

Decision No. 86459

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of )  
 ASSOCIATED LIMOUSINE OPERATORS OF )  
 SAN FRANCISCO, 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. )

Application No. 56228  
 (Filed January 23, 1976;  
 amended April 13, 1976  
 and June 30, 1976)

Dooley, Martin, Anderson & Pardini,  
 by David Dooley and David Franklin,  
 Attorneys at Law, for Associated  
 Limousine Operators of San Francisco,  
 Inc., applicant.  
James B. Brasil, Deputy City Attorney,  
 for City and County of San Francisco;  
Ivan McWhinney, Attorney at Law, for  
 Airporttransit of California, Inc.,  
 dba Airporter; Paul E. Rabin, Attorney  
 at Law, for Luxor Cabs and California  
 Taxicab Industry Association; Victor  
Meneses, for A. C. Cal. Spanish Tour  
 Service; and Handler, Baker & Greene,  
 by Daniel W. Baker, Attorney at Law,  
 for Yellow Cab Company; protestants.  
Eldon M. Johnson, Attorney at Law,  
 for Lorrises Travel & Tour; interested  
 party.  
R. E. Douglas, for the Commission staff.

O P I N I O N

Associated Limousine Operators of San Francisco, Inc., a corporation, seeks 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, to provide on-call transportation of passengers and baggage in fourteen passenger minibuses and in eight passenger limousines between points in San Francisco, specifically principal hotels, on the one hand, and the San Francisco International Airport (Airport), on the other hand, over the following route:

From various points in the city and county of San Francisco via Interstate Highway 280 and U.S. Highway 101, to the San Francisco International Airport, and returning over the same route.

The fares to be charged by applicant for the proposed service as set forth in the application are as follows:

One-way fare - \$4.50 for each passenger,  
\$4.00 for each passenger when  
passengers traveling together.

In response to protests applicant, in its second amendment to its application, increased its proposed fares to \$10 per passenger, one-way, with a minimum charge of \$18 and proposed service only in 8 passenger limousines.

Applicant is the holder of a charter-party permit, (File No. T.C.P.-24), and conducts operations thereunder.

Public hearing was held before Examiner Mallory at San Francisco on April 12, 13, 26, and 27, 1976. The proceeding was submitted upon receipt of the second amendment to the application and a stipulation between applicant and protestants on June 30, 1976.

Protestants are San Francisco (City) as the operator of the Airport, Airporttransit of California, Inc., dba Airporter, which provides a scheduled passenger stage service between the Airport and the airline terminal in downtown San Francisco; Yellow Cab Company and Luxor Cabs, which furnish taxi service between the Airport and all points in San Francisco; and A. C. Cal Spanish Tour Service, which operates as a charter-party carrier and as a passenger stage corporation.

The protest of Airporter was removed upon the filing of the first amendment which deleted applicant's request to operate 14-passenger minibuses. A. C. Cal Spanish Tour Service protested the application, but presented no evidence.

Yellow Cab and Luxor Cabs protest the application because of the potential competition between applicant and the cab companies for traffic from the Airport to points in San Francisco other than the San Francisco Air Terminal.

The City protests the application because of the potential reduction in cab revenues for operations from the Airport to San Francisco. The City, through its Airports Commission, licenses common carriers transporting passengers from and to the Airport and exacts fees based upon potential or actual numbers of passengers carried by the licensees. The City's fee arrangement with Yellow Cab is based on a percentage of the total number of airline passengers deplaned at the Airport whether or not such passengers actually use cab service. Luxor Cabs is a sub-licensee of Yellow Cab, and pays a fee to Yellow Cab based upon the actual number of paying trips from the Airport.

Protestants (except Airporter and A. C. Cal Spanish Tour Service) joined in a stipulation with applicant, which resulted in the filing of the second amendment to the application after the evidentiary hearing was closed. Yellow Cab, Luxor Cabs, and City will remove their protests if the second amendment to the application is granted.

