

ORIGINAL

Decision S4 11 072

NOV 7 1984

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Edward Chun and Clive Andrew De Paule, for the authority to operate as a Passenger Stage between points in the City and County of San Francisco and the San Francisco International Airport.

Application 84-05-025
(Filed May 7, 1984)

Clive Andrew De Paule, and Edward Chun, for themselves, applicants.
Handler, Baker, Greene & Taylor, by Raymond A. Greene, Jr., Attorney at Law, for SFO Airporter, Inc.; James E. Steele, for Yellow Cab Coop, Inc.; and William G. Lazar, for Luxor Cab Company; protestants.
Erik Juul, for the Commission staff.

O P I N I O N

Statement of Facts

The passenger stage transportation of passengers and their baggage between San Francisco, particularly the downtown area, and its international airport is fiercely competitive. Commission records indicate that at present there are ten carriers certificated to serve this corridor, employing both vans and buses in that service.

By this application Clive Andrew De Paule and Edward Chun, doing business as Good Neighbors Air Bus, with principal place of business at 3947-26th Street, San Francisco, seek authority pursuant to Section 1032 of the Public Utilities (P.U.) Code to join that competition. However, they propose to restrict the San Francisco end of their operations to a door-to-door, on-call van service, seven days a week, to homes, hotels, motels, and businesses in that western

portion of San Francisco south of the Presidio; west of Divisadero, Duboce, and Guerrero Streets, and Highway 280; and north of O'Shaughnessy, Portola, and Junipero Serra Boulevards, and Brotherhood Way. Only passengers originating at or destined to San Francisco International Airport would be carried. They would offer service avoiding entirely downtown San Francisco, Nob Hill, Fisherman's Wharf, and the Lombard Street motel areas.

Applicants propose to charge adults \$7.50, Senior Citizens \$6.00, and children (two to twelve) \$4.00. Infants would be carried free. There would be a charge for baggage beyond two suitcases. Applicants also seek approval to sell a "Fast Pass" by which frequent travelers could pay in advance for four trips and receive the fifth free. Applicants further propose a promotional introductory first-time rider discount coupon worth \$1.00, the promotion to be limited to the first three months of operations.

Current assets are asserted to be \$11,510, including a 1977 ten-passenger van which is proposed to be used in this service.¹ On May 21, 1984 Good Neighbors Air Bus was also authorized charter-party carrier of passengers permit TCP-2644-P. It is anticipated that there will be revenue from this charter-party operation to assist the passenger stage operation, although the same van is proposed to be committed to both operations. In addition, Devachan, Ltd., dba Deva, a small cottage industry in Burkittsville, Maryland, of which one Martin R. De Paule, a relative of applicant De Paule, is corporate secretary, assertedly is willing to lend some financial

¹ Apart from the van which would be directly used to transport passengers, the assets listed by the application include a 1956 Buick and a 1978 Mazda (owned by De Paule and Chur, respectively) which the partners contemplate using in other aspects of the operation. Cash is limited to \$3,700.

assistance during applicants' start-up period. The amount of such aid is unspecified.

Applicants anticipate being able to finance and acquire additional vans as operational requirements develop.² A mechanic friend, presently employed by an existing carrier, is to provide maintenance work at night and on weekends. Additional partners will be added, as circumstances permit and require, to share in the operation. No allowance has been made for any salaries until the operation attains profitability.³ Applicants anticipate a break-even point at 19 adult passengers daily involving eight complete roundtrips, with this point attainable after 3-months operation. The proposed fare structure is based upon fares presently charged by the competition rather than upon any estimate of operational costs. Its anticipated expense factors are allegedly based upon Hertz and vanpool published figures, as well as discussions with other operators.

De Paule brings to the venture 2-1/2 years as a driver for a competitor service, with specifically applicable airport, tour, and charter experience, as well as experience on the union negotiating

² The partners recognize that a minimum of three vans would probably be required to effectively launch the operation. They plan to acquire two additional vans besides their 1977 van, either by purchasing or by lease.

