

Decision S3 04 022 APR 6 1983

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
Associated Limousine Operators of)
San Francisco, Incorporated, for)
authority to adjust its rates and)
to amend its certificate.)

Application 82-03-20
(Filed March 5, 1982;
amended April 28, 1982)

Lorrie's Travel & Tours, Inc.,)
Complainant,)

vs)

Case 11038
(Filed October 9, 1981)

Associated Limousine Operators of)
San Francisco, Inc.: Does)
I - X, inclusive,)
Defendant.)

Robert Oziel and Ira Wulkan, for
Associated Limousine Operators
of San Francisco, Incorporated,
applicant and defendant.
Clapp & Custer, by James Clapp,
Attorney at Law, for Lorrie's
Travel & Tours, Inc., complainant.
Ray Greene, Attorney at Law, for
SFO Airporter, Inc., protestant.
R. E. Douglas, for the Commission
staff.

O P I N I O N

Complainant Lorrie's Travel & Tours, Inc. (Lorrie's) is a passenger stage corporation offering an airport shuttle service between San Francisco and the city's airport (SFO) in San Mateo County.

Defendant and applicant Associated Limousine Operators (ALO) of San Francisco, Incorporated, is composed of several individuals who own and operate limousines. ALO's primary service between SFO and the city is an unscheduled operation which provides

vehicle and driver under charter with charges calculated on a per-mile or per-hour-basis for exclusive use. It holds charter-party carrier authority from this Commission to provide this service.

However, in order to provide airport service on a share-the-ride basis, ALO applied for and received a passenger stage certificate set forth in Decision (D.) 86459.¹ Under the certificate, ALO was authorized to charge per capita fares on transportation between SFO and "[t]he following named Class A San Francisco hotels and such other hotels as meet the same standards..." (Emphasis added.) The appended list named 23 hotels. When these proceedings were instituted, applicant's tariff specified a \$6 per person one-way fare with a \$18 minimum fare.

Lorrie's complaint alleged that defendant picked up and discharged per capita fare passengers at hotels other than those listed in its certificate, specifically the Cecil, the David, and the Savoy. It was also alleged that defendant did not always charge the \$18 minimum fare when carrying fewer than three passengers. It was further alleged that defendant:

1. Operated on a scheduled, rather than on an on-call basis, and did not offer service round the clock.
2. Carried individual fares and chartered passengers in the same vehicle at the same time.
3. Employed advertising which failed to accurately inform the public concerning fares and service.

Because of settlement negotiations, prehearing conference was deferred until March 22, 1982. An answer was filed on June 11, 1982.

¹ In Application 56228.

Meanwhile, on March 5, 1982, the application was filed by ALO, asking for an increase in rates. The proposed new per capita fare was \$8 with no minimum charge. It was also proposed to add 22 new hotels to the list in the certificate including the Cecil and the David.

SFO Airporter protested and requested hearing. It claimed that its schedules operated with substantial unused capacity. It argued that there will be no need for the proposed additional service.

Lorrie's also protested. Pointing out that its own service is operated on-call, it argued that the proposed additions to the list of hotels would cover points it also serves. It argued that raising applicant's fares would produce destructive competition since the added revenue would, instead of being used to defray higher operating costs, support the payment of larger commissions to hotel personnel. Lorrie's predicted that destabilizing the present level of payments would produce a "commission war," forcing all competing carriers to raise fares to meet escalating commission demands.

Lorrie's argues that the application, if granted, would change the character of applicant's business and, therefore, that a showing of public convenience and necessity should be required.

An amendment to the application was filed on April 28, 1982. The request for changes in applicant's certificate was withdrawn, apparently in the mistaken belief that the protest to the fare increase would be withdrawn so that the increase would be approved without hearing.

The matters were consolidated. Hearings were held before Administrative Law Judge Gilman on June 17, September 28, and October 25, 1982 in San Francisco. At the last hearing, a stipulation settling the issues was presented for Commission approval.

The Stipulation

The opposition to a fare increase has now been dropped on condition that applicant continue to charge a minimum amount per trip equal to three times the individual fare.

It is stipulated that applicant's certificate can be amended so that all service to unnamed hotels is eliminated; it will now be authorized to pick up and deliver only at specified points. If it wishes to add other hotels to the list, it will be required to file an application and if challenged prove public convenience and necessity.

In written advertisements which mention the new \$8 per capita rate, applicant will be required to state that a single rider can be transported for \$24, two riders for \$12 each.

