

Decision 82 11 037 NOV 3 - 1982

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 ARIK SHARABI, dba CALIFORNIA MINI-BUS, )  
 for a certificate of public convenience )  
 and necessity to operate passenger )  
 (express) service between San Francisco )  
 (City) hotels and San Francisco )  
 International Airport. )

Application 60511  
 (Filed May 5, 1981)

Dennis B. Natali, Attorney at Law, for  
 applicant.

Daniel J. Custer, Attorney at Law, for  
 Lorrie's Travel & Tours, Inc., and  
Raymond A. Greene, Jr., Attorney at  
 Law, for SFO Airporter, Inc.,  
 protestants.

Jeffrey B. Thomas, Attorney at Law, for  
 the Commission staff.

OPINION AFTER REHEARING

Procedure

Arik Sharabi, doing business as California Mini-Bus, seeks a certificate of public convenience and necessity authorizing operations as a passenger stage corporation between six Geary Street hotels in San Francisco and the San Francisco International Airport (SFO).

Public hearing was held and the matter was submitted on August 12, 1981. On January 5, 1982, we granted the authority sought in Decision (D.) 82-01-044.

Petitions for rehearing were filed by protestants Lorrie's Travel and Tours, Inc. (Lorrie's) and SFO Airporter, Inc. (Airporter). We granted rehearing on April 6, 1982 in D.82-04-067.

Further hearings were held on May 21, and June 1, 2, and 23, 1982. All parties submitted additional evidence. Concurrent briefs were filed by Lorrie's, Airporter, and our Transportation and Legal Divisions (staff) on or before August 3, 1982, and the matter was submitted.

Scope of Rehearing

In re George F. Pearce (1964) 63 CPUC 587, 588, defines the scope of rehearing as follows:

" . . . The rehearing is merely a continuation of the same proceeding for the receipt of any additional evidence or argument that may be offered by any party or for further consideration by the Commission. No party is bound to introduce such evidence; rather the choice rests in each party's discretion. An examination of Section 1736 of the Public Utilities Code makes clear that the Commission, in granting rehearing, is not reversing itself but only opening the door for the receipt of new or additional evidence or argument which it may consider, in addition to the record theretofore made, in determining whether or not the original order or decision should be abrogated, changed or modified. . . ."

We accordingly reexamined the entire record to determine whether applicant has satisfied his burden of proof that the proposed service should be authorized.

Proposed Service

Applicant proposes to provide a daily service seven days a week from 6:00 a.m. to 11:30 p.m. between SFO and Stewart, David's, Bellevue, El Cortez, Geary, and the Jack Tar (now Cathedral Hill) Hotels, all of which are located on Geary Street in downtown San Francisco.

Service would be provided by two 14-passenger vans. Applicant presently owns one 14-passenger Dodge van and proposes to lease two additional vans, one of which would be used for backup purposes. The proposed schedule calls for each hotel to be served on an hourly basis. Information concerning departure schedules, fares, and hotel destinations would be on permanent display at three unmanned booths located in the passenger-arrival areas of the SFO. The proposed fare is \$6.00 for adults and \$3.00 for children.

Issues

The issues to be decided are:

1. Is applicant fit and financially able to perform the proposed service?
2. Is there a need for the proposed service?

Sharabi's Fitness and Financial Ability

Applicant has been in the transportation business for over seven years, first as a cab driver and later as a driver for Associated Limousine, transporting people between San Francisco and the airport and conducting tours. He was owner and general manager of San Francisco Mini Bus until the end of 1977. San Francisco Mini Bus transported pilots and stewardesses of American Airlines to and from the airport, and conducted tours. Currently, applicant provides information to the public concerning various types of tours and travel services as an agent for other companies and conducts charter tours and airport transportation under Commission authority. He maintains an office and owns one van suitable for the proposed service.

