

ORIGINAL

Decision 83 09 051 SEP 7 1983

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of HUDSON AVIATION SERVICES,)	
INC. CALIFORNIA for a certificate of)	
public convenience and necessity to)	
operate as a passenger stage corpora-)	Application 83-01-44
tion for the transportation of passengers)	(Filed January 20, 1983)
and express in scheduled bus service)	
between Los Angeles International)	
Airport and the Cities of Beverly Hills)	
and Westwood, California.)	
_____)	

Warren N. Grossman, Attorney at Law, for applicant.
James H. Lyons, Attorney at Law, for Airport Service, Incorporated, protestant.
James P. Jones, for United Transportation Union; and K. D. Walpert, for Department of Transportation, City of Los Angeles; interested parties.

O P I N I O N

Applicant Hudson Aviation Services, Inc. California (Hudson) requests that it be issued a certificate of public convenience and necessity under Public Utilities (PU) Code Section 1031, et seq., to establish and operate a passenger stage corporation for the transportation of passengers between Los Angeles International Airport (LAX) and the City of Beverly Hills and that portion of the City of Los Angeles commonly known as Westwood, California. Hudson proposes to acquire and use vans with 11-passenger capacity in its intended one-way round-trip transportation service between the above locations. The

service will operate from 6:00 a.m. to 10:30 p.m., seven days a week, and will pick up and drop passengers off at their homes, businesses, or hotels within the intended service area either with or without advance reservations.

Airport Service, Incorporated (protestant), a passenger stage corporation which operates between LAX and various points within the proposed territory sought to be served by Hudson, filed a protest to the application.

Following notice, a public hearing was held in Los Angeles on May 12 and 13, 1983 before Administrative Law Judge William A. Turkish. The matter was submitted on June 22, 1983 upon the receipt of concurrently filed posthearing briefs.

Testimony on behalf of Hudson was received from 14 public witnesses and from Hudson's general manager. The public witnesses, comprised of tour operators, hotel employees, and representatives of senior citizen groups, described the proposed service as desirable and beneficial to senior citizens residing in the proposed service area, to tour operators who have small groups of tourists or conventioneers arriving at LAX at different times, and to hotel guests who will be provided with the van form of transportation as an alternative to bus or taxi service to LAX. Four witnesses, including the president of protestant, testified on behalf of protestant.

The following is a summary of the evidence presented by Hudson's general manager:

1. Hudson is a wholly owned subsidiary of Hudson General Corporation which controls a number of corporations engaged in passenger transportation throughout the United States and Canada. Hudson is headquartered in the LAX area on approximately one and one-half acres of property leased from the City of Los Angeles, Department of Airports. The company employs

approximately 200 employees and provides passenger transportation between various airport parking lots and airport terminal areas in 32 buses leased from the Department of Airports.

2. Hudson also operates a busing service for construction crews engaged in current airport construction, as well as a variety of airport ground handling services. A sister corporation, Hudson Coach Lines, holds a passenger stage certificate from the Commission and operates 26 buses in charter service as well.
3. Hudson intends to offer a door-to-door transportation service between Beverly Hills/Westwood and LAX. Passengers desiring Hudson's service would telephone Hudson's reservation clerk and would be advised of the time they would be picked up by the Hudson vehicle. Arrival passengers at LAX could either phone Hudson and request pick-up or flag a Hudson vehicle at the airport curb.

Hudson intends to initially acquire six 11-passenger vans for its service and add additional vans if these six are consistently overbooked. Hudson plans to spot vans in the Beverly Hills/Westwood areas which will depart from those areas every half hour (assuming there are reservations) commencing at 6:00 a.m. with a final departure from those areas to LAX at 10:00 p.m. Vans will also be spotted at LAX, circling the airport every half hour between 7:00 a.m. and 10:30 p.m., to pick up passengers with or without reservations, for transportation to destinations within the Beverly Hills/Westwood service areas.

In the event there are no passengers during any half-hour segment, the van will either return to its spotting area at the airport until the next half-hour schedule or will be dispatched to the Beverly Hills/Westwood areas if needed there.

4. Proposed fares for the service are \$12 for adults and \$6 for children. Group fares will be \$12 for the first person and \$6 for each additional person.

