

ORIGINAL

Decision S4 02 088 FEB 16 1984

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of EMERALD EXPRESS OF )  
SOUTHERN CALIFORNIA, INC., a )  
California corporation, for a )  
certificate of public convenience )  
and necessity to institute opera- )  
tions as a passenger-stage )  
corporation. )

Application 83-01-10  
(Filed January 7, 1983;  
amended August 8, 1983)

Warren N. Grossman, Attorney at Law, for  
applicant.  
James H. Lyons, Attorney at Law, for Skyview  
Limousine Service, Inc., protestant.  
John deBrauwere, Attorney at Law, and  
Stan Broberg, for Pinetree Service Corporation,  
interested party.

ORDER OF DENIAL

Applicant Emerald Express of Southern California, Inc. (formerly Emerald Empire Transportation System, Inc.), a California corporation, seeks a certificate of public convenience and necessity (CPC&N) to operate as a passenger stage corporation under Public Utilities (PU) Code Section 1031 for the transportation of passengers and their baggage between the Los Angeles territory as described in Exhibit B to the application, on the one hand, and the Palm Springs area, on the other hand.

Notice of the filing of the application appeared in the Commission's Daily Calendar dated January 12, 1983. A protest was filed by Skyview Limousine Service, Inc.

Following notice, a public hearing was held in Los Angeles on April 18, 19, and 20, 1983 before Administrative Law Judge William A. Turkish under PU Code Section 1031, and the matter was to be submitted upon the filing of an amendment to the application and the filing of briefs which were due 20 days after the filing of the transcript. Applicant, however, did not file its required amendment to the application until August 15, 1983. The matter was finally submitted upon the filing of briefs on September 23, 1983.

Ten witnesses testified on behalf of applicant including several of its officers. Three witnesses testified on behalf of protestant.

Subsequent to the submission of the case, certain events occurred which have a direct bearing on this matter.

The Commission takes official notice of the filing of a petition in bankruptcy under Chapter 11, Title 11, of the United States Code by applicant, in Case No. 83-LA19618-JD in the United States Bankruptcy Court, Central District of California. The Commission also takes official notice of the fact that applicant ceased all transportation operations on or about October 17, 1983. Official notice is also taken of the fact that a public auction was conducted for the sale of assets of applicant on November 29, 1983.

On November 15, 1983, in an Administrative Law Judge's Ruling, applicant was given 10 days within which to show why Application (A.) 83-01-10 should not be dismissed on the basis of the above-mentioned official notice taken by the Commission. There has been no response to the ruling.

Findings of Fact

1. On or about October 17, 1983 applicant ceased all transportation operations authorized by its CPC&N issued by this Commission.
2. On October 21, 1983 a voluntary petition in bankruptcy was filed in the United States Bankruptcy Court, Central District of California, in Case No. LA83-19618-JD.
3. On November 29, 1983 the assets of applicant were offered for sale in a public auction.
4. Applicant has failed to show cause why A.83-01-10 should not be denied.

Conclusion of Law

Inasmuch as applicant has filed a petition in bankruptcy under Chapter 11, Title 11, of the United States Code, has ceased all transportation operations authorized by this Commission on or about October 17, 1983, and has had its assets sold at public auction, it is concluded that applicant is unable and unfit to conduct the operations of the service proposed in this application and that the application should be denied.

IT IS ORDERED that Application 83-01-10 is denied.

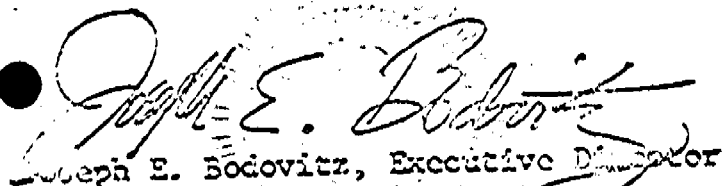
This order becomes effective 30 days from today.

Dated February 16, 1984, at San Francisco, California.

LEONARD M. GRIMES, JR.  
President  
PRISCILLA C. GREW  
DONALD VIAL  
WILLIAM T. BAGLEY  
Commissioners

I CERTIFY THAT THIS DECISION  
WAS APPROVED BY THE ABOVE  
COMMISSIONERS TODAY.

Commissioner Victor Calvo,  
being necessarily absent, did  
not participate.

  
Joseph E. Bodovitz, Executive Director

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3. On November 29, 1983 the assets of applicant were offered for sale in a public auction.
4. Applicant has failed to show cause why A.83-01-10 should not be ~~disclosed~~ <sup>denied</sup>. *Kn*

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