Applicant estimated total expenses of \$174,673 and total revenues of \$276,480 for the first year. His revenue figure is based on four passengers per one-way trip and would produce a profit of over \$100,000 the first year. Sharabi's estimate of four passengers per one-way trip is based upon observations from his office on Geary Street near the hotels he proposes to serve and on conversations with travelers and others in the transportation business.

Sharabi's evidence of his financial worth includes a 1981 income statement for his charter business showing a profit of \$28,563; an August through December 1981 income statement for the souvenir shop operated by Mrs. Sharabi showing a profit of \$3,434; an April 30, 1982 balance sheet showing, among other things, cash in bank of \$17,000; and a June 11, 1982 letter from Wells Fargo Bank advising that the Sharabis had deposits there in the amount of \$21,572.

Further, if circumstances require it, Sharabi's father-in-law, Noam Molad, promised support of up to \$100,000, and his brother Ephraim Sharabi, has promised to loan applicant the proceeds from the sale of a piece of real estate in which he and his wife own an interest.

The exhibits and testimony show Sharabi to be fit and financially capable of conducting the service he wishes to inaugurate. Protestants' assertions in their closing briefs that applicant has not produced additional evidence of financial fitness since we found against him on that issue on November 4, 1980 in D.92379 does not square with the record after rehearing in this case. While it is true that cross-examination of Sharabi and his supporting witnesses on his financial fitness showed some apparent infirmities, we find that the preponderance of the evidence supports applicant's contentions.

#### Need for the Service

Applicant called several witnesses to testify that the proposed service will meet a public need or convenience.

Robert Webb, a doorman at the Jack Tar Hotel for the last ten years, testified that he has at least 20 or 30 inquiries a day concerning transportation to SFO. He stated that he usually directs people to either take a bus from the Airporter terminal, or to call Lorrie's for a pickup, or to take a cab. Webb said that while Lorrie's provides an excellent service there is need for the additional service which applicant could provide, as at times Lorrie's cannot accommodate everyone because no seats are available or because patrons have not made an appointment early enough.

Herma Lee, manager of the Geary Hotel for the last three years, testified that patrons in the hotel have told him that the present transportation to SFO is not sufficient. Eighty percent of Geary Hotel patrons use Airporter, but Lee complained that cabdrivers usually refuse to transport people between the Airporter terminal and his hotel because it is only three blocks away. Lee further testified that the other 20% of his patrons take taxicabs to and from the airport, and that Lorrie's had never extended its business to the hotel.

Tony Ruiz, president and general manager of Lorrie's, later testified that he has service brochures delivered to the Geary Hotel and that Lorrie's regularly provides service to that hotel. However, the record shows that Lorrie's transported an average of only six passengers per month from the Geary Hotel during the first quarter of 1982.

Raphael Halina, co-owner and operator of Associated Limousine Operators of San Francisco, Inc. (Associated) testified that he works at SFO every day and that very frequently people ask him how to get to the hotels that applicant proposes to serve. He expressed the view that the service proposed by applicant would be convenient to these travelers.

Ephraim Sharabi, co-owner and operator of Associated, and brother of the applicant, testified that tourists at SFO have asked him whether there is a regularly scheduled service to the hotels which applicant proposes to serve, and that these persons have expressed dissatisfaction at the lack of a scheduled service.

On the other hand, Robert Oziel, co-owner of Associated, testified that by vote of the board of directors he, not the other two co-owners, spoke for the company and that he and Associated believe existing services are adequate and applicant's proposed service is not needed. However, Oziel admitted that his company infrequently serves these hotels and competes only slightly with nonlimousine services.

Lorrie's called various witnesses to testify that there is no need for additional transportation between downtown hotels and SFO. However, their testimony also reveals benefits which would flow from applicant's proposed service.

