

ORIGINAL

Decision 83 11 089 NOV 22 1983

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application )  
of Dannas Elite Limousine Service )  
for certificate of public convenience )  
and necessity to operate as an )  
incorporated body serving Orange )  
County areas including International )  
Airport (LAX), Long Beach Airport, )  
John Wayne Airport. )

Application 83-04-30  
(Filed April 12, 1983;  
amended June 24, 1983)

Salvatore J. Danna, for applicants.  
James H. Lyons, Attorney at Law, for  
Airport Service, Inc., protestant.  
K. D. Walpert, for Department of Trans-  
portation, City of Los Angeles; and  
James P. Jones, for United Transportation  
Union, interested parties.  
Mark Sepaspour, for the Commission staff.

O P I N I O N

Salvatore J. Danna and Nancy C. Danna, doing business as Dannas Elite Limousine and Air Trans Security,<sup>1/</sup> seek a certificate of public convenience and necessity to provide passenger stage service as defined in Public Utilities (PU) Code Section 226. Applicants seek to transport persons and their baggage between the cities and communities in Orange County (OC) listed in Exhibit F attached to Exhibit 1, on the one hand, and Los Angeles International Airport (LAX), Long Beach Airport (LGB), and John Wayne Airport (SNA), on the other hand.

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<sup>1/</sup> Applicants filed a new fictitious name statement for their proposed operations to eliminate an objection raised by protestant, Airport Service, Inc. (ASI).

Hearing

A timely protest to the granting of the authority sought by applicants was filed by ASI. A hearing was held before Administrative Law Judge Levander (ALJ) on July 25, 1983. The matter was submitted subject to receipt of applicants' late-filed Exhibit 5 by August 9, 1983. Submission was delayed until September 1, 1983 to give applicants additional time to file Exhibit 5.<sup>2/</sup> Applicants' incomplete filing was mailed on October 18, 1983.

Applicants' Testimony

Following is a summary of the testimony of Salvatore J.

Danna:

1. Applicants propose to operate a leased 1983 7-passenger Dodge van (and to use a leased 1983 Datsun Maxima as a backup unit) to provide on-call, door-to-door service between OC and the three airports. Applicants would require an advance notice of four hours before making a pickup. Up to six daily two-hour trips to LAX would begin at Danna's home in Mission Viejo. There would be up to six return trips from LAX per day.
2. He and his son would each drive the van on 12-hour shifts every day of the year at an hourly pay rate of \$6 per hour. If necessary, applicants would hire other drivers.

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2/ Exhibit 5 was to contain letters to the authorities at the three airports describing applicants' proposal to use armed drivers in their proposed operation and responses from the airport administrators on that proposal.

3. Applicants' propose one-way fares for one to three passengers of: \$20 between OC and SNA, \$25 between OC and LGB, and \$30 between OC and LAX. Applicants propose an additional charge of \$5 for each passenger over three passengers carried on a trip. Applicants would carry members of only one party on any trip; but they might pick up or drop off members of one party at more than one location if the distance between stops is not excessive, e.g. 50 miles.
4. There is a high incidence of crime at airports. Each of applicants' drivers would be licensed as a security guard and licensed to carry weapons. At the request of a passenger the driver would be armed. Applicants' proposed security service is unique. There is a need for applicants' security service.
5. He has arranged charters for limousine service for Travel World, Inc. He has transported clients of his employer, Danna of California (a furniture company located in Torrance) to points in Los Angeles and Orange County.
6. Applicants' pro forma estimate of annual operations would produce revenues of \$120,120, expenses of \$81,839, and net revenues excluding income taxes of \$38,281. Revenues are based upon making 11 trips per day between OC and airports at \$30 3/per trip.

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3/ The minimum per trip between OC and LAX.

ASI's Testimony

Donald W. Boyles, ASI's president, sponsored Exhibit 2, ASI's OC schedule; Exhibit 3, ASI's equipment list; and Exhibit 4, ASI's March 31, 1983 balance sheet and income statement from January 1, 1983 through March 31, 1983. ASI operates 92 buses in providing passenger stage and charter service. Its buses have capacities ranging from 40 to 53 passengers each. ASI provides frequent scheduled service between various locations in Los Angeles and OC to LAX, SNA, and LGB.