³ For the immediate future no employees would be hired. The services of the partners and their families, as well as those of additional proposed partners ("silent" for the present to protect their present employment elsewhere in the industry) would be used. All participants assertedly are prepared to finance themselves from other private or family means until the proposed operation produces revenues sufficient to permit some remuneration to the participants.

team bargaining with that company.⁴ Chun, a former teacher, presently an auditor with a computer firm, drove about eight months with that same competitor carrier.⁵

The application in timely fashion was protested by SFO Airporter, Inc. (joined subsequently by Yellow Cab Coop, Inc. and Luxor Cab Company), with the result that a duly noticed public hearing was conducted July 5 and July 20, 1984 in the Commission's San Francisco courtroom before Administrative Law Judge (ALJ) John B. Weiss. At conclusion of the second day of hearing, the matter was submitted subject to receipt of concurrent post-hearing briefs August 10, 1984. All parties except the Commission staff submitted briefs.

At the hearing applicants introduced their own testimony and that of two public witnesses, one a San Francisco resident who occasionally goes to the airport, and the other, a reservationist employed by a competitor service. Their testimony tended to assert need for the service. The protestants introduced the testimony of their respective chief operating officers to challenge the economic and operational feasibility of the proposed service, the financial ability, fitness, and competence of the applicants to mount a safe and responsible service in the proposed mode, and any benefit to the public interest of adding still another carrier in the competition for a declining airport passenger volume, asserting that addition of more competition merely serves to force ever higher fares on the survivors to the dismay and chagrin of the client public. They

⁴ In exchange for De Paule's resignation, that employer agreed not to file a protest to this application.

⁵ Chun's commitment to the proposal is such that he plans to resign a \$25,000 per year present job to devote full time and all his efforts to the project.

further point out that PU Code § 1032 mandates that the Commission may issue a certificate to operate in territory already served only when the existing service is being provided not to the satisfaction of the Commission. They assert that the public already has full, responsive, and satisfactory passenger stage transportation service to the airport.

Discussion

The ultimate issue in consideration of any passenger stage application is always whether or not the public convenience and necessity requires the particular service for which authorization is sought (see PU Code § 1031). If it is determined that the public convenience and necessity requires the service, a certificate should issue, provided only that in those instances where the territory already is served, the existing certificated carriers will not provide service to the satisfaction of the Commission (See PU Code § 1032).

Traditionally the test of satisfactory service was based on factors such as route patterns, service frequency, adequacy and condition of equipment, and fitness of the applicant. In 1979, this Commission expanded this consideration. Concluding that our antitrust laws and policies were premised on the understanding that competition tended to bring out the highest degree of effort and imagination which generally resulted in a superior overall level of service to the public, the Commission determined to add competition as a most important goal and factor for consideration (see Application of O'Connor Limousine Service, Inc. (1979) 1 CPUC 2d 285).

While our initial application of this expanded consideration dealt with sightseeing applications of passenger stage service, a class of service we determined to be less entitled to the strict territorial protectionism from competition and competitive factors necessarily accorded the "natural" utility monopolies such as the electric, gas, and telephone utility fields, we gradually

extended this expanded consideration to embrace the overall passenger stage services (See Application of American Buslines, Inc. (1980) 3 CPUC 2d 246; writ denied Greyhound Lines, Inc. v. CPUC (1980) S.F. No. 24166).

But if there is to remain rationale for any regulation under the PU Code for passenger stage activities, extension of this policy relative to competition must have some inherent limitation. The public does not benefit from ruinous competition. If the field becomes so oversaturated that no one makes a living and the industry cannot establish and stabilize a reasonable level of fares sufficiently remunerative to maintain standards, equipment, and service, everyone loses. Competition between passenger stage operators necessarily multiplies the number of vehicles in use. When carried to excess it interferes with effective use of roadways and other facilities, particularly in the high traffic density pickup and unloading areas, such as the downtown hotel areas and at the airport. This excess capacity contributes to air pollution. Inadequate fare revenues reduce the capital infusions that recurrently become necessary to replace equipment. When inadequate revenues result from splitting the business pie into ever smaller segments, economies of scale evaporate, and ever higher fares are demanded. Cutthroat competitive practices become rampant, including such practices as the upward spiraling kickbacks to hotel and tour satellites to induce referral of prospective customers to a particular carrier. Maintenance and safety early become casualties as dwindling cash funds are restricted to the more immediate need to keep vehicles on the road. Today many of these phenomena are apparent in the San Francisco-Airport passenger stage operations.

