

Decision 84 01 062

JAN 19 1984

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of LUXE LIVERY SERVICE, INC., a
California corporation, for a
certificate of public convenience
and necessity to operate as a
passenger stage corporation
between points in Los Angeles
County on the one hand and the
Los Angeles International
Airport, Orange County Airport,
Long Beach Airport, Ontario
Airport, Glendale-Pasadena-
Burbank Airport, and the piers
and docks in Long Beach and
Los Angeles Harbors on the
other hand.

Application 83-03-16
(Filed March 7, 1983)

Lawrence Robertson and Robert Thompson, for
applicant.

James H. Lyons, Attorney at Law, for Airport
Service, Incorporated, protestant.

James P. Jones, for United Transportation
Union, interested party.

O P I N I O N

Applicant Luxe Livery Service, Inc. (Luxe), a California corporation, seeks a certificate of public convenience and necessity under Public Utilities (PU) Code Section 1031, et seq., to operate as a passenger stage corporation between various points in Los Angeles County as set forth in Exhibit B to the application, on the one hand, and the Los Angeles International Airport (LAX), Orange County Airport (OCA), Long Beach Airport (LBA), Ontario Airport (OA),

Glendale-Pasadena-Burbank Airport (GPBA), and the piers and docks in Long Beach and Los Angeles Harbors, on the other hand. Luxe intends to operate the proposed service 7 days per week, 24 hours a day, on a reservation basis, using 12-passenger Ford vans.

Notice of filing of the application appeared in the Commission's Daily Calendar dated March 11, 1983. A protest to the application was filed by Airport Service, Incorporated (ASI).

Following notice, a public hearing was held in Los Angeles on May 24, and 25, 1983 before Administrative Law Judge William A. Turkish. The matter was to be submitted upon the filing of briefs two weeks after the filing of the transcript. However, due to the unavailability of the court reporter and the illness of protestant's counsel, the time for filing of the transcript and briefs was extended until September 12 and the matter is submitted as of that date.

Testimony on behalf of Luxe was received from two witnesses including its president. Testifying on behalf of ASI were its president and two witnesses.

Following is a summary of the evidence presented by witnesses for Luxe:

1. Luxe presently conducts a door-to-door demand-response bus passenger service from various points in Orange County to the major airports in southern California. Luxe mails about 4,000 advertising mailings each month throughout the country and receives requests for service, in response to these mailings, into the Los Angeles area. Because Luxe has ordered 25 new vehicles, it wants to make sure that the use of that equipment is enhanced.

2. Luxe intends to perform a similar demand-response door-to-door service in Los Angeles County and wishes to offer this service to that portion of the public who desire additional choices of transportation. Due to the tremendous convention marketplace of Los Angeles, there is a perceived need for the type of service contemplated by Luxe.
3. Luxe intends to establish a terminal in Los Angeles County in the City of Culver City in the event that this application is approved. There will be no minimum reservation time required between time of making reservation and time of pickup. It is the intention of Luxe to inform the caller, after being notified of the caller's flight time, of the earliest it can pick up the caller so that the caller may determine if there is sufficient time to make the flight.
4. As a result of a study compiled by Luxe from various sources, Luxe has determined that the predominant mode of transportation to the various airports is by automobile and it is the opinion of Luxe that its share of business will come predominantly from those who now use the automobile to get to and from the airports.
5. The proposed service can be contrasted with the service offered by ASI. Whereas ASI is a scheduled bus operator serving definite fixed points, Luxe, on the other hand, is a demand-response operator serving various locations within the county.
6. Business travelers view scheduled buses as a somewhat inflexible mode of transportation and they find a tremendous benefit and convenience to being picked up directly at the doorstep and dropped off at the doorstep.

Three witnesses, including its president, were called to testify on behalf of protestant ASI. A summary of their testimony is as follows:

1. ASI has been in business since August 24, 1957. It is a certificated passenger stage corporation with authorities held and approved by the Public Utilities Commission to conduct scheduled service and on-call service from certain points to LAX, OCA, LBA, OA, and GPBA. ASI carries approximately two million passengers a year.
2. ASI opposes this application because it would not preclude Luxe from parking its vehicles at terminal points presently served by ASI or those planned in the future a few minutes before departure of ASI's buses and simply soliciting customers that are waiting at those terminal points for ASI. To that degree it would have an adverse impact on the volume of customers that are available to ASI for transportation and result in imposing an adverse economic impact on ASI.
3. In a recent application for a fare increase, ASI showed a need for the increase due to an increase in the cost of operations of the company while the number of passengers and the market showed no growth. The lack of ASI's passenger growth is attributed to the large number of other van operators who have received certificates to perform transportation services in the areas in which ASI was already providing service, causing a diversion of traffic.
4. Two hotel representatives find the service of ASI to be very reliable and suitable to the needs of the hotel guests.