Three public witnesses and the president of protestant testified in opposition to the application. The testimony of the public witnesses, all employed by hotels in or adjacent to Hudson's proposed service area, was primarily in support of the existing bus service provided by protestant.

The testimony of protestant's president and the exhibits sponsored by him can be summarized as follows:

1. The bus schedule of protestant between LAX and Beverly Hills/Century City operates approximately every hour and a half. In addition, protestant operates the West Los Angeles Fly Away Service, under contract, between LAX and a terminal located one block south of Wilshire Boulevard on Sepulveda Boulevard which is close to Hudson's intended service area of Westwood. Thus bus service operates every 30 minutes from 5:15 a.m. through 12:45 a.m. and every 90 minutes between 12:45 a.m. and 6:15 a.m.
2. Exhibit 11 reflects the number of passengers carried by protestant between LAX and four hotel terminal points served on the Beverly Hills/Century City route over the three-year period 1980-1983. The exhibit reflects that with the exceptions of the Beverly Wilshire and the Ramada Inn, passenger volume from the other two major hotels has dropped over the three-year period. Passenger volume for the Beverly Wilshire increased in 1981-1982 over 1980-1981 and showed a slight insignificant drop in 1982-1983. Volume comparisons are not possible for the Ramada Inn because this hotel was only recently added as a terminal stop. Overall, passenger volume shows a daily average of 151 in 1980-1981, a slight increase to 153 in 1981-1982, and a drop to 143 in 1982-1983.

3. Protestant opposes the granting of this application because the proposed service does not restrict its operations only to residences and thus will be free to operate from the hotels served by protestant. Thus, although difficult to determine the exact dollar impact on protestant, any deviation of passengers now being served by protestant from the four hotels in the Beverly Hills/Century City area would have a serious adverse impact on protestant. At the present, the Beverly Hills/Century City route is not a profitable one and the company is attempting to improve the terminal points on the route to help make it profitable.

Discussion

Protestant raises several arguments concerning the showing by Hudson. First, protestant argues that Hudson has failed to clearly describe the service it intends to perform. While it is true that Hudson calls its intended service a scheduled service, the evidence clearly shows the intended service is to be an on-call demand-response type of service. Hudson contemplates departures from both LAX and Beverly Hills/Westwood areas every half hour - assuming that there will be passenger demand (by reservation in Beverly Hills/Westwood and by reservation or flagging down the van at LAX) during each half-hour period. Although several of Hudson's witnesses described what they believed was to be more of a personalized service than that actually contemplated by Hudson, the differences were minor and the witnesses nonetheless believed the door-to-door pickup and dropoff was a valuable and needed service and supported the application.

Protestant disputes the argument advanced by several witnesses that the van service of Hudson was needed because of the comparative high cost of taxicab fares between LAX and hotels in Beverly Hills. Protestant points out that without reservations it would cost two people \$24 using a Hudson van, while a taxicab would only cost \$20.25, and that a family of four (two adults and two children) would pay \$36 for a van while a taxicab would charge only \$20.25. While such comparison might be true for the number of persons cited in protestant's example, the comparison made by the individual witnesses related only to the cost of a single passenger using van versus taxicab. In such instance, the cost of a Hudson van is more economical than a taxicab. In other than single-passenger comparison, it is true that the proposed rates of Hudson could exceed the taxicab fare. However, multiple passengers desiring travel between LAX and Hudson's proposed service area could, by inquiry, determine the most economical and convenient method of travel and make the decision as to which service they desire.

Protestant admits that the service, as proposed by Hudson, is a different service from that offered by protestant, but raises the argument that where an additional service is proposed, which will virtually parallel existing carriers, a clear and affirmative showing must be made that the existing transportation facilities are inadequate or unsatisfactory (Motor Transit Co. (1922) 21 Cal RRC 509) and that it would be unjust to permit a duplication of service where the carrier presently serving the territory is rendering an admittedly satisfactory service (Coast Stage Lines, Inc. (1942) 44 Cal RRC 415). Protestant further cites PU Code Section 1032 as prohibiting the granting of a certificate of public convenience

and necessity to a new carrier when the existing passenger stage corporation is serving the territory to the satisfaction of the Commission.