As the record here illustrates, both Luxor and Yellow Cab lost substantial amounts of money as late as May in conducting their

operations.⁶ Airporter's General Manager testified to losing over \$600,000 in 1983, forcing it to come to the Commission and obtain a fare increase recently. We are told that Cal Minibus and Associated Limousine are not profitable. Lorries has, at least for a while, abandoned pickup in western San Francisco,⁷ according to the testimony received.

The protestants, with substantial justification, make much of the gross undercapitalization and very limited experience of the applicants, contending that the applicants fail to show themselves to be financially sound so as to justify the award of a franchise to operate as a public utility, and demonstrate a total lack of sophistication in this business. They point out, and applicants at the hearing conceded, that a minimum of three vans would be needed to inaugurate this passenger stage operation. Applicants at present have but one van. They plan to acquire two more. But they have only \$3,700 in cash available to meet all their startup expenses. Of this, \$336 must be set aside for insurance downpayment. Protestants, from the vantage point of considerable experience in the field, observe that appropriate vans, used or new, range in cost from \$5,000 to \$16,000 each. Applicants, on the other hand, insist that they have and can purchase satisfactory vans from \$1,500 to \$2,500, and that as long as the Highway Patrol certifies such vans as safe, that

⁶ Luxor's witness testified that Luxor had lost \$10,000 in 1984, that despite use of three vans it handled only an average of 34 passengers a day. In the month of January it transported only 25 passengers. Yellow Cab's van operation, with a van seating 11, had average loads of only five or six. All this is attributed to the intense competition for customers on the airport run.

⁷ There was testimony that Lorries intends to reenter the western San Francisco to the airport market, however.

is what matters; that just as others started this business from scratch, they too want their chance. Applicants also assert that they may well lease vans as needed,⁸ but the Six Month Business Projection attached as Exhibit D to their application lists no leasing expense.

Protestants point out that any sort of efficient operation of such a service as is proposed would require not only experienced dispatchers, but also radios, and that these radios cost \$1,200 per van and require Federal Communications Commission licenses. In response applicants state that they and their future associates have some dispatching experience, and that while initially they will rely upon telephones, they will switch to 2-way radios later. But again, there is no provision in their Six Month Business Projection for radios, and telephone expense is listed as only \$6-70 per day.

From the vantage of experience protestants question how applicants can expect to have a part-time mechanic "moonlight" and still keep their equipment safely on the road. They contend breakdowns do not follow schedules and require immediate response. And protestants contend that applicants' operational expenses are unrealistic, pointing out gasoline costs as one example; noting that even using their 1980 Ford vans (newer than applicants' 1977 van), they attain only seven miles per gallon of gasoline. Nonetheless, applicants insist they will attain 10 miles per gallon. But most critically, protestants question how applicants can operate without any allowance at all for wages. Their projections show no wages. Applicants answer that they and all their people will be partners in the operation and expect to work without compensation until the operation is established, in the black, and able to pay wages. Then and only then will they determine and begin to pay wages.

⁸ One testified about a friend who recently had been able to obtain a five-year lease van at a cost of \$300 per month.

Certainly the protestants' contentions have considerable merit when they assert that the applicants do not themselves know, and did not demonstrate to the Commission what their costs realistically would be. Applicants' Six Month Business Projection was based upon no conventional marketing analysis, but rather was applicants' conjecture of the potential that exists and was contrived to show that they would be able to serve it. Should these obvious deficiencies and omissions from the conventional foreclose our consideration of this application? Under the particular circumstances here present we believe not.

As applicants persistently point out, commitment and a passion for a venture are qualities difficult to measure. They cannot be purchased, but count for much in attaining success in any venture. Innovation, unstinting dedicated personal efforts, and an emotional stake in the business, coupled with persistence and commitment to serve the residents of the western part of this city here seek a chance to prove success.

Largely based on their own flagging business experience with this western area, protestants say there is insufficient or no demand for such a service. But applicants do not propose to duplicate these other services. They respond with 96 signatures on what purports to be a petition from residents of western San Francisco asking this Commission to grant applicants authority. These signers indicate that they would use such a local on-call, door-to-door service direct from their neighborhood to the airport. The applicants point out the clear fact that to use the existing Airporter service first you must get downtown. That requires a digression by Muni, taxicab, or private transportation, with reversal of the procedure on return, and involves extra expense and much time. They argue that Airporter is waiting at its downtown terminal for the people to come to it. They propose to go to the people and then to the airport direct, avoiding entirely the downtown area. Similarly, they assert that the existing van services are primarily

interested in the downtown hotel-motel tourist trade; that their passenger loads necessarily are mixed so that passengers from the airport, for example, destined to the western areas, are first driven all over downtown, suffering long rides and lost time, before being deposited in the Richmond or Sunset District destinations they seek.