#### Applicant's Evidence

Applicant's president testified concerning the organization's financial ability, present operations, and proposed operations of applicant. Applicant is a corporation formed by owner-operators of nine-passenger limousines. The owner-operators receive all revenues from present charter-party and sightseeing operations, and pay a portion thereof to applicant. Applicant also owns additional vehicles which are operated by union drivers. Each stockholder of applicant

holds a permit from the City to perform sightseeing and limousine service within the confines of the City. Applicant also holds a charter-party carrier permit from this Commission. The City has issued a permit to applicant which authorizes applicant to perform charter-party operations from locations in each terminal building in the Airport and to use curb-space in the unloading areas of the terminals for the operations of that service. The permit requires that a fee be paid to the City.<sup>1/</sup>

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1/ Exhibit 6 is a copy of the permit issued to Associated Limousine Operators of San Francisco, Inc. by the Airports Commission of the City and County of San Francisco. Pertinent portions of that document are as follows:

"Permittee is hereby authorized and permitted by the City and County of San Francisco, a municipal corporation, hereinafter referred to as 'City', acting by and through its Airports Commission, hereinafter referred to as 'Commission' to operate its business or a phase thereof at the San Francisco International Airport, hereinafter referred to as 'Airport', for the following purposes only and subject to the terms and conditions hereinafter set forth. Whenever the word 'Director' is used herein it refers to the Director of Airports.

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"2. Use Purpose Defined

"Provide an adequate limousine service to accommodate passengers arriving on all air carrier flight schedules. 'Limousine' is hereby defined to mean a self-propelled chauffeur operated luxury type motor vehicle designed to carry not more than nine passengers and for but not limited to the transportation of airline passengers and the public between the Airport and other points outside the limits of said Airport at an established and posted rate per limousine as set forth below. The rates from the Airport to other points shall be on a 'per limousine' basis and shall not differ regardless of the number in the party using that limousine. Permittee shall not group or consolidate

(Continued)

The service applicant proposes to perform is substantially the same as its charter-party operations from the Airport, except that service would be on an individual-fare basis. Service similar to that proposed herein is performed by Airport Limousine Service of Sunnyvale. That carrier operates as a sub-permittee under the permit for use of the Airport issued to applicant, and it shares the two booths maintained by applicant at the Airport.<sup>2/</sup> Airport Limousine Service of Sunnyvale also operates, in part, with owner-drivers.<sup>3/</sup>

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1/ (Continued)

loads at the Airport but shall transport each customer and his party, if any, in a separate vehicle. However, Permittee shall not be precluded from grouping or consolidating loads when off-Airport arrangements therefor have been previously made. Rates shall be as shown on Exhibit 'A' attached hereto and made a part hereof.

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"4. Consideration for Permit

"A consideration of Two Dollars and Fifty Cents (\$2.50) for each passenger-carrying limousine departing from the Airport terminal. . . ."

- 2/ The passenger stage certificate issued to Airport Limousine Service of Sunnyvale was granted in Decision No. 81684 (1973) 75 CPUC 361. That decision discusses in some detail the overlapping regulatory authority of this Commission and municipally owned airports over passenger carriers, and the types and scopes of operation of various categories of carriers serving San Francisco Airport.
- 3/ See Exhibit 1 in Application No. 55285 (Decision No. 84272 issued April 1, 1975) in which fares were increased.

Applicant's president testified that, on advice of counsel, a separate corporation called Associated San Francisco Limousine Operators' Cooperative was formed to provide services to applicant. Each limousine owner-operator to be used by applicant in performing service under the authority sought herein is a member of the cooperative. Each owner-operator, through membership in the cooperative, guarantees to applicant that the services of the vehicle and its operator are available to applicant upon demand and that certain appearance and safety standards will be maintained. The cooperative assertedly was formed to insure the continuous availability of services of the owner-drivers to applicant.

Financial data submitted by the witness indicates that applicant owns a building in San Francisco where office and dispatch services are performed and where vehicles are garaged and serviced. It also owns three limousines and several minivans. The corporation employs office help and dispatchers.

Estimates of the number of passengers to be transported if the certificate is granted were developed from data supplied to applicant by Airport Limousine Service of Sunnyvale and from data concerning applicant's charter-party service from the Airport. Applicant estimates that it would transport 29,200 passengers annually.

An employee of the Stanford Court Hotel testified in support of the application. He stated that clientele of the hotel often use applicant's charter-party service from and to the Airport, for which a charge of \$24.00 per trip is made. That charge is too high when only one passenger is transported. Applicant cannot group or consolidate loads at the Airport as a charter-party carrier. Prearranged service on an individual fare basis would permit the hotel's clientele to enjoy a luxury limousine service to and from the Airport at a reasonable fare.

Protestants' Evidence

Witnesses for Luxor Cabs and Yellow Cab testified concerning their arrangements with the City to provide service to and from Airport, the amount of traffic handled annually, and the fees paid to the City.