The question of commissions to hotel personnel is to be disposed of by a notice requirement. Complainant and applicant acknowledge that the present commission is no more than \$1 per passenger; if applicant proposes to pay more it will give 20 days written notice to the Commission and protestant.

Finally the proposal to modify the children's fare rule² is now unopposed.

² The present rule reads: "One child not older than six (6) years of age will be transported free when accompanied by an adult. Additional children six or under will be charged $\frac{1}{2}$ the adult fare. All children over six (6) and under 12 (twelve) will be charged $\frac{1}{2}$ the adult fare. All children 12 (twelve) and older will be charged the full fare."

The new rule would provide: "Children two years or younger who do not require individual seating shall ride free. Children two years to twelve years shall be charged $\frac{1}{2}$ the adult fare. Children twelve years or older shall pay full fare."

Analysis

The application included the following allegation as an analysis of the effect of the rate increase.

	<u>Passenger Stage</u>	<u>Charter</u>	<u>Total</u>
<u>Present Fares</u>			
Revenue	\$207,360	\$535,563	\$742,923
Miles	198,720	382,545	581,265
Operating Expenses	260,583	505,837	766,420
Revenue/Mile	1.04	1.40	
Operating Expenses	34%	66%	100%
Operating Ratio			103.2%
<u>Proposed Fares</u>			
Revenue	\$270,000	\$600,000*	\$870,000
Miles	200,000	400,000	600,000
Operating Expense	264,000	563,000	827,000
Revenue/Mile	1.35	1.50	
Operating Revenues	33%	67%	100%
Operating Ratio			95.05% ✓

*Charter rates may be increased without Commission authorization. (Cf. PU Code § 5375.)

We note applicant's is a luxury service aimed only at those who can afford to stay at San Francisco's most expensive hotels. Moreover, applicant's service is different from SFO Airporter: if applicant's patrons think its charges are excessive, they are free to patronize no-frills carriers such as protestant SFO Airporter or city-regulated airport taxi services.

The stipulated modification to ADO's certificate eliminates an ambiguity which would otherwise have caused unproductive litigation. It is therefore acceptable.

The notice requirement concerning an increase in commission payments does not resolve any legal and policy questions underlying the

commissions issue. The stipulation operates merely as an agreement to postpone further litigation. However, the public interest is not served by this part of the stipulation since competing carriers are continuously changing the commissions paid as part of their competitive strategy, and it would be impractical and difficult to enforce.

The requirement for a specific description of the minimum fare is in the public interest and should be adopted without further analysis.

In summary there appears no reason to believe that any aspect of the stipulation is adverse to the public interest with the exception of requiring notice to the parties of any increase in commissions payments. It will therefore be adopted as the basis for closing these proceedings.

Findings of Fact

1. Insofar as this order enlarges ALO's operating territory, the new services are required by public convenience and necessity. Insofar as ALO's authority is reduced by this order the omitted services are no longer needed by the public.

2. When ALO's certificate is amended to specify each hotel served, the area description now included in the certificate would make the certificate ambiguous; it serves no useful purpose. It should be eliminated.

3. The commissions now paid by ALO to hotel employees for ticket sales do not exceed \$1 per ticket.

4. ALO's written advertisements should clearly describe its charges including the minimum fare.

5. Describing the fare structure as "\$24.00 for a single passenger, \$12.00 each for two passengers, and \$8.00 each for three or more passengers" is a clear description of ALO's fare structure.

6. The increases in rates and charges authorized by this decision are justified and are reasonable and nondiscriminatory. The changes in children's fare rules are nondiscriminatory.

7. Competing carriers are continuously changing the commissions paid as part of their competitive strategy. A requirement for notification of changes in commissions paid would be impractical and difficult to enforce.

8. No aspect of the stipulation is adverse to the public interest, except the requirement for notice of increases in commissions paid.

Conclusions of Law

1. ALO should be authorized to increase its airport fares to \$8 with a \$24 minimum, and modify its children's fare rule as proposed.

2. ALO's certificate should be amended so that all of its authorized pickup points in San Francisco are specified by name; the area description should be eliminated.

3. ALO should be required to use the specified language in Finding 5 to describe its fares in written advertisements.

4. ALO should be required to notify all appearances before increasing commissions.

5. The stipulation should be adopted, with exception noted in Finding 8.

6. The complaint in C.11038 should be dismissed without prejudice.

O R D E R

IT IS ORDERED that:

1. Associated Limousine Operators of San Francisco, Incorporated (ALO) is authorized to establish the increased rates and to make the rule changes as stipulated. Tariffs shall be filed not earlier than the effective date of this order. They may go into effect 5 days or more after the effective date of this order on not less than 5 days' notice to the Commission and to the public.