Samuel McMullen, bell captain at the Jack Tar Hotel, testified that, when requested by patrons, he has arranged transportation to SFO, and, although he did not feel additional service is necessary, it might, in his words, keep the other people honest. McMullen stated that on occasion Lorrie's is full and unable to carry waiting passengers: this happens when a patron calls too close to Lorrie's pickup time or sometimes when there is a convention breaking in the city. The witness agreed that applicant's proposed service would be an added benefit for his hotel guests and that he was sure the guests would love it.

Charles Ingebritsen, senior desk clerk at the El Cortez Hotel, testified that he handles reservations for transportation to SFO and has found existing services to be more than adequate. However, he believed that applicant's service might add a convenience factor in that, in his view, taxi drivers are notorious for not wanting to take people on short trips, such as to the downtown terminal. He said he was not happy with the way taxicabs deal with people who are going on short trips.

Ingebritsen further testified that Airporter's now discontinued free shuttle service from downtown hotels to the Airporter terminal was met with almost negligible acceptance by guests and reasoned that guests may have felt inconvenienced by a double-stop service, requiring them to board first at the hotel and then transfer at the Airporter terminal.

Ruiz testified that Lorrie's has no problem handling requests for service. However, there are times when Lorrie's cannot pick up people because they call about an hour before they want to be at the airport or call when Lorrie's vans have already passed the part of San Francisco where the caller is waiting.

Airporter's witnesses included William Lazar, president and general manager of Luxor Cab Co., and James Steele, president and general manager of Yellow Cab Cooperative. Lazar testified that Luxor Cab Co. opposes the application because tourist business, in his words, dropped tremendously and competition has increased tremendously between downtown San Francisco and SFO. Steele testified that there is no need for the proposed service since declining airport traffic means that more than enough cabs and other forms of transportation are available.

Both Lazar and Steele testified that they have received no complaints that cabdrivers have refused to convey passengers. However, Steele agreed that a tourist would be the least likely person to make such a complaint, and Lazar agreed that some cabdrivers probably do refuse to carry passengers short distances.

Gordon Esposito, general manager of Airporter, testified that he has never received any complaints about the service he offers. While Esposito admitted having heard that cabdrivers are reluctant for a short haul, he did not know the magnitude of the problem or if there is a problem.

After reviewing the evidence on the question of need, staff argues that persons wishing to avoid the higher cost of a taxicab from the Geary Street hotels must either take an Airporter bus or a Lorrie's van, and that these services have been inadequate for the smaller hotels. David's Hotel, for example, has found it necessary to supply its own shuttle service and Ruiz believes other hotels will do the same. But separate vans for each hotel would add greatly to congestion, pollution, and use of energy.

Staff believes that Lorrie's on-call service is not flexible enough to aid patrons who give short notice or who are not positioned conveniently to Lorrie's routes.

Airporter's service is not convenient for patrons with luggage, particularly since cabdrivers are reluctant to take them the short distance, according to staff.

Staff concludes that a scheduled service to the six hotels, as proposed by applicant, could solve these problems. A van would be at each hotel every hour without the necessity of phone calls or notice by patrons. These patrons would not be required to transport themselves and their baggage to a terminal. Thus, service gaps left by Lorrie's and Airporter would be filled.

We concur with staff that there is a need for the proposed service which neither Airporter nor Lorrie's stands ready, willing, and able to provide.

#### Applicant Proposes a Dissimilar Service

In its closing brief, staff urges approval of this application and contends that the competition clause of Public Utilities (PU) Code § 1032 is inapplicable because Sharabi proposes a dissimilar service to that provided by existing carriers.

Staff notes that the territory which Sharabi proposes to serve is already served by certificated carriers, including Airporter and Lorrie's. However, as the existing transportation is dissimilar to Sharabi's proposal to provide a regularly scheduled passenger stage service between each of six Geary Street hotels and SFO, the code does not preclude the Commission from approving it (Greyhound Lines, Inc. v Public Utilities Commission (1968) 68 C 2d 406, 418; see: Orange Coast Sightseeing Co. (1969) 70 CPUC 479, 491; Tramway Trans. & Sightseeing Tours (1976) 80 CPUC 1, 4; Stuart Alan Messnick, (1977) 81 CPUC 370, 374-6.)