The Taxicab Transportation Service Agreement - San Francisco International Airport (Exhibit 54) is a contract between the Airports Commission and Yellow Cab. Among other things, the agreement provides that Yellow Cab shall pay an annual consideration to the City of \$300,000, or a sum equal to \$0.0455 per "off-passenger" at the Airport, whichever is greater. The evidence shows that the latter basis provides the higher annual charge. In 1975 Yellow Cab paid \$369,548 to the City (Exhibit 55).

According to the witness for Yellow Cab, that company is in a precarious financial condition. Its airport service is a substantial part of Yellow Cab's total business; any loss of traffic for that segment of its operations would seriously jeopardize Yellow Cab's ability to continue operations.

As heretofore indicated, the financial health of existing passenger carriers licensed by it to serve the Airport is the principal concern of the City. The City therefore opposes the granting of the application to the extent that sufficient traffic would be diverted from Yellow Cab to applicant to have a harmful effect on Yellow Cab's operations.

In other applications the City opposed requests for additional regular route and charter-party operations because the applicant was not licensed by the City to serve the Airport, and the City objected to the addition of new carriers at an already overcrowded airport. The objection was not made herein because applicant is already licensed by the City and currently serves the Airport.

Amended Application and Stipulation

The taking of evidence in opposition to the application was suspended upon notification that the principal protestants and applicant had reached agreement as to the manner in which the application could be amended to eliminate the protests. The parties were granted leave to file a stipulation which would serve as a basis for an amendment to the application revising the authority sought. The stipulation and amendment were filed on June 30, 1976. As set forth in the amendment, the authority sought by applicant is as follows:

1. Applicant seeks to operate as a passenger stage corporation to provide on-call transportation of baggage in luxury sedan limousines with seating capacity of one driver and eight passengers between Class A hotels in that portion of San Francisco generally east of Laguna Street and north of Mission Street, on the one hand, and Airport, on the other hand. The proposed service would be performed via Interstate 280 and U.S. Highway 101.
2. The proposed one-way fare is \$10.00 for each passenger, with a minimum charge of \$18.00.
3. The proposed service would be operated 24 hours per day, seven days per week, and must be prearranged on an individual-trip basis at least two hours before commencement of service from an "off-airport" location, and during applicant's office hours of 7:00 a.m. to 10:45 p.m.
4. Service shall be provided only in vehicles owned by members of Associated San Francisco Operators' Cooperative, or vehicles owned or leased by applicant and operated by chauffeur union members employed by applicant. Applicant shall not sub-contract to other carriers to provide the service.



5. All vehicles shall be described according to year, make, and license and serial numbers, and such descriptions shall be filed with Airport.
6. Applicant acknowledges that issuance of the passenger stage corporation certificate shall not authorize applicant to conduct on the property of Airport any operations which require additional authority from such airport unless any such operation is authorized by the airport authority involved.
7. Applicant requests that the requirements of Sections 10.01, 10.02, 10.03, and 10.04 of General Order No. 98-A, relating to display of company name, signs, and numbers, be waived as inconsistent with the provision of the proposed luxury service.4/

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4/ The pertinent sections of General Order No. 98-A are as follows:

"PART 10--SERVICE REGULATIONS

"10.00. Requirements as to Display of Company Name, Signs, and Numbers.

"10.01. Vehicle Numbers Required. Every passenger stage corporation, and passenger charter-party carrier shall assign an identifying number to each passenger or trolley coach. Such number shall be painted on or otherwise permanently attached to the rear and each side of the exterior of each such vehicle in figures at least four (4) inches in height made with a 3/4 inch stroke.

"10.02. Name of Carrier to Be Displayed on Vehicle. A passenger stage or a trolley coach shall not be operated in service unless there is painted or displayed on the rear and on each side of each such vehicle the name or trade name of the passenger stage corporation, or passenger charter-party carrier in whose service the vehicle is operating. The letters of the name shall be sufficiently large as to be easily readable at a distance of not less than 100 feet. However, the provisions of this section shall not apply to vehicles temporarily leased by carriers for a period of less than 30 days.

(Continued)

Protestants Yellow Cab, Luxor Cabs, City, and applicant stipulated that upon the filing of the second amendment to the application the protestants would withdraw their protests and change their appearances to interested parties. The parties further stipulated that if a certificate is issued in this proceeding by the Commission that does not specifically conform to the authority requested by the application, as amended, including all restrictions, conditions, and limitations and proposed rate and minimum charge, the applicant and protestants agree that, at the request of any party hereto, the order granting the certificate shall be stayed and the authority shall not be accepted unless and until the Commission reopens the matter for receipt of evidence to be offered by the applicant and the protestants.

