

ORIGINAL

Decision 83 04 054 APR 6 1983

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of TIFFANY TOUR & TRAVEL SERVICE,)
INC. for the request of a certifi-)
cate of public service between)
locations in the Los Angeles)
International Airport area)
including the airport proper to)
various points located in the)
downtown area of the City of)
Los Angeles.)

Application 82-10-28
(Filed October 14, 1982;
amended November 22, 1982)

Jerry H. Green, Attorney at Law, for Tiffany
Tour & Travel Service, Inc., applicant.
James H. Lyons, Attorney at Law, for Airport
Service, Inc., protestant.
James P. Jones, for United Transportation
Union, interested party.

O P I N I O N

Applicant Tiffany Tour & Travel Service, Inc. (Tiffany) seeks a certificate of public convenience and necessity to operate as a passenger stage corporation to transport passengers from several hotels and motels in the vicinity of Los Angeles International Airport (LAX or airport) and from two terminals at LAX to various locations in downtown Los Angeles. Tiffany also seeks to transport passengers from these same various locations in downtown Los Angeles to LAX. Tiffany proposes to offer three scheduled trips in each direction per day, seven days per week, using two mini coaches with space for 20 and 25 passengers, respectively, and three larger buses holding 39, 41, and 41 passengers, respectively. In addition, applicant plans to have an escort on each bus for the purpose of explaining the route and giving other information to the passengers during the ride.

Notice of the filing of the application appeared on the Commission's Daily Transportation Calendar on October 18, 1982. A protest was timely filed by Airport Service, Incorporated alleging various shortcomings in the application document itself and also alleging that the application is contrary to Public Utilities Code Section 1032, that the granting of the application would have serious adverse effect upon the revenues, schedules, and fares of Airport Service, Incorporated, that the granting of the application would contribute adversely to the atmosphere and congestion at LAX to the detriment of the public, and that the proposed service is not in the public interest. A hearing was held before Administrative Law Judge Colgan in the Commission's Courtroom in Los Angeles on December 29, 1982. Posthearing briefs were filed by both parties.

Tiffany's Showing

The one-way fare proposed for Tiffany's service is \$5. According to the testimony of Jamshid Anvaripour, president of Tiffany and its only witness, people staying at the nine hotels and motels in the airport area will have an opportunity to reserve a space on either of the three buses departing daily for downtown by informing someone at the hotel or motel in question of their desire to do so. Since it is Anvaripour's desire to assure these hotel and motel patrons of seating on the buses, he wishes the service to go first to the hotels and motels and then to Terminals Nos. 2 and 7 at LAX. There was no testimony about whether an additional bus would go to the LAX terminals if the original were filled after picking up all hotel and motel patrons wishing to ride to downtown Los Angeles.

Anvaripour stressed that this proposal does not provide service for passengers going from the hotels to the airport. Rather, he noted, it will aid the hotels in reducing their limousine shuttle to the airport for guests who wish to go downtown and can now do so only by getting to the airport where they can board a bus such as protestant's to the downtown area. We note, however, that this proposed service does not return these guests to their hotel or motel later in the day. Rather, it returns them to LAX Terminal No. 2 or No. 7 where they must either take a taxi, walk, or call their hotel or motel for its limousine service to pick them up.

While it is clear that much of the service proposed by Tiffany is duplicative of service already offered by protestant, Tiffany stresses the differences by noting the hotel and motel pickups near the airport, the five stops downtown which are not precisely duplicated by protestant, and the host on each bus. Tiffany also points out that the stops at Terminals Nos. 2 and 7 do not precisely coincide with the times of protestant's stops at those terminals. (Protestant's service operates around the clock stopping at these, as well as the other terminals at LAX at approximately one-half-hour intervals during the busiest parts of the day with somewhat longer intervals in the very early and very late parts of the day. See Exhibit 4.)

