

**Mailed**

JUL 11 1988

Decision 88 07 036 JUL 8 1988

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application ad Protest of STLB,  
Inc., dba BOB LEECH'S AUTORENTAL,  
re: Permit to Operate as a  
Passenger Charter Party Carrier  
Pursuant to Public Utilities Code  
Section 5384.

Application 88-01-028  
(Filed January 27, 1988)

OPINION

STLB seeks either authority to operate as a charter-party carrier of passengers or a denial of jurisdiction by the Commission and a dismissal of the application.

Attached to the application is applicant's "Argument in support of Request to Dismiss". The argument sets forth the following:

In connection with its automobile rental business, STLB provides a shuttle service for its customers between San Francisco International Airport (SFO) and its place of business, which is located approximately two to three miles north of SFO. The service is provided in vehicles which for the most part provide seating for no more than 12 passengers. There is no separate charge for this shuttle service. STLB contends that the charge is included in the rental charge which the customer pays for the vehicle that is rented. STLB further contends that the customer renting a luxury type vehicle pays a larger proportionate share for the shuttle service than the person who rents a compact type vehicle.

In late 1986, the Airports Commission issued new rules and procedures purporting to regulate the business of STLB, insofar as the business involved the Airport itself. These new procedures required, among other things, that STLB obtain a Public Utilities Commission operating license, something that theretofore had never been thought to have had any application to STLB's particular

business operations. Historically, no jurisdiction had ever been forcibly asserted by the PUC, notwithstanding previous inquiries over many years by persons establishing businesses of this kind, seeking to assure themselves that the PUC was, in fact, not actively concerned with their particular affairs.

The argument lists three reasons why STLB cannot be classified as a charter-party carrier of passengers as follows:

1. STLB is not conducting operations that meet the definition of a charter-party operator. STLB is aware of Section 5384 of the Public Utilities (PU) Code which provides:

"The commission shall issue permits to persons, who are otherwise qualified, whose passenger carrier operations fall into the following categories: (a) specialized carriers, who do not hold themselves out to serve the general public but only provide service under contract with industrial and business firms, governmental agencies, and private schools or who only transport agricultural workers to and from farms for compensation or who only conduct transportation services, which are incidental to another business. The permits shall be limited to a 50 mile radius of operation from the home terminal. (b) Carriers using only vehicles under 15 passenger seating capacity and under 25 feet in length. (c) Carriers conducting round trip sightseeing tour service."

In its argument STLB states:

"We assume that subsection (a) of the Section alone is applicable, and that neither of the other two subsections apply. Clearly, were it not for the language 'specialized carriers... (not holding) themselves out to the general public' in subsection (a), our client would fall nowhere in that section at all."

2. STLB would face significant penalties if it were forced to be licensed pursuant to PU Code Section 5384. It would face significant penalties for violation of PU Code Section 5401, which provides the proper basis of charges to be assessed by a charter-party carrier of passengers.
3. STLB, if forced to obtain authority as a charter-party carrier of passengers, would be driven from business because of its inability to meet the insurance coverage required of a charter-party carrier of passengers.

#### Discussion

We have carefully considered all of STLB's arguments with respect to the jurisdictional issue. We are not persuaded that its shuttle operation does not require a permit pursuant to P.U. Code § 5384. The courtesy shuttle passengers' patronage of STLB's rental car business is sufficient consideration pursuant to Section 5384 to require that STLB obtain the requisite CPUC permit. (C.S. Stahl (Pioneer Skate Arena) (1965) 64 Cal.PUC 405, at 408. Payment of individual fares is not required to find the transportation offered to be "for compensation." (Id. at p. 406.) Transportation furnished without charge may nevertheless be provided "for compensation" if the business enterprise providing it derives a business benefit. (Passenger Charter Party Carrier Act (1963) 60 Cal.PUC 581, at 585.)

We are not convinced that STLB would be in violation of PU Code Section 5401 under its present method of operation wherein the compensation it receives for the shuttle operation is included in the automobile rental compensation it receives. Only if it were to change its operation to make a separate charge for the shuttle service on an individual fare basis would it be in violation of PU Code Section 5401.

Inability to obtain the required insurance coverage is not a valid argument that STLB does not require authority as a charter-party carrier of passengers.

Permits to operate as a charter-party carrier of passengers have been applied for and issued to similar type courtesy shuttle services conducted by automobile rental companies, hotels, and parking facilities in the vicinity of airports who derive significant portions of their business from passengers traveling through SFO. Examples of entities to whom such authority has been issued are as follows:

Automobile Rental Companies

- |                             |           |
|-----------------------------|-----------|
| 1. Alamo Rent-A-Car, Inc.   | TCP 2744P |
| 2. Snappy Car Rental, Inc.  | TCP 3862P |
| 3. General Rent A Car, Inc. | TCP 4035P |

Hotels

- |                             |           |
|-----------------------------|-----------|
| 1. Hilton Hotel             | TCP 296P  |
| 2. Hillside Inn             | TCP 322P  |
| 3. Grosvenor SFO Associates | TCP 1947P |

Notice of the filing of this application appeared in the Commission's Daily Transportation Calendar of February 2, 1988. No protests have been received.

Findings of Fact

1. STLB operates an automobile rental business at 435 South Airport Boulevard, South San Francisco, California.
2. STLB provides its customers courtesy shuttle service for compensation between its facility and SFO.
3. No separate fee is charged for use of the courtesy shuttle service.
4. This application requests an opinion that STLB's courtesy shuttle service is not subject to this Commission's jurisdiction.
5. Only in the event this Commission does not issue the opinion set forth in Finding 4 does the applicant request a permit to operate as a charter-party carrier of passengers.
6. STLB's courtesy shuttle service is incidental to its automobile rental business.

7. No protests to the application have been received and a public hearing is not necessary.

8. 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. The courtesy shuttle provided by STLB in connection with its automobile rental business is transportation of persons by motor vehicle for compensation and requires a permit to operate as a charter-party carrier of passengers.

2. A permit authorizing operations as a charter-party carrier of passengers should be issued to applicant immediately upon it furnishing the necessary vehicle clearances from the California Highway Patrol and evidence of liability protection as required by General Order Series 115.

3. This order should be effective today so that compliance with the Airport Commission's regulations can be effected as soon as possible.

ORDER

IT IS ORDERED that:

1. The Tariff and License Branch will issue an annual renewable permit authorizing operations between 435 South Airport Boulevard, South San Francisco and San Francisco International Airport upon receipt of California Highway Patrol clearance for each vehicle to be used in this operation and evidence of liability protection in compliance with General Order Series 115.

2. STLB shall:

- a. Notify the Commission and CHP of any addition or deletion of vehicle(s) used in the service prior to use.
- b. Establish the authorized service within 120 days after this order is effective.

- c. Remit to the Commission the Transportation  
Reimbursement Fee required by PU Code § 403  
when notified by mail to do so.

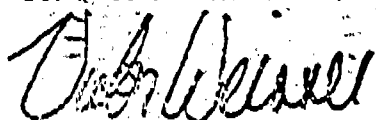
This order is effective today.

Dated JUL 8 1988, at San Francisco, California.

STANLEY W. HULETT  
President  
DONALD VIAL  
G. MITCHELL WILK  
JOHN B. OHANIAN  
Commissioners

Commissioner Frederick R. Duda,  
being necessarily absent, did not  
participate.

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



Victor Weiss, Executive Director