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4/ (Continued)

"10.03. Route and Destination Signs Required. Every passenger stage and trolley coach shall display a destination sign visible from the front of each such vehicle, and in addition, when operating in urban service, shall display a route letter or number on both the front and the right-hand side of each of such vehicles near the entrance door.

"10.04. Signs Required When Operating Non-stop.

- "(a) Except in urban service, passenger stages, operating in two or more sections on any one schedule with the loaded sections going through and not stopping to pick up waiting passengers, shall display a sign on each section, except the one which will stop and receive passengers, indicating that another section is following. The provisions of this section shall not apply to passenger stages operating in tandem and making stops generally, at alternate pickup points.
- "(b) Passenger stages operating through an area in which passenger stops are not scheduled shall display a sign in close proximity to the destination sign with appropriate wording indicating that stops will not be made."

It should be pointed out that the Commission is not bound by the foregoing stipulations and that this Commission will exercise its statutory authority to grant or deny the requested certificate or to attach such requirements or restrictions to the certificate as it deems proper. On the other hand, this Commission recognizes the concurrent authority of the City to regulate the use of Airport under which the City may attach its own conditions over the entry by and use of common carrier vehicles within the confines of the Airport, including the exaction of a fee for use of airport facilities.<sup>5/</sup>

#### Discussion

Applicant proposes a common carrier service which is not offered by existing passenger stage corporations. The service proposed by applicant involves the use of luxury vehicles. The proposed operations are between the Airport and hotels in the downtown, Fishermen's Wharf, and Japanese Trade Center areas of San Francisco. The proposed fares substantially exceed those of Airporter and Greyhound Lines, Inc. and are comparable with taxi fares and fares of Airport Limousine Service of Sunnyvale, Inc.

The record establishes that applicant will provide, on an individual-fare basis, a service required by the public that is different from that provided by existing passenger stage corporations, different from that provided under its charter-party permit, and different from that provided by taxicab companies authorized to use the Airport.

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5/ In James Rannel Hollingworth dba Jimmies' Limousine Service, Decision No. 85974 dated June 22, 1976 in Application No. 55363, we stated as follows:

"A municipal airport owned and operated by a city in a proprietary capacity can regulate the access and conduct of limousine operators at the airport regardless of what PUC authority they hold (City of Oakland v Burns (1956) 46 Cal 2d 401; United States v Gray Line Tours of Charleston (4th cir 1962) 311 Fed 2d 779)."

Applicant has established that it has the financial responsibility and equipment to perform the proposed service. Applicant now provides a charter-party service from the Airport and, as part of that service, maintains two locations within the Airport for handling passengers and their baggage. The same Airport facilities and limousine equipment and drivers will be used for the proposed passenger stage operation.

The application should be granted. All of the conditions set forth in the amended application and in the stipulation between applicant and protestants are not appropriate for inclusion in a certificate issued by this Commission. For example, the certificate should not contain requirements that applicant furnish data concerning its vehicles to City. Nor should the certificate contain a reference to union membership as a condition of employment. Also, the precise level of fares to be assessed should not be made part of the certificate. Applicant should be free to raise or lower its fares subject only to requirements of the Commission's Rules of Practice and Procedure and the Public Utilities Code.

Applicant's request to waive the requirements of Section 10.01 through 10.04 of General Order No. 98-A should be granted. Those requirements are inconsistent with the operation of luxury limousines and are not necessary to provide reasonable and adequate service to applicant's customers.

#### Findings

1. Applicant possesses the experience, equipment, personnel, and financial resources to institute and maintain the proposed service.

2. Existing passenger stage corporations operating between San Francisco and Airport provide service only to and from a single terminal in San Francisco and do not provide service directly from hotels within the city. Existing passenger stage corporations provide service with 40-passenger or larger buses and do not provide service to that segment of the public desiring to use a luxury

limousine service. To such extent, existing passenger stage corporations will not provide service to the satisfaction of the Commission (Section 1032 of the Public Utilities Code).

3. Public convenience and necessity require that the application, as amended, be granted as set forth in the ensuing order.

4. Provisions of Sections 10.01 through 10.04 of General Order No. 98-A are not necessary or required in connection with the type of luxury limousine service proposed by applicant and should be waived.

