

**ORIGINAL**

Decision 84 04 055

APR 18 1984

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of BLUE CHIP, INC. for a Class B )  
charter bus certificate from home )  
terminal in Placentia, CA. )

Application 83-12-52  
(Filed December 28, 1983)

O P I N I O N

Applicant Blue Chip, Inc., a California corporation, seeks a Class B certificate of public convenience and necessity to operate as a charter-party carrier of passengers from a service area with a 40-mile radius from its home terminal at 187 West Orangethorpe Avenue, Suite 1, Placentia.

Notice of the filing of this application appeared in the Daily Transportation Calendar on January 3, 1984. No protests were received.

Applicant's amended showing of its financial condition as of November 30, 1983 is attached to its letter dated January 10, 1984 (Exhibit 1). On that date applicant's assets of \$132,750 included \$20,000 in cash and \$96,000 in motor vehicle equipment. Its liabilities of \$78,000 consist of accounts payable of \$20,000 and amounts due on motor equipment of \$58,000. Applicant estimates its charter revenues will total \$104,000 per year and its operating expenses will total \$68,400. Exhibit 1 contains a copy of correspondence from applicant's president on the letterhead of Simms Advertising, Inc. to the Bank of Yorba Linda, explaining applicant's proposed operations to secure financing for the proposed limousine service. This letter

states in part: "There will be no salaries taken from the business. All of the drivers will be independent contractors." Applicant was advised that provision is in conflict with the requirements of Part 12 of General Order (GO) Series 98.<sup>1/</sup> By letter dated January 23, 1984 (Exhibit 3), applicant states in part:

"Our letter to the Bank of Yorba Linda in order to secure a business loan made reference to our intent to have drivers as independent contractors. Initially, all drivers will be principals of BCI. All profits will be reinvested into the company. Regulations regarding insurance, taxes, and vehicle recordkeeping will be strictly complied with. In the future, BCI will get professional chauffeurs as 'employees'. These employees will be paid \$5.00 per hour plus 15% gratuity as is customary in this area."

In Exhibit 1 applicant also stated that its initial limousine would have a capacity of six passengers excluding the driver, not five passengers as stated in the application. In Exhibit 2, a letter dated January 16, 1984, applicant indicates that it has ordered another limousine for its proposed operations.

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<sup>1/</sup> "12.01. DRIVER STATUS. Passenger stage corporations and passenger charter-party carriers shall not operate any passenger stage unless the driver thereof is under the complete supervision, direction and control of the operating carrier, and is:

- "(a) An employee of the operating carrier, or
- "(b) An employee of a public transit agency or of another Commission-authorized carrier that owns or possesses the vehicle by virtue of a bona fide full-time lease arrangement of 30 days or longer. This agreement for the utilization of the second carrier's vehicle and driver by the operating carrier shall be evidenced by written contract between the two carriers, or
- "(c) An owner-driver who, himself, holds Commission authority as a specialized charter-party permit carrier, pursuant to Public Utilities Code Section 5384(a). Such owner-driver permit shall be limited to one vehicle."

Applicant states that there continues to be a shortage of transportation available to the general public and that a marketing survey shows a need for a reliable quality limousine service.

Discussion

Applicant made no reference to providing service under Part 12.01.(c) of GO Series 98 services. Therefore, since applicant is a separate entity, a corporation, its drivers must be its employees (Part 12.01.(a)).<sup>2/</sup> If applicant's estimates of revenues and expenses other than payroll expenses are correct, there will still be a sufficient margin to pay its drivers.

Findings of Fact

1. Applicant has the fitness, equipment, and financial resources to perform the proposed service.
2. A public hearing is not necessary.
3. Applicant should be authorized to pick up passengers within a radius of 40 air miles from its home terminal at 187 West Orangethorpe Avenue, Suite 1, Placentia.
4. 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 of Law

1. Public convenience and necessity require that the requested authority be issued.
2. Applicant's drivers must be employees of applicant or otherwise qualify under GO 98-A, Part 12.01 even though they are shareholders of applicant.
3. The following order should be effective today because there is a public need for the proposed service.

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<sup>2/</sup> Or qualify under the other categories for drivers as set forth in GO 98-A, Part 12.01.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity, to be renewed each year, is granted to Blue Chip, Inc. authorizing it to operate as a Class B charter-party carrier of passengers, as defined in PU Code Section 5383, from a service area with a radius of 40 air miles from applicant's home terminal at 187 West Orangethorpe Avenue, Suite 1, Placentia.

2. Applicant shall:

- a. Obtain California Highway Patrol (CHP) clearance for each vehicle to be used in this Class B charter-party operation.
- b. Notify the Commission and CHP of any addition or deletion of vehicles used in the service prior to use.
- c. Establish the authorized service within 360 days after this order is effective.

3. The Passenger Operations Branch will issue the annual renewable certificate on Form PE-695 as authorized by Resolution PE-303 when it receives CHP clearances and evidence of liability protection in compliance with General Order Series 115.

4. In providing service under the certificate, applicant shall comply with General Orders Series 98 and 115 and the CHP safety rules.

5. This certificate does not authorize the holder to conduct any operations on the property of or into any airport unless such operation is authorized by both this Commission and the airport authority involved.

6. The Class B certificate of public convenience and necessity granted by this order does not authorize round-trip sightseeing-tour service, which is not subject to regulation by this Commission. It does, however, permit applicant to offer charter service to a sightseeing-tour operator.

This order is effective today.

Dated APR 18 1984, at San Francisco, California.

LEONARD M. GRIMES, JR.  
President

VICTOR CALVO

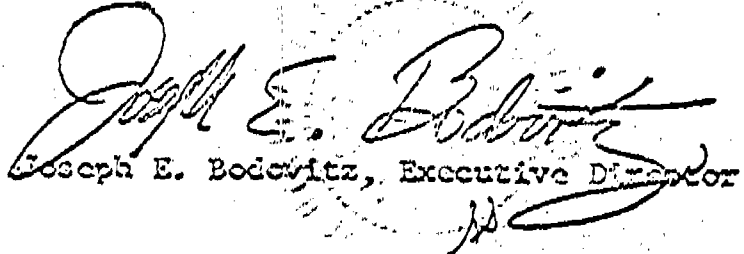
PRISCILLA C. GREW

DONALD VIAL

WILLIAM T. BAGLEY

Commissioners

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

  
Joseph E. Bodovitz, Executive Director