Boyles also testified as follows:

1. He is concerned that if certificated, applicants' drivers would pick up passengers waiting for ASI's buses at LAX, SNA, and LGB. ASI has previously experienced such diversion of traffic from van operators.
2. He believes that it would cost approximately 40¢ per mile to operate applicants' van, including gasoline expense of at least 12¢ per mile. The latter figure is based on a cost of \$1.20 per gallon and van mileage of 10 miles per gallon.
3. The Los Angeles Department of Airports does not permit its own security personnel to carry arms. Police from the City of Los Angeles, Venice Division, are the only armed personnel allowed at the airport. ASI and its predecessors have operated airport buses for 25 years. It now operates at least 320 buses per day to and from LAX. In the 25-year period, there was only one incident which could have posed a threat to their driver or passengers. Therefore, he sees no need for security service on buses. Airport crime frequently occurs in airport parking lots.

Argument

Applicants argue that even if only one or two passengers per trip are carried, there is a need for their proposed security service.

ASI argues that:

1. Applicants have not demonstrated a need for their service.
2. Applicants' labor cost would be \$52,560 at the \$6 hourly rate used by Danna, not his \$31,121 estimate.
3. The distance between Mission Viejo and LAX is approximately 60 miles, not the 120 miles estimated by Danna. The annual gasoline cost for driving eleven 60-mile trips per day at 12¢ per mile would be \$28,900, not the \$3,184 estimated by Danna.
4. At an average operating cost of 40¢ per mile, applicants' expenses would be \$96,360.
5. Applicants' operations are not feasible.

Discussion

This application will be denied because applicants did not demonstrate the need for their service. Furthermore, applicants' estimate of operations contain major errors. Based on the corrections described below the proposed service is not economically feasible. Applicants' only projection of demand involved service from OC to LAX.

Danna testified that he has carried as many as seven passengers per day for his employer, but there are periods over a week in duration in which he did not transport anyone to an airport.

The ALJ sustained ASI's objection to the admission in evidence of two letters<sup>4/</sup> offered by Danna in support of the application. Such letters may be received to corroborate public witness testimony and to avoid repetitive testimony. But applicants did not sponsor any public witness in support of the asserted need for their service. We concur with the ALJ's ruling.

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, 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;

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<sup>4/</sup> A May 18, 1983 letter from Danna of California and a May 25, 1983 letter from Travel World, Inc. ✓

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.

With the exception of factors 4, 5, and 6 applicants have failed to meet their burden of proof in their amended application and/or in the testimony of their single witness. Therefore, we cannot grant the certificate requested at this time. However, our determination today does not prevent applicants from reapplying if they believe they have evidence sufficient to support their proposal.

In Exhibit 5 SNA did not discuss applicants' proposed use of licensed security personnel with weapons, and LGB did not mention use of weapons by applicants' drivers. We take official notice of Resolution No. 13867 adopted by the Board of Airport Commissions of the City of Los Angeles Department of Airports (Board). The Board opposes passenger stage certificate holders employing drivers carrying firearms, and Passenger Stage Operating Agreements with existing carriers have been amended to specify that carrying firearms under these agreements is not permissible. Attachment A to this decision is a copy of Resolution No. 13867.

The following tabulation summarizes applicants' results of operations estimates and our very optimistic assessment of the results of operations described by applicants:

<u>Results of Operations</u>		
	<u>Applicants</u>	<u>Adjusted</u>
Revenue	\$120,120	\$120,450
<u>Expenses</u>		
Drivers' Wages	31,121	52,560
Gasoline Expense	3,184	28,910
<u>Other Expenses</u>	<u>47,534</u>	<u>47,530</u>
Total Expenses	\$ 81,839	\$129,000
Net Profit Before Income Taxes	\$ 38,281	\$(8,550)

(Loss)

The adjusted revenue of \$120,450 is a mathematical correction to Danna's estimate for transporting passengers between LAX and OC on 11 of 12 daily trips. These trips would be made at intervals of approximately two hours throughout the year. Danna did not support his estimate of that high level of patronage.