With respect to the arguments raised by protestant concerning Hudson's possible diversion of passengers and revenues from protestant which will impose an economic burden upon protestant, we need merely point out that protestant has failed to present any convincing evidence of such possible diversion. In Decision (D.) 86732, issued December 7, 1976, we briefly discussed the subject of diversion of passengers of an existing carrier by another carrier desirous of entering into the market and we pointed out that this was not the type of injury which regulation was intended to prevent. The first line of defense for a carrier who faces such potential economic injury lies not in the hearing room but in the marketplace. It is now well-established that the Commission will not limit entry into the passenger stage market simply to protect the economic interests of existing carriers. We will allow competition whenever it would not be adverse to the public interest.

Prior to D.90154 and D.90155, issued April 10, 1979 in Application (A.) 56580 and A.57763, respectively, the threshold issue in any passenger stage bus application was whether or not the public convenience and necessity require the service sought to be authorized by the particular application. If public convenience and necessity were demonstrated, a certificate could be issued provided, however, that where certificated passenger stage corporations were already serving the territory, the certificate could be issued only if it could be shown that they were not providing service to the satisfaction of the Commission (see PU Code Section 1032).

In the past, we gave consideration to relatively few factors in determining whether the service of existing carriers was satisfactory. Adequacy of service and equipment, frequency of service, and reasonableness of rates were the factors analyzed. These had the effect of supporting monopolistic service in the field of passenger bus service. In D.90154 we closely examined the question of whether monopoly service is of itself unsatisfactory service to the public, and we observed that this nation's antitrust laws and policies are premised on the understanding that competitive service generally results in a superior level of service to the public. We also pointed out that competition tends to bring out the highest degree of effort and imagination in a business endeavor to the benefit of the public. In D.91279 dated January 29, 1980 we again discussed in depth PU Code Sections 1031 and 1032 and the benefits of competition in passenger stage bus applications. We indicated that the value of competitive effect on transportation utility operations, as well as federal and state antitrust laws, would be given consideration in determining public convenience and necessity which, broadly speaking, is synonymous with the public interest. We weighed both the advantages and disadvantages of competition and monopoly service in terms of public benefit and we concluded that competition affords greater benefits to the general public.

In D.91279 we also undertook the task of determining, under PU Code Section 1032, whether and under what circumstances existing passenger stage corporations provide satisfactory service, and we stated that it was our belief that monopoly service (resulting from regulations protecting a carrier by excluding new entrance) was not satisfactory service because it deprives the public from being served by carriers who are motivated by competition to innovate and provide the potential of better service, cleaner and better-maintained service, and lower fares.

The evidence presented during this hearing shows that the proposed service differs greatly from the service provided by protestant. Rather than regularly scheduled stops at designated hotel terminal points in portions of Hudson's proposed service area throughout the day and evening by protestant, using 45 or more passenger buses, Hudson will be providing an on-call demand-response-type service with pickup and/or discharge of passengers at their respective residences, businesses, or hotels, using 11-passenger vans. Hudson is prepared to make pickup and runs to and from LAX every half hour as demand requires. Hudson's proposed fares exceed those of protestant and if fare is of prime importance to the public, we would expect that traffic diversion from protestant will be negligible.

Since the service of Hudson is different from that of protestant and since the Commission's present policy favors fostering competition to ensure that members of the public have the opportunity to select that transportation service which best serves their needs, the application should be granted.

Findings of Fact

1. Hudson proposes to provide transportation service for passengers and their baggage between LAX and Beverly Hills/Westwood on an on-call demand-response-type service using 11-passenger vans.

2. Hudson will provide such service every half hour in each direction (as demand requires), picking up passengers at their home, place of business, or hotel within the proposed service area for transportation to LAX, and will transport arriving LAX passengers to their destinations within the proposed service area.

3. The service to be provided by Hudson differs considerably from that provided by protestant.

4. Hudson has the ability, experience, and financial resources to perform the proposed service.

5. Public convenience and necessity require that the service proposed by Hudson be established.

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.

7. Competition between Hudson and other certificated passenger bus carriers, to the extent that it will exist, will have a beneficial effect for the public interest in that it will lead to better service.

Conclusions of Law

1. The provisions of PU Code Section 1032 are not applicable because the service proposed by Hudson is different from the service performed by protestant.

2. The requested authority should be issued as provided in the order which follows.

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.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Hudson Aviation Services, Inc. California, a corporation, authorizing it to operate as a passenger stage corporation, as defined in PU Code Section 226, between the points and over the routes set forth in Appendix PSC-1310, to transport persons and baggage.

