

Decision 83 01 043 JAN 12 1983

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SUBMITTED

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of LIN LINES, INC., 700 East Tahquitz, Suite A, Palm Springs, CA 92262, for a Class B charter bus certificate from home terminal in Oceanside, CA.

Application 82-06-11
(Filed June 3, 1982;
amended October 22, 1982
and November 5, 1982)

O P I N I O N

Lin Lines, Inc. (applicant) seeks a Class B certificate of public convenience and necessity to operate as a charter-party carrier of passengers from a service area with a 40-mile radius from its home terminal at 612 Fourth Street, Oceanside.

Notice of the filing of this application appeared in the Commission's Daily Calendar of June 4, 1982. Notice was also provided to 19 potential competitors of applicant. Three of those parties, Vista Charter Service, Inc. (Vista), Goodall's Charter Bus Service, Inc. (Goodall's), and Sundance Stage Lines, Inc. (Sundance) filed timely protests and requests for hearing. A hearing was scheduled. It was taken off calendar at applicant's request. Applicant filed a restrictive amendment to its application and the three protests were withdrawn.

The restrictions are as follows:

"Applicant agrees to limit the number of buses at the Oceanside terminal to two and further agrees to restrict charter activities from the Oceanside terminal to only those charter moves which are under contract to Gadabout Tours, Inc."^{1/}

^{1/} By letter dated August 4, 1982 applicant's president states that applicant and Gadabout Tours, Inc. (Gadabout) "were of the same ownership".

If applicant ever wishes to have these restrictions modified or removed from its Oceanside certificate, it may file an application requesting such action.

On June 3, 1982 applicant also filed Application (A.) 82-06-12 requesting a Class B charter-party certificate from a terminal in Palm Springs. Notice of that filing was sent to six carriers including Desert Stage Lines (DSL). By protest letter dated June 23, 1982 DSL states:

"The application of LIN LINES, INC. for a certificate of public convenience and necessity to operate as a Class B Charter Party Carrier is opposed and protested.

"The notice of filing requested authority to operate from a home terminal at Palm Springs, California when, in fact, information received at this company indicates that the applicant is also filing for a Class B permit in other large metropolitan areas of southern California.

"It is felt that requesting several Class B permits violates the spirit and legal meaning of this service. It is felt that if the applicant desires to operate as a Class A carrier then the applicant should file and follow the established procedures as set forth by the Public Utilities Commission."

The two-terminal issue was recently addressed in Decision 82-04-029 dated April 6, 1982 in A.60534, which states in pertinent part:

"Applicant already has a Class B charter-party certificate to conduct operations from a home terminal in Southern California. Granting this application means applicant will have a second home terminal, which is not prohibited by Public Utilities Code § 5371.2. However, it means applicant

must maintain two terminals. If it ceases to maintain one of its terminals, the certificate allowing pickup within the particular 40 air mile radius will be revoked. Having more than one home terminal allows a Class B charter-party carrier some flexibility to dispatch and balance operations out of two pickup spheres. This is still far short of the operational flexibility afforded the grandfathered Class A certificate holder who is unrestricted as to where charter groups can be picked up within the State." (See mimeo. page 7.)

DSL's letter does not set forth sufficient grounds for holding a hearing in this matter. Furthermore, the letter is not considered a protest, because it does not comply with Rules 8.1, 8.4, and 8.5 of the Rules of Practice and Procedure.

On September 1, 1982, applicant's assets were \$349,506, including \$306,596 for motor vehicle equipment, \$14,196 in cash, and \$11,540 in accounts receivable. Its liabilities of \$322,321 consisted of \$82,588 in notes payable and a balance due of \$239,733 on motor vehicle equipment. On that date its net worth was \$27,185.

Applicant estimates first year operating revenues of \$187,000 and operating expenses of \$69,240 for its proposed operations. However, applicant's estimate does not include any allowances for depreciation, administrative expenses, or taxes other than income taxes.

Applicant's president has 20 years of experience in motor-coach tour operations. The application shows that applicant proposes to use two 1982 MC-9 42-passenger buses in its Oceanside charter operations. The Commission received several letters from tour group organizers, travel agencies,

applicant's bank, and the Palm Springs Chamber of Commerce supporting the subject application. The letters state there is a need for the high quality motor-coach equipment proposed to be operated by applicant. Comments in the letters indicate a desire by the writers to charter applicant's equipment; speak approvingly of tours organized by applicant's president, including the tour service rendered by applicant in interstate commerce; and/or indicate a high regard for applicant and its president.