Applicants want to be excluded from the downtown and wharf hotel-motel area entirely. They seek to travel direct between the airport and western San Francisco areas.⁹ Thus they propose a unique and distinctly different new passenger stage transportation service, responsive to what they identify and assert is a longstanding, unfilled need that is not now being offered or supplied by the existing carriers. Applicants propose to fill that asserted void.

We are only marginally convinced that the public convenience and necessity requires such a service. Certainly if it does and applicants succeed in meeting that need, the residents of the westernmost areas of the city will have gained a beneficial service.

There are substantial deficiencies and gaps in applicants' proposal. Applicants are woefully undercapitalized. We are not convinced there is an adequate volume of latent prospective ridership waiting in the western area. But applicants are ready and willing to assume that risk; they offer their own resources, their time, and their labor. If they fail, they alone will lose. Finding a need and filling it is the essence of private enterprise. Since protestants

⁹ The shorter direct runs from the western areas to the airport, and substitution of a van load for multiple individual private autos all contribute to reduction in vehicular traffic and are environmentally beneficial.

state there is not the demand, and since whatever traffic applicants develop would not to any appreciable degree come out of or detract from protestants' scant business from the area, but rather would most likely derive from avoided private transportation to or from the airport, it should make little appreciable difference to them. Nonetheless, to avoid potential loss to customers who, relying upon the apparent stamp of approval of this Commission represented by certification, might purchase "fast passes," we will not authorize use of these promotional devices. In its other respects, we will authorize granting of operational authority.

Findings of Fact

1. Existing passenger stage services provided by presently certificated carriers primarily are oriented between the downtown San Francisco areas and the San Francisco International Airport.

2. The passenger stage operation for which operating authority is herein sought differs from that currently offered by the numerous certificate holders both in mode of proposed operation and geographical orientation.

3. While possessing marginal ability, experience, and financial resources to perform the proposed service, if successful, applicants would provide a beneficial service, both inexpensive and timesaving to residents of the western area of San Francisco who have occasion to travel to and from the airport.

4. Diversion of passenger customers from existing carriers to applicants, as a result of granting the requested certification, would be minimal.

5. A segment of the population in the western area proposed to be served by applicants indicates there is some public demand for applicants' proposed service.

6. The terms and conditions of the proposed service are reasonable.

7. It can be seen with certainty that there is no possibility that the service in question would have any significant effect on the environment other than beneficial.

8. The public convenience and necessity require such an operation. ✓

9. The following order should be effective the date of signature because there is no need to delay making available the benefits of the proposed service to the residents of the western areas of the city.

Conclusions of Law

The application 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 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 Edward Chun and Clive Andrew De Paule authorizing them to operate as a passenger stage corporation, as defined in Section 226 of the Public Utilities Code, between that western portion of the City of San Francisco south of the Presidio; west of Divisadero, Duboce, and Guerrero Streets and Highway 280; and north of O'Shaughnessy, Portola, and Junipero Serra Boulevards and Brotherhood Way, and the San Francisco International Airport, to transport persons and baggage, as set forth in Appendix PSC-1370. ✓

2. Applicants shall:

- a. File a written acceptance of this certificate within 30 days after this order is effective.
- b. Establish the authorized service and file tariffs and timetables within 120 days after this order is effective.

- c. State in their tariffs and timetables when service will start; allow at least 10 days' notice to the Commission; and make timetables and tariffs effective 10 or more days after this order is effective.
- d. Comply with General Orders Series 79, 98, 101, and 104, and the California Highway Patrol safety rules.
- e. Maintain accounting records in conformity with the Uniform System of Accounts.
- f. Remit to the Commission the Transportation Reimbursement Fee required by PU Code § 403 when notified by mail to do so.

3. Prior to initiating service to the San Francisco International Airport, applicants shall notify the airport authority. This certificate does not authorize the holders to conduct any operations on the property of or into the airport unless such operation is authorized by both this Commission and the airport authority involved.

