

Decision 82 06 047 JUN 2 1982

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
Abbey Transportation System, Inc.
for certificate of public convenience
and necessity to transport passengers
and their baggage in passenger stage
sightseeing service between Fresno
County and San Francisco, Oakland,
Santa Clara, Santa Cruz, Monterey/
Carmel, Sacramento, Yosemite, Los
Angeles, Anaheim, San Diego, and
San Ysidro, California.

Application 82-01-29
(Filed January 15, 1982;
amended March 12, 1982)

INTERIM OPINION AND ORDER

This is an application in which Abbey Transportation System, Inc. (Abbey) seeks a certificate of public convenience and necessity to operate as a passenger stage corporation for sightseeing purposes.

As originally filed, the application requested regular (nonsightseeing) passenger stage operating authority. A timely protest was filed and it was calendared for hearing. On March 12, 1982, Abbey filed an amended application limiting the request to sightseeing authority. The protest was subsequently withdrawn.

In Western Travel Plaza, Inc. and companion cases (Decision (D.) 93726 in Application (A.) 59816, A.60174, A.60181, A.60221, and A.60286, entered on November 13, 1981) the Commission concluded that:

- "2. Sightseeing-tour service, originating and terminating at the same point, is not public utility or passenger stage corporation service.

"3. Sightseeing-tour carriers should not be regulated as public utilities."

Under the holding of the Western Travel Plaza case, this application should be dismissed for lack of jurisdiction.

The Western Travel Plaza decision is not final. It stated that "We anticipate some parties will seek rehearing of this decision and, if rehearing is not granted, seek review of this decision by the California Supreme Court." (Slip Dec. p. 15.) Timely applications for rehearing were filed and D.93726 has been stayed until further order of the Commission.

D.93726 also provided that:

"In the meanwhile, until judicial review is completed, we will process sightseeing-tour carrier matters as follows:

"1. Pending and new applications for operating authority will be granted ex parte with temporary certificates upon a showing the applicant has liability insurance prescribed by CC 101. This will be done by interim decisions and orders." (D.93726, Slip Dec. p. 16.)

This application falls under the provision just cited.

Findings of Fact

1. The proposed operations are sightseeing services over a loop.

2. This application falls under the doctrine set forth in D.93726.

3. 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. If D.93726 is not altered or annulled, this proceeding should be dismissed for lack of jurisdiction.

2. Abbey should be granted temporary operating authority pending the final disposition of D.93726, and consistent with other sightseeing-tour certification decisions the following order should be effective today.

IT IS ORDERED that:

1. If D.93726 is not altered or annulled, this proceeding is dismissed for lack of jurisdiction. Pending such occurrence, the remainder of this order shall remain in full force and effect.

2. A temporary certificate of public convenience and necessity is granted to Abbey Transportation System, Inc. (PSC-1122), a corporation, authorizing it to operate as a passenger stage corporation, as defined in PU Code § 226, between the points and over the routes set forth in the amendment to the application to transport passengers and their baggage for sightseeing purposes.

3. Applicant 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 its 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.

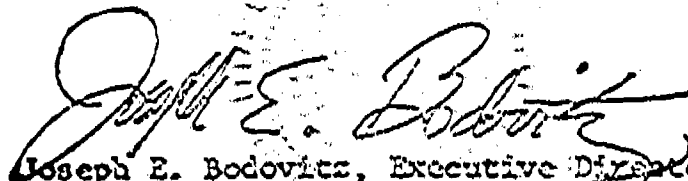
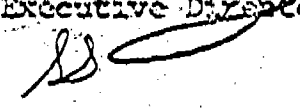
- e. Maintain accounting records in conformity with the Uniform System of Accounts.

This order is effective today.

Dated JUN 2 1982, at San Francisco, California.

JOHN E. BRYSON
President
RICHARD D. GRAVELLE
LEONARD M. GRIMES, JR.
VICTOR CALVO
PRISCILLA C. GREW
Commissioners

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


Joseph E. Bodovitz, Executive Director


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