Findings of Fact

1. Applicant has the fitness, equipment, and financial resources to perform the proposed service.
2. Public convenience and necessity require the service proposed by applicant.
3. A public hearing is not necessary.
4. Applicant should be authorized to pick up passengers within a radius of 40 air miles from its home terminal at 612 Fourth Street, Oceanside.
5. Vista, Goodall's, and Sundance withdrew their protests when applicant agreed to operate not more than two buses out of its Oceanside terminal and to limit its Oceanside operations to charters made under contract with Gadabout.
6. 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. Public convenience and necessity require that the requested authority be issued subject to the restriction on applicant's operations contained in Finding 5.

2. Applicant should be authorized to operate not more than two buses out of its Oceanside terminal. It should be required to limit its Oceanside operations to charters made under contract with Gadabout.

3. DSL's letter does not set forth sufficient grounds for holding a hearing in this matter. Furthermore, the letter is not considered a protest, because it does not comply with Rules 8.1, 8.4, and 8.5 of the Rules of Practice and Procedure.

4. The following order should be effective on the date of signature because there is a public need for the proposed service.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity, to be renewed each year, is granted to Lin Lines, Inc., authorizing it to operate as a Class B charter-party carrier of passengers, as defined in Public Utilities Code Section 5383, from a service area with a radius of 40 air miles from its home terminal at 612 Fourth Street, Oceanside. Applicant shall be authorized to operate not more than two buses out of its Oceanside terminal and it shall be required to limit its Oceanside operations to charters be made under contract with Gadabout Tours, Inc.

2. Applicant shall:

- a. Obtain California Highway Patrol (CHP) clearance for each vehicle to be used in this Class B charter-party operation.
- b. Notify the Commission and CHP of any addition or deletion of vehicle(s) used in the service prior to use.
- c. Establish the authorized service within 360 days after this order is effective.

3. The Passenger Operations Branch will issue the annual renewable certificate on Form PE-695 as authorized by Resolution PE-303 when it receives CHP clearances and evidence of liability protection in compliance with General Order Series 115.

4. In providing service under the certificate, applicant shall comply with General Orders Series 98 and 115 and the CHP safety rules.

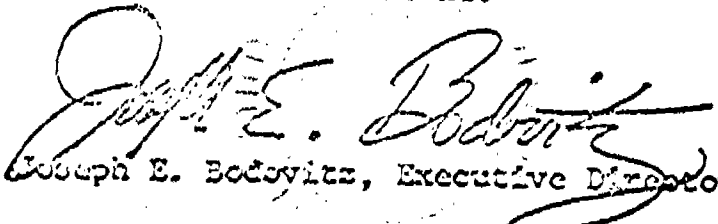
5. This certificate does not authorize the holder to conduct any operations on the property of or into any airport unless such operation is authorized by the airport authority involved.

This order is effective today.

Dated January 12, 1983, at San Francisco, California.

LEONARD M. GRIMES, JR.
President
VICTOR CALVO
PRISCILLA C. GREW
DONALD VIAL
Commissioners

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


Joseph E. Bojovitz, Executive Director

3. The Passenger Operations Branch will issue the annual renewable certificate on Form PE-695 as authorized by Resolution PE-303 when it receives CHP clearances and evidence of liability protection in compliance with General Order Series 115.

4. In providing service under the certificate, applicant shall comply with General Orders Series 98 and 115 and the CHP safety rules.

This order is effective today.

Dated _____, at San Francisco, California.

5. 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 the airport authority involved.

3. The Passenger Operations Branch will issue the annual renewable certificate on Form PE-695 as authorized by Resolution PE-303 when it receives CHP clearances and evidence of liability protection in compliance with General Order Series 115.

4. In providing service under the certificate, applicant shall comply with General Orders Series 92 and 115 and the CHP safety rules.

This order is effective today.

Dated JAN 12 1983, at San Francisco, California.

5. This certificate does not authorize the holder to conduct any operations on the property or into any airport unless such operation is authorized by the airport authority involved.

LEONARD M. GRIMES, JR.
President
VICTOR CALVO
FRISCELLA C. CREW
DONALD VIAL
Commissioners