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 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 safety rules.
- e. Maintain accounting records in conformity with the Uniform System of Accounts.

3. 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 both this Commission and the airport authority involved.

This order becomes effective 30 days from today.

Dated SEP 7 1983, at San Francisco, California.

I dissent.

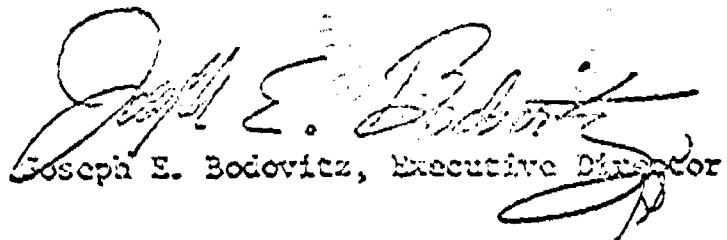
DONALD VIAL, Commissioner

LEONARD M. GRIMES, JR.
President

VICTOR CALVO
PRISCILLA C. GREW
Commissioners

Commissioner William T. Bagley
being necessarily absent, did
not participate.

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


Joseph E. Bodovitz, Executive Director

T/rr

Appendix PSC-1310

HUDSON AVIATION
SERVICES, INC. CALIFORNIA

Original Title Page

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
AS A PASSENGER STAGE CORPORATION
PSC - 1310

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 SEP 7 1983, dated
83 09 051, of the Public Utilities Commission of the
State of California in Application 83-01-44.

T/rr

Appendix PSC-1310

HUDSON AVIATION
SERVICES, INC. CALIFORNIA

Original Page 1

I N D E X

	<u>Page</u>
SECTION 1. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS, AND SPECIFICATIONS.....	2
SECTION 2. SERVICE AREA DESCRIPTION.....	4
SECTION 3. ROUTE DESCRIPTIONS.....	5

Issued by California Public Utilities Commission.

Decision 83 09 051, Application 83-01-44.

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

Hudson Aviation Services, Inc. California, 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 passengers and baggage over and along the routes described, subject, however, to the authority of this Commission to change or modify the routes at any time and subject to the following provisions:

- a. Motor vehicles may be turned at termini and intermediate points, in either direction, at intersections of streets or by operating around a block contiguous to such intersections, in accordance with local traffic regulations.
- b. When route descriptions are given in one direction, they apply to operation in either direction unless otherwise indicated.
- c. The service performed may be on an on-call basis. The term on-call as used refers to service which is authorized to be rendered dependent on the demands of passengers. The tariffs and timetables shall show the conditions under which each authorized on-call service will be rendered.
- d. No passenger shall be transported except those having point of origin or destination at Los Angeles International Airport (LAX).
- e. Service shall be provided in vehicles with seating capacity not to exceed 15 passengers.

Issued by California Public Utilities Commission.

Decision 83 09 051, Application 83-01-44.

T/rr

Appendix PSC-1310

HUDSON AVIATION
SERVICES, INC. CALIFORNIA

Original Page 3

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

- f. 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.

Issued by California Public Utilities Commission.

Decision 83 09 051, Application 83-01-44.

SECTION 2. AUTHORIZED SERVICE AREA.

Beverly Hills/Westwood Service Area

Beginning at the intersection of Wilshire Blvd. and the eastern Beverly Hills city limits, north along the eastern Beverly Hills city limits to Sunset Blvd., west on Sunset Blvd. to Kenter Ave., south on Kenter Ave. and Bundy Drive to Montana Ave., west on Montana Ave. to Santa Monica city limits, south along Santa Monica city limits to Olympic Blvd., east on Olympic Blvd. to Beverly Hills city limits, then east along the southern Beverly Hills city limits to the point of beginning.

Issued by California Public Utilities Commission.

Decision 83 09 051, Application 83-01-44.

T/rr

Appendix PSC-1310

HUDSON AVIATION
SERVICES, INC. CALIFORNIA

Original Page 5

SECTION 3. ROUTE DESCRIPTIONS.

Route 1 - Beverly Hills/Westwood - LAX

Commencing at the Beverly Hills/Westwood Service Area described in Section 2, then via the most convenient streets and highways to LAX.

Issued by California Public Utilities Commission.

Decision 83 09 051, Application 83-01-44.