Exhibit 14, prepared by staff witness Erik Juul, describes seven passenger carriers operating between the downtown hotels and SFO. The report indicates that Samtrans is not certificated by the CPUC and that National Executive Services, Inc. is not operating in this territory at the present time. Thus, five certificated passenger stage corporations serve this territory.

Agentours, Inc. is an on-call carrier limited to carrying a minimum of five foreign-speaking visitors. This specialized service cannot be compared to that proposed by applicant, according to staff.

J. R. Zavaleta and Associated are luxury sedan limousine services. J. R. Zavaleta is authorized to provide such service from any point in San Francisco to SFO. Of the six hotels, Associated is authorized to serve only the Jack Tar Hotel. Witnesses from Associated agreed that the company infrequently serves the Jack Tar Hotel and that limousine services compete only slightly with nonlimousine services. The on-call limousine services of these two carriers are thus dissimilar from the regularly scheduled mini-van service proposed by applicant.

Lorrie's provides on-call service between its San Francisco service area and SFO and requires reservations two hours before pickup time, although the company will attempt to provide service upon less notice. While Lorrie's service area includes the six hotels which applicant proposes to serve, Lorrie's is not authorized to provide and does not provide scheduled service from the hotels to SFO as proposed by applicant.

Airporter provides scheduled service between its terminal located at the corner of Ellis and Taylor Streets in San Francisco and SFO. The company does not provide any regularly scheduled service directly between hotels in question and SFO, as proposed by applicant.

Staff's analysis is that applicant has proposed a service dissimilar to services provided by existing passenger stage corporations serving the same territory. It concludes that the competition clause of PU Code § 1032 is inapplicable to this case and does not preclude granting the requested authority.

We concur in the staff analysis and find that there are no existing transportation services between the hotels sought to be served by Sharabi so similar as to invoke the prerequisite set forth in PU Code § 1032.

To permit applicant to take advantage of the convention season, this order should be effective today. ✓

Findings of Fact

1. Applicant proposes a direct scheduled service between six specified hotels in downtown San Francisco and SFO.
2. Airporter and Lorrie's are presently providing service between San Francisco and SFO, but Airporter's scheduled service is to and from its San Francisco terminal, and Lorrie's direct service is on an on-call basis.
3. Neither Airporter nor Lorrie's stands ready, willing, and able to provide the service that applicant proposes.
4. Applicant's proposed service is dissimilar to that of any existing certificated carrier serving the Geary Street hotels.
5. Public convenience and necessity require applicant's service as proposed.
6. Applicant has the necessary equipment, experience, ability, fitness, and financial ability to conduct the proposed service.
7. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Conclusion of Law

The application should be granted.

Only the amount paid to the State for operative rights may be used in rate fixing. The State may grant any number of rights and may cancel or modify the monopoly feature of these rights at any time.

ORDER AFTER REHEARING

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Arik Sharabi authorizing him to operate as a passenger stage corporation, as defined in PU Code § 226, between the points and over the routes set forth in Appendix PSC-1169 to transport persons, baggage, and/or express.

2. 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 his 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.

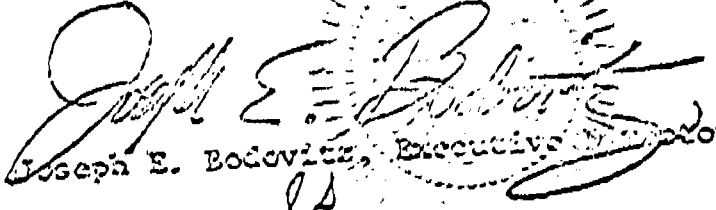
- d. Comply with General Orders Series 79, 98, 101, and 104, and the California Highway Patrol safety rules.
- e. Maintain accounting records in conformity with the Uniform System of Accounts.