4. Applicants are authorized to begin operations on the date that the Executive Director mails a notice to applicants that they have evidence of insurance on file with the Commission and that the California Highway Patrol has approved the use of applicants' vehicles for service.

5. Without specific further written authorization from the Commission, applicants are not authorized to issue "fast passes".

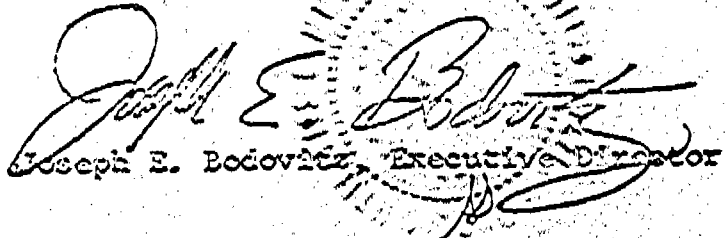
6. The application is granted as set forth above.

This order is effective today.

Dated NOV 7 1984, at San Francisco, California.

VICTOR CALVO
FRISCILLA C. GREW
DONALD VIAL
WILLIAM T. BAGLEY
Commissioners

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


Joseph E. Bodovick, Executive Director

T/bcy

Appendix PSC-1370

EDWARD CHUN AND
CLIVE ANDREW DE PAULE

Original Title Page

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
AS A PASSENGER STAGE CORPORATION

Showing passenger stage operative rights, restrictions,
limitations, exceptions, and privileges.

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 84 11 072, dated NOV 7 1984
of the Public Utilities Commission of the State of California in
Application 84-05-025.

I N D E X

	<u>Page</u>
SECTION 1. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS, AND SPECIFICATIONS.....	2
SECTION 2. ROUTE DESCRIPTIONS.....	3
SECTION 3. AUTHORIZED SERVICE AREAS.....	3

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

Edward Chun and Clive Andrew De Paule, by the certificate of public convenience and necessity granted by the decision noted in the margin, are authorized to transport passengers and baggage between points within the Western San Francisco Service Area as defined in Section 3, on the one hand, and San Francisco International Airport (SFO) on the other hand, over and along the routes described, subject, however, to the authority of this Commission to change or modify the routes 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. No passengers shall be transported except those having point of origin or destination at SFO.
- d. 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.
- e. Service shall be provided on a seven-day per week basis.

Issued by California Public Utilities Commission.

Decision 84 11 072, Application 84-05-025.

SECTION 2. ROUTE DESCRIPTIONS.

Route 1 - Western San Francisco to SFO

Commencing at SFO then over and along the most convenient streets and highways to the Western San Francisco Service Area listed in Section 3.

SECTION 3. AUTHORIZED SERVICE AREA.

Area 1. Western San Francisco Service Area

Beginning in the City and County of San Francisco at the prolongation of Clement Street and the shoreline of the Pacific Ocean; then east along the prolongation of Clement Street, Clement Street; then north along the prolongation of 33rd Avenue; then east along El Camino Del Mar, the southern border of the Presidio, and Pacific Avenue; then south along Divisadero Street; then east along Duboce Avenue; then south along Guerrero Street; then southeast along San Jose Avenue; then east along Bosworth Street; then northwest along O'Shaughnessy Boulevard; then southwest along Portola Drive; then south along Junipero Serra Boulevard; then west along Brotherhood Way; then north and west along Lake Merced Boulevard; then east along Skyline Boulevard; then west along Sloat Boulevard and the prolongation of Sloat Boulevard to the shoreline of the Pacific Ocean; then north along the shoreline of the Pacific Ocean to the point of the beginning.

Issued by California Public Utilities Commission.

Decision 84 11 072, Application 84-05-025.

we gradually extended this expanded consideration to embrace the overall passenger stage services (See Application of American Buslines, Inc. (1980) 3 CPUC 2d 246; writ denied Greyhound Lines, Inc. v. CPUC (1980) S.F. No. 24166).

