

ORIGINAL

Decision 82 12 037 DEC 1 1982

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Vada Incorporated  
dba The Great Pacific Tour Company  
for Certificate of Public  
Convenience and Necessity  
authorizing the Applicant to  
operate a Passenger Stage service  
with sightseeing tours available  
to the public on a per capita  
round-trip basis from, in and back  
to points in San Francisco, Marin,  
Sonoma, Napa, San Mateo, Santa  
Clara, Santa Cruz, and Monterey  
Counties, pursuant to the  
provisions of the Public Utilities  
Code of the State of California.

Application 82-09-03  
(Filed September 3, 1982)

Mini Charter Co.,

Complainant,

vs.

Vada Incorporated, dba  
The Great Pacific Tour Co.,  
dba Tour Transport,

Defendant.

Case 82-07-07  
(Filed July 23, 1982)

O'Connor Limousine Service, Inc.,  
dba O'Connor Tour Service,

Complainant,

vs.

Vada Incorporated, dba The Great  
Pacific Tour Company, and Tour  
Transport, Inc., a corporation,

Defendants.

Case 82-10-01  
(Filed October 1, 1982)

INTERIM OPINION

Vada Incorporated (applicant), dba The Great Pacific Tour Company, requests a certificate of public convenience and necessity under Public Utilities (PU) Code § 1031 to conduct sightseeing-tour operations. Applicant proposes to offer minibus tours of San Francisco, Sausalito, Muir Woods, The Sonoma-Napa wine country, and the Santa Cruz-Monterey-Carmel area. All will originate in and return to San Francisco. It plans to charter vehicles. The principal charterer will be Tour Transport, Inc., which holds charter-party authority.

In Decision (D.) 93726 in Application 59818 et al., issued November 13, 1981, we found that sightseeing-tour service over a loop is not that of a passenger stage corporation. However, the portion of that decision completely eliminating our regulation over sightseeing-tour carriers will not become effective until after judicial review. We announced in D.93726, and confirmed in D.82-09-087 issued September 22, 1982 (opinion on rehearing), that during this transitional period we would grant pending applications ex parte with temporary operating authority upon a showing that applicant had adequate public liability insurance. Accordingly, we will grant this application.

On July 23, 1982, Ronald H. Davis, dba Mini Charter Co., filed a complaint against applicant (Case (C.) 82-07-07). The complaint contends that applicant has been operating a minibus tour business and argues that such an operation requires a certificate of public convenience and necessity. Davis requested temporary and permanent restraining orders. Davis holds a certificate from this Commission (PSC-1013) to conduct competitive minibus tours. On October 1, 1982 O'Connor Limousine Service, Inc. (O'Connor) also filed a complaint against applicant and its affiliate, Tour Transport, Inc. (C.82-10-01).

The allegations in the O'Connor complaint are generally the same as in the David complaint. O'Connor requests the Commission institute action against applicant and its affiliate to stop them and to penalize them for their alleged illegal activities.

The complaints were served. Applicant did not deny and has not denied that it has in fact been so operating. It has not claimed that it is ignorant of or has misunderstood the requirements of the interim program intended to fill the gaps while D.93726 is in litigation.

The record includes correspondence indicating that applicant was covered by public liability insurance as an additional insured as long as it used the buses of Tour Transport, Inc., its affiliate. Complainants have not alleged that applicant has ever operated without insurance. We do not believe that conducting insured but unauthorized operations is sufficient evidence to warrant a finding of unfitness even if the allegations are true. Consequently, we will grant interim authority and deny complainants' request for an interim cease and desist order. Applicant will have authority to operate in its own name; therefore, operations in connection with, or through, applicant's affiliate will no longer be conducted by applicant. Accordingly, no cease and desist order against Tour Transport, Inc. is necessary.

#### Findings of Fact

1. The proposed operations are sightseeing-tour service over a loop.
2. 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. Temporary operating authority as requested in the application should be granted.

2. Since there is an alleged need for the proposed service and liability insurance set by General Order 101 will be required before operations begin, the following order should be effective today.

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.

INTERIM ORDER

IT IS ORDERED that:

1. Vada Incorporated is granted a temporary certificate of public convenience and necessity to operate a sightseeing-tour service over the routes and with the equipment proposed in the application until further order of the Commission and is assigned Passenger Stage Corporation PSC-1266. A permanent certificate prepared by this Commission may be issued by a final order.

2. Applicant shall:

- a. File a written acceptance of this authority 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 (CHP) safety rules.

- e. Notify the Commission and CHP of any addition or deletion of vehicle(s) used in the service prior to the fact.
- f. Maintain accounting records in conformity with the Uniform System of Accounts.

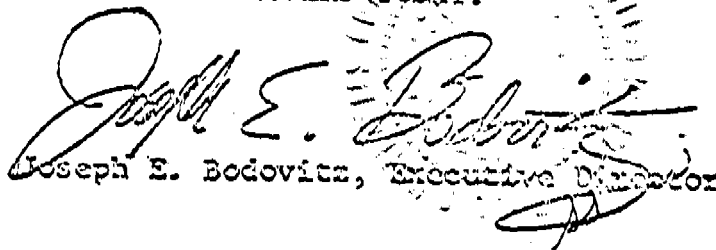
3. The request of Ronald H. Davis and O'Connor Limousine Service, Inc. that the Commission take action against Vada Incorporated and Tour Transport, Inc. to stop them from engaging in alleged illegal activities is temporarily set aside pending final disposition by the court of Commission D.82-09-087 in SF 24484, 6, 7, and 8.

This order is effective today.

Dated DEC 1 1982, at San Francisco, California.

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

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

  
Joseph E. Bodovitz, Executive Director