2. The authority to increase fares shall expire unless exercised within 90 days after the effective date of this order.

3. Appendix A of Decision 86459 is amended by replacing First Revised Page 2 and Original Page 3 with Second Revised Page 2 and First Revised Page 3 as set forth in Appendix PSC-1005 of this decision.

4. In any written advertisement circular or poster which is intended to publicize ALO's per capita rates it shall state that the San Francisco - SFO fare is \$8 for three or more adult passengers, \$12 each for two adult passengers, and \$24 for a single adult passenger. ✓

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. |

6. Case 11038 is dismissed without prejudice. ✓

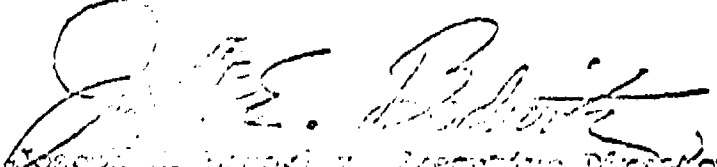
This order becomes effective 30 days from today.

Dated APR 6 1983, at San Francisco, California.

LEONARD M. GRIMES, JR.
President

VICTOR CALVO
PRISCILLA C. CREW
DONALD VILL
Commissioners

I CERTIFY THAT THIS DECISION
WAS ADOPTED BY THE ABOVE
COMMISSIONERS BOARD.


Joseph A. Bloustein, Executive Director

Appendix PSC-1005
(D.86459)
(D.86868)

ASSOCIATED LIMOUSINE OPERATORS
OF SAN FRANCISCO, INCORPORATED

Second Revised Page 2
Cancels
First Revised Page 2

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

Associated Limousine Operators of San Francisco, Incorporated, a corporation, by the Certificate of Public Convenience and Necessity granted by the Decision noted in the margin, is authorized as a passenger stage corporation to transport passengers and their baggage *between San Francisco hotels as hereinafter described, on the one hand, and the San Francisco International Airport, on the other hand, via any routes, subject to the authority of this Commission to change or modify said routes at any time and subject to the following provisions:

- (a) The service shall be on-call, 24 hours per day, seven days per week, and shall be prearranged on an individual-trip basis at least two hours in advance of the commencement of a service from an "off-airport" location and during the certificate holder's office hours of 7:00 a.m. to 10:45 p.m. each day.
- (b) The service shall be provided in luxury sedan limousines with a seating capacity of one driver and eight passengers.
- (c) The service shall be limited to transportation between the San Francisco International Airport, on the one hand, and the following

Issued by California Public Utilities Commission.

*Revised by Decision S3 04 072, Application 82-03-20.

Appendix PSC-1005
(D.86459)

ASSOCIATED LIMOUSINE OPERATORS
OF SAN FRANCISCO, INCORPORATED

First Revised Page 3
Cancels
Original Page 3

SECTION 1. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS,
AND SPECIFICATIONS. (Continued)

*named San Francisco hotels, on the other hand: Fairmont, Mark Hopkins, Sheraton-Palace, St. Francis, Sir Francis Drake, Clift, Cathedral Hill Hotel, San Francisco Hilton, Huntington, Holiday Inn - Civic Center, Holiday Inn - Financial District, Holiday Inn - Fisherman's Wharf, Holiday Inn - Golden Gateway, Holiday Inn - Union Square, The Stanford Court, Hyatt Regency Hotel, Hyatt Union Square Hotel, Miyako Hotel, Quality Motor Hotel, Ramada Inn, and Sheraton-at-the-Wharf.

Issued by California Public Utilities Commission.

*Revised by Decision 83 04 022, Application 82-03-20.



Analysis

The application included the following allegation as an analysis of the effect of the rate increase.

	<u>Passenger Stage</u>	<u>Charter</u>	<u>Total</u>
<u>Present Fares</u>			
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<u>Proposed Fares</u>			
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Miles	200,000	400,000	600,000
Operating Expense	264,000	563,000	827,000
Revenue/Mile	1.35	1.50	
Operating Revenues	33%	67%	100%
Operating Ratio			91%

*Charter rates may be increased without Commission authorization. (Cf. PU Code § 5375.)

We note applicant's is a luxury service aimed only at those who can afford to stay at San Francisco's most expensive hotels. Moreover, applicant's service is different from SFO Airporter; if applicant's patrons think its charges are excessive, they are free to patronize no-frills carriers such as protestant SFO Airporter or city-regulated airport taxi services.

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