But if there is to remain rationale for any regulation under the PU Code for passenger stage activities, extension of this policy relative to competition must have some inherent limitation. The public does not benefit from ruinous competition. If the field becomes so oversaturated that no one makes a living and the industry cannot establish and stabilize a reasonable level of fares sufficiently remunerative to maintain standards, equipment, and service, everyone loses. Competition between passenger stage operators necessarily multiplies the number of vehicles in use. When carried to excess it interferes with effective use of roadways and other facilities, particularly in the high traffic density pickup and unloading areas, such as the downtown hotel areas and at the airport. This excess capacity contributes to air pollution. Inadequate fare revenues reduce the capital infusions that recurrently become necessary to replace equipment. When inadequate revenues result from splitting the business pie into ever smaller segments, economies of scale evaporate, and ever higher fares are demanded. Cutthroat competitive practices become rampant, including such practices as the upward spiraling kickbacks to hotel and tour satellites to induce referral of prospective customers to a particular carrier. Maintenance and safety early become casualties as dwindling cash funds are restricted to the more immediate need to keep vehicles on the road. Today many of these phenomena are apparent in the San Francisco-Airport passenger stage operations.

As the record here illustrates, both Luxor and Yellow Cab lost substantial amounts of money as late as May in conducting their

interested in the downtown hotel-motel tourist trade; that their passenger loads necessarily are mixed so that passengers from the airport, for example, destined to the western areas, are first driven all over downtown, suffering long rides and lost time, before being deposited in the Richmond or Sunset District destinations they seek.

Applicants want to be excluded from the downtown and wharf hotel-motel area entirely. They seek to travel direct between the airport and western San Francisco areas.⁹ Thus they propose a unique and distinctly different new passenger stage transportation service, responsive to what they identify and assert is a longstanding, unfilled need that is not one being offered or supplied by the existing carriers. Applicants propose to fill that asserted void.

We are only marginally convinced that the public convenience and necessity requires such a service. Certainly if it does and applicants succeed in meeting that need, the residents of the westernmost areas of the city will have gained a beneficial service.

There are substantial deficiencies and gaps in applicants' proposal. Applicants are woefully undercapitalized. We are not convinced there is an adequate volume of latent prospective ridership waiting in the western area. But applicants are ready and willing to assume that risk; they offer their own resources, their time, and their labor. If they fail, they alone will lose. Finding a need and filling it is the essence of private enterprise. Since protestants

⁹ The shorter direct runs from the western areas to the airport, and substitution of a van load for multiple individual private autos all contribute to reduction in vehicular traffic and are environmentally beneficial.

state there is not the demand, and since whatever traffic applicants develop would not to any appreciable degree come out of or detract from protestants' scant business from the area, but rather would most likely derive from avoided private transportation to or from the airport, it should make little appreciable difference to them. Nonetheless, to avoid potential loss to customers who, relying upon the apparent stamp of approval of this Commission represented by certification, might purchase "fast passes," we will not authorize use of these promotional devices. In its other respects, we will authorize granting of operational authority.

Findings of Fact

1. Existing passenger stage services provided by presently certificated carriers primarily are oriented between the downtown San Francisco areas and the San Francisco International Airport.

2. The passenger stage operation for which operating authority is herein sought differs from that currently offered by the numerous certificate holders both in mode of proposed operation and geographical orientation.

3. While possessing marginal ability, experience, and financial resources to perform the proposed service, if successful, applicants would provide a beneficial service, both inexpensive and timesaving to residents of the western area of San Francisco who have occasion to travel to and from the airport.

4. Diversion of passenger custom from existing carriers to applicants, as a result of granting the requested certification, would be minimal.

5. A segment of the population in the western area proposed to be served by applicants indicates there is some public demand for applicants' proposed service.

6. The terms and conditions of the proposed service are reasonable.

7. It can be seen with certainty that there is no possibility that the service in question would have any significant effect on the environment other than beneficial.

8. The public convenience and necessity requires such an operation.

9. The following order should be effective the date of signature because there is no need to delay making available the benefits of the proposed service to the residents of the western areas of the city.

Conclusions of Law

The application 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 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 Edward Chun and Clive Andrew De Paule authorizing them to operate as a passenger stage corporation, as defined in Section 226 of the Public Utilities Code, between that western portion of the City of San Francisco south of the Presidio; west of Divisadero, Duboce, and Guerrero Streets and Highway 280; and north of O'Shaughnessy, Portola, and Junipero Serra Boulevards and Brotherhood Way, and the San Francisco International Airport, to transport persons and baggage, as set forth in Appendix PSC-1370.
2. Applicants shall:
 - a. File a written acceptance of this certificate within 30 days after this order is effective.
 - b. Establish the authorized service and file tariffs and timetables within 120 days after this order is effective.