As we understand Tiffany's proposal, a tourist staying at an airport hotel and wishing to spend the day in downtown Los Angeles would be picked up at his or her hotel in the morning between 7:30 and 7:55, would arrive downtown sometime near 9 a.m., and would have a choice of returning on Tiffany's bus either between 1 and 2 p.m. or between 9 and 10 p.m., to be dropped off at the airport at either 2:30 p.m. or 10:30 p.m., whereupon he or she would have to find a way back to the hotel.

This return service does not seem consistent with Tiffany's claimed desire to provide a convenience to airport area hotel patrons or its desire to assist the hotels in eliminating limousine trips to LAX. There was no evidence presented to explain this apparent inconsistency.

Perhaps the use of hosts on such buses is a good innovation. We do not know. There was no evidence presented about that issue. And, perhaps there is a need for people staying at the airport hotels and motels to move to the downtown hotels or the Greyhound station or Union Station, which are directly served by the proposed service. We do not know because no evidence was presented to address this point either. In fact, no evidence was offered to show that there is any need for service between these hotels and motels and downtown.

In order for this Commission to grant a certificate, it must find that all the relevant elements of Rule 21 have been met either on the face of the application or through evidence elicited at a hearing. In this matter we find no evidence which constitutes "facts showing that the proposed operation is required by public convenience and necessity" as required by Rule 21(j). Thus, while we are generally favorable to the initiation of new and creative ways of meeting the public's transportation needs (see, for example, our decision involving this very same applicant, Tiffany Tour & Travel Service, Inc. (1970) 2 CPUC 2d 488, 492), we will not grant a certificate where applicant fails to make any showing that such a need exists.

In Decision 82-07-084 issued July 21, 1982 we listed seven factors to be considered in determining whether or not public convenience and necessity are sufficient to justify granting a certificate. We believe those factors pertain to this case as well. They are:

1. The public requirement for the service;
2. The adequacy of the existing service;
3. The ability of the proposed service to complement the existing service;
4. Technical feasibility of the proposed service;
5. Technical qualifications of the operator of the proposed service;
6. Financial ability of the operator of the proposed service; and
7. Economic feasibility of the proposed service.

We believe Tiffany failed to present any evidence beyond a conclusory statement in its application and unsubstantiated hearsay claims by its single witness as to the first of these factors. Therefore, we cannot grant the certificate requested at this time. However, our determination today does not prevent Tiffany from reapplying if it believes it has evidence sufficient to support its proposal.

Findings of Fact:

1. Applicant proposes to operate scheduled bus service between various stops in and around LAX and various stops in downtown Los Angeles.
2. At the hearing in this matter, applicant failed to establish "facts showing that the proposed operation is required by public convenience and necessity" as required by Commission Rule 21(j).

Conclusion of Law

This application should be denied for failure of applicant to meet its burden of proof.

O R D E R

IT IS ORDERED that the application of Tiffany Tour & Travel Service, Inc. for a certificate of public convenience and necessity is denied without prejudice.

This order becomes effective 30 days from today.

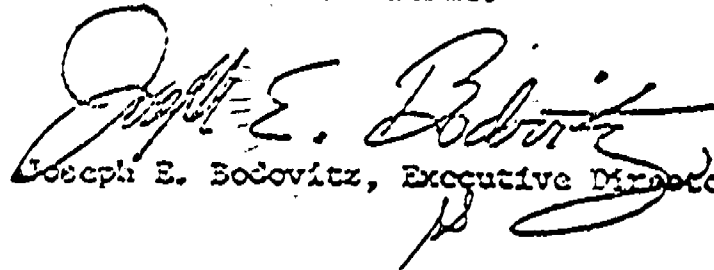
Dated APR 6 1983, at San Francisco, California.

I dissent.

VICTOR CALVO, Commissioner

LEONARD M. GRIMES, JR.
President
FRISCILLA C. GREW
DONALD VIAL
Commissioners

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


Joseph E. Bodovitz, Executive Director