Danna's proposal to alternate 12-hour driving shifts with his son every day would not be safe or realistic. Furthermore, Danna testified that his son will soon begin training as a deputy sheriff. Applicants would have to employ additional drivers and they could be required to pay overtime wages. Even if wage costs are computed on a straight-time basis, Danna's estimate understates those costs by approximately \$21,500.



At a gasoline cost of 12¢ per mile, Danna's understatement of gasoline expense based on making 60-mile trips between his home and LAX varies from approximately \$25,700 to \$28,400.<sup>5/</sup> The latter amount is based on operating a deadhead trip daily. Based on Danna's description of his proposed service, a 60-mile trip would generally be less than the distance applicants' van would travel between Danna's home, his passengers' home or business at any location in OC, and LAX. Danna's estimate of 120 miles per trip between OC and LAX is excessive.

Findings of Fact

1. Applicants propose to operate a door-to-door van service between cities and communities in OC and LAX, LGB, and SNA.

2. Applicants propose to provide armed drivers at the request of passengers.

3. At the hearing in this matter, applicants failed to establish "facts showing that the proposed operation is required by public convenience and necessity" as required by Commission Rule 21(j).

4. Resolution 13867 directs the management of the Los Angeles Board of Airports to amend Passenger Stage Operating Agreements to provide that the carrying of firearms is not permissible under these agreements.

5. Applicant's cost estimates are unrealistic and unsubstantiated.

Conclusion of Law

Application 83-04-30 should be denied for failure of applicants to meet their burden of proof.

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<sup>5/</sup> This added expense would increase the operating loss to approximately \$11,200.

O R D E R

IT IS ORDERED that Application 83-04-30 is denied without prejudice.

This order becomes effective 30 days from today.

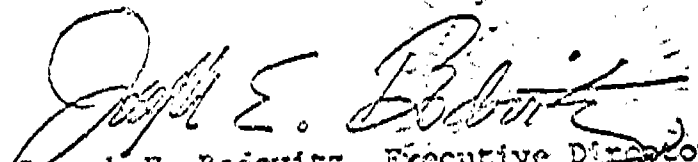
Dated NOV 22 1983, at San Francisco, California.

LEONARD M. GRIMES, JR.  
President

VICTOR CALVO  
PRISCILLA C. CREW  
WILLIAM T. BAGLEY  
Commissioners

Commissioner Donald Vial, being necessarily absent, did not participate.

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

  
Joseph E. Bodovitz, Executive Director

City of Los Angeles Department of Airports 1 World Way, Los Angeles, California 90009 - (213) 646-5252 Telex 65-3413  
Tom Bradley, Mayor

Board of  
Airport Commissioners

Elizabeth K. Armstrong  
President  
Johnnie L. Cochran, Jr.  
Vice President  
Mary Lou Cunningham  
Samuel Greenberg  
Emmett C. McGaughey  
Clifton A. Moore  
General Manager

RESOLUTION NO. 13867

WHEREAS, the Board of Airport Commissioners was advised by Management and the City Attorney's Office that a request was received from a Passenger Stage Operator for a permit to allow its drivers to carry loaded firearms while operating at Los Angeles International Airport; and

WHEREAS, the Board was informed that it did not have the legal authority to grant permits to drivers to carry loaded firearms; and

WHEREAS, the Board was also advised that it does not have the authority to place restrictions on the manner in which a passenger stage certificate holder operates at the Airport, including restrictions regarding the carrying of loaded firearms;

NOW, THEREFORE, BE IT RESOLVED that the Board of Airport Commissioners hereby directs Management to communicate to the Public Utilities Commission its opposition to passenger stage certificate holders employing drivers carrying firearms; and

BE IT FURTHER RESOLVED that Management was directed to amend any existing Passenger Stage Operating Agreements to specify that carrying of firearms is not permissible thereunder at Los Angeles International Airports; and

BE IT FURTHER RESOLVED that this action, as a continuing administrative activity, is exempt from the requirements of the California Environmental Quality Act as provided by Article III, Section 2.f. of the Los Angeles City CEQA Guidelines.

oOo

I hereby certify that the above is a true and correct copy of Resolution No. 13867 adopted by the Board of Airport Commissioners at a regular meeting held Wednesday, August 10, 1983.

*Elaine E. Staniec*

Elaine E. Staniec - Secretary  
BOARD OF AIRPORT COMMISSIONERS

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