This order is effective today.

Dated NOV 3 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 MEET.

  
Joseph E. Bodovitz, Executive Director

T/vcp/jn \*

Appendix PSC-1169

Arik Sharabi

Original Title Page

CERTIFICATE  
OF  
PUBLIC CONVENIENCE AND NECESSITY  
AS A PASSENGER STAGE CORPORATION  
PSC-1169

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 82-11-037, dated November 3, 1982, of the Public Utilities Commission of the State of California, in Application 60511.

SECTION 1. GENERAL AUTHORIZATION, RESTRICTIONS, LIMITATIONS,  
AND SPECIFICATIONS.

Arik Sharabi, doing business as California Mini-Bus, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to operate as a passenger stage corporation to transport persons, baggage, and express between San Francisco International Airport and hotels located on Geary Street in the downtown area of San Francisco, over and along the most direct or reasonable route or routes subject, however, to the authority of this Commission to change or modify these points or tour routes at any time and subject to the following provisions:

- a. All transportation of passengers shall originate at and shall be destined to the service points specified in Section 2.
- b. When route descriptions are given in one direction, they apply to operation in either direction unless otherwise indicated.
- c. All service authorized shall be to provide service seven days a week from 6 a.m. to 11:30 p.m.

Issued by California Public Utilities Commission.

Decision 82 11 037, Application 60511.

SECTION 2. ROUTE DESCRIPTIONS

Via the most appropriate streets and highways to service points at the following San Francisco locations:

1. Stewart Hotel, 351 Geary Street
2. David's Hotel, 480 Geary Street
3. Bellevue Hotel, 505 Geary Street
4. El Cortez Hotel, 550 Geary Street
5. Geary Hotel, 610 Geary Street
6. Cathedral Hill (formerly Jack Tar) Hotel, Van Ness Avenue and Geary Street

Then via the most appropriate streets and highways to the San Francisco International Airport.

(END OF APPENDIX)

Issued by California Public Utilities Commission.

Decision 82 11 037, Application 60511.

Staff's analysis is that applicant has proposed a service dissimilar to services provided by existing passenger stage corporations serving the same territory. It concludes that the competition clause of PU Code § 1032 is inapplicable to this case and does not preclude granting the requested authority.

We concur in the staff analysis and find that there are no existing transportation services between the hotels sought to be served by Sharabi so similar as to invoke the prerequisite set forth in PU Code § 1032.

→ Findings of Fact

1. Applicant proposes a direct scheduled service between six specified hotels in downtown San Francisco and SFO.
2. Airporter and Lorrie's are presently providing service between San Francisco and SFO, but Airporter's scheduled service is to and from its San Francisco terminal, and Lorrie's direct service is on an on-call basis.
3. Neither Airporter nor Lorrie's stands ready, willing, and able to provide the service that applicant proposes.
4. Applicant's proposed service is dissimilar to that of any existing certificated carrier serving the Geary Street hotels.
5. Public convenience and necessity require applicant's service as proposed.
6. Applicant has the necessary equipment, experience, ability, fitness, and financial ability to conduct the proposed service.
7. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

*To permit applicant to take advantage of the  
convention season, this order should be  
effective today.*



- d. Comply with General Orders Series 70, 98, 101, and 104, and the California Highway Patrol safety rules.
- e. Maintain accounting records in conformity with the Uniform System of Accounts.

SS

This order ~~becomes~~<sup>is</sup> effective ~~30 days from today.~~

Dated NOV 3 1982, at San Francisco, California.

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

T/vcp

Appendix PSC-1169

Arik Sharabi

Original Title Page

CERTIFICATE  
OF  
PUBLIC CONVENIENCE AND NECESSITY  
AS A PASSENGER STAGE CORPORATION  
PSC-1169

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 82 11 037, of the Public  
Utilities Commission of the State of California, in  
Application 60511.