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

#### Conclusions

1. The application, as amended, should be granted to the extent and subject to the conditions provided in the order which follows.

2. Applicant should establish a fare of \$10 per passenger, subject to a minimum of two passengers per trip.

Associated Limousine Operators of San Francisco, Inc. 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 Associated Limousine Operators of San Francisco, 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 Appendix A of this decision.

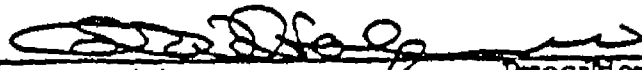
2. In providing service pursuant to the authority granted by this order, applicant shall comply with the following service regulations. Failure so to do may result in a cancellation of the authority.

- (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 (except Sections 10.01 through 10.04) 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 5th  
day of OCTOBER, 1976.

  
President  
William L. Brown  
Lemon A. Stilleman  
Morris  
Robert Bateman  
Commissioners

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. 86459,  
dated OCT 5 1976, of the Public Utilities  
Commission of the State of California, in Application No. 56228.



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

Associated Limousine Operators of San Francisco, Inc., a corporation, 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 between Class A San Francisco hotels as hereinafter described, on the one hand, and the San Francisco International Airport, on the other hand, over and along the routes hereinafter described, subject to the authority of this Commission to change or modify said routes at any time and subject to the following provisions:

- (a) The service shall be on call, 24 hours per day, 7 days per week, and shall be pre-arranged on an individual-trip basis at least 2 hours in advance of the commencement of a service from an "off-airport" location and during the certificate holder's office hours of 7:00 a.m. to 10:45 p.m. each day.
- (b) The service shall be provided in vehicles with a seating capacity of 1 driver and 8 passengers.
- (c) The service shall be limited to transportation between the San Francisco International Airport, on the one hand, and the following

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named Class A San Francisco hotels and such other San Francisco hotels as meet the same standards, on the other hand: Fairmont, Mark Hopkins, Sheraton-Palace, St. Francis, Sir Francis Drake, Clift, Cathedral Apts., San Francisco Hilton, Jack Tar, TowneHouse, Huntington, Holiday Inn - Civic Center, Holiday Inn - Financial District, Holiday Inn - Fisherman's Wharf, Holiday Inn - Golden Gateway, Holiday Inn - Union Square, The Stanford Court, Hyatt Regency Hotel, Hyatt Union Square Hotel, Miyako Hotel, Quality Motor Hotel, Ramada Inn, and Sheraton-at-the-Wharf.

- (d) The service shall be limited to transportation between the San Francisco International Airport, on the one hand, and such hotels described in (e) above, on the other hand, as are within that portion of the City and County of San Francisco bounded by the following:

Commencing at the intersection of The Embarcadero and Mission Street, south-westerly along the south-easterly side of Mission Street to its intersection with South Van Ness Avenue; thence northerly along the western side of South Van Ness and Van Ness Avenue to the intersection of Van Ness Avenue with Geary Street; thence westerly along the southern side of Geary Street to its intersection with Laguna Street; thence northerly along the western side of Laguna Street to its intersection with Lombard Street; thence easterly along the northern side of Lombard Street to its intersection with Van Ness Avenue; thence northerly along the western side of Van Ness Avenue and a hypothetical line which would directly extend said western side of Van Ness Avenue to an intersection with the shoreline of San Francisco Bay; thence easterly and southerly along the shoreline of San Francisco Bay and the Embarcadero to the point of commencement.

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- (e) The service shall be provided only in vehicles owned by members of Associated San Francisco Limousine Operators' Cooperative or vehicles owned or leased by Associated Limousine Operators of San Francisco, Inc., and operated by cooperative members or employees of Associated Limousine Operators of San Francisco, Inc. The certificate holder shall not subcontract to other carriers to provide the authorized service. Nothing herein, however, shall be construed to prevent members of Associated San Francisco Limousine Operators' Cooperative from entering into lease-purchase agreements for the vehicles in which they provide the service.
- (f) The holder of this certificate is exempted from the requirements of Sections 10.01, 10.02, 10.03, and 10.04 of General Order No. 98-A of the Public Utilities Commission of the State of California.

SECTION 2. ROUTE DESCRIPTION.

Via Interstate Highway 280 and U.S. Highway 101 between hotels as described above and within the portion of the City and County of San Francisco described above, on the one hand, and the San Francisco International Airport, on the other hand.

Issued by California Public Utilities Commission.

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