

	Page No.
SECTION 1. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS AND SPECIFICATIONS . . . . .	2
SECTION 2. DESCRIPTIONS	
1. Territory Description . . . . .	3
2. Route Description . . . . .	3

Issued by California Public Utilities Commission.

Decision No. 86121, Application No. 55983.

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

Lorrie's Travel and Tours, Inc., by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized as a passenger stage corporation to transport passengers and their baggage on an "on-call" basis between hotels located in San Francisco Territory as described herein and the San Francisco International Airport, over and along the route hereinafter described, subject, however, to the authority of this Commission to change or modify said route or territory at any time and subject to the following provisions:

- (a) Transportation of passengers and their luggage shall be in mini-van vehicles.
- (b) As used herein, the term "hotel" shall be defined as any building containing twenty or more guest rooms designed or intended to be rented or hired-out for sleeping purposes to transient guests. The term "hotel" shall not include hospitals, institutions where housing is under legal restraint, or apartment houses where occupants generally occupy the premises upon a leased or month-to-month rental basis.

Issued by California Public Utilities Commission.

Decision No. 86121, Application No. 55983.



## SECTION 1. (Continued)

- (c) The term "on-call" as used herein refers to service which is authorized to be rendered dependent on the demands of passengers. The tariffs and timetables shall show the conditions under which each authorized "on-call" service will be rendered.
- (d) Applicant shall only pick up or discharge passengers at hotels within the limits of San Francisco Territory as hereinafter set forth.
- (e) No passengers shall be transported except those having point of origin or destination at San Francisco International Airport.

## SECTION 2. DESCRIPTION OF ROUTE AND TERRITORY.

San Francisco Territory

Commencing at a point at the northernmost point of Divisadero Street; southerly along Divisadero Street to its intersection with Fourteenth Street; easterly along Fourteenth Street to its intersection with Harrison Street; northeasterly along Harrison Street to the shoreline of San Francisco Bay; northerly and westerly along the shoreline of San Francisco Bay to the point of commencement.

Route Description

From San Francisco Territory (using any and all streets and highways); thence via Interstate Highway 280 and U.S. Highway 101, to the San Francisco International Airport, and return over the same route.

Issued by California Public Utilities Commission.

Decision No. 86121 Application No. 55983.