Discussion

Beginning with Decision (D.) 90154 and D.90155, issued April 10, 1979 in Application (A.) 56580 and A.57763, respectively, the Commission's prior policy of restricted entry into the passenger stage transportation area started to shift dramatically when we undertook closer examination of the subject of monopoly service to determine if such monopoly service was in itself unsatisfactory service to the public.

In D.90154 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 and also that competition tended to bring out the highest degree of effort and imagination in a business endeavor. In D.91279 dated January 29, 1980 and subsequent cases since, we discussed the benefits of competition in passenger stage bus operations and we stated that federal and state antitrust laws would be given consideration in determining public convenience and necessity which, broadly speaking, are synonymous with the public interest. We also stated that it was our belief that monopoly service resulting from regulations protecting a carrier by excluding new entrants was not satisfactory service because it deprived the public from being served by carriers who might be motivated by competition to innovate and provide the potential of better service, cleaner and better-maintained vehicles, and lower fares.

After reviewing the evidence presented during the hearing, we conclude that Luxe has demonstrated that public convenience and necessity would be served by the proposed operation. As we indicated in D.91279 competitive service provides incentives for carriers to offer the most innovative and appealing service to members of the public. We further stated that we would not apply Section 1032 as a

bar to deprive the public of the most innovative, attractive and agreeable bus service that may potentially exist for its benefit.

In this case applicant intends to offer a service which differs from the protestant's service. Unlike the protestant's fixed point and scheduled service, applicant will provide on-call, door-to-door service, exclusively. Applicant also proposes to serve the Long Beach and Los Angeles Harbors, areas not served by ASI. The proposed service is thus an example of how relaxed entry requirements and promotion of competition produce a wider variety of service offerings to the public. Moreover, there is no evidence that the proposed service will cause a large diversion of patrons from ASI.

We observe that applicant has offered similar service in Orange County since July 1978. In doing so it has demonstrated experience and ability in performing the proposed type of service.

The protestant, ASI, is concerned that this application would not preclude Luxe from parking its vehicles at terminal points presently served by ASI or those planned in the future a few minutes before departure of ASI's buses. ASI claims that Luxe will simply solicit customers that are waiting at those terminal points for ASI.

Inasmuch as Luxe is requesting authority to provide on-call, door-to-door service to customers, we do not envision that this scenario will in fact occur. However, we will restrict Luxe from parking its vehicles at or near terminal points presently served by ASI. We observe that ASI and Luxe have in fact stipulated to this very type of restriction in prior applications by Luxe. We therefore find it reasonable to impose the same restriction in granting the requested certificate.

Findings of Fact

1. Luxe proposes to provide transportation service for passengers and their baggage between points in Los Angeles County, on the one hand, and LAX, OCA, LBA, OA, GPBA, and the piers and docks in Long Beach and Los Angeles Harbors, on the other hand, on an on-call demand-responsive-type service, using 12-passenger Ford vans.

2. Luxe currently provides a service similar to that proposed in this application between points in Orange County, on the one hand, and the airports named above.

3. Applicant has the ability, equipment, and resources to perform the proposed service.

4. Public convenience and necessity require the service proposed by applicant.

5. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Conclusion of Law

1. A certificate of public convenience and necessity should be granted to applicant to conduct on-call passenger stage service.

2. The certificate should be restricted to the same extent provided in applicant's current operating certificate with respect to stopping at terminal points presently served by ASI.

3. 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 Luxe Livery Service, Inc., 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 to transport persons and baggage.

2. The certificate shall be restricted to the same extent provided in applicant's current operating certificate with respect to stopping at points presently served by Airport Service, Incorporated.

3. 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 his 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 (CHP) safety rules.

- e. Notify the Commission and CHP of any addition or deletion of vehicle(s) used in the service prior to the fact.
- f. Maintain accounting records in conformity with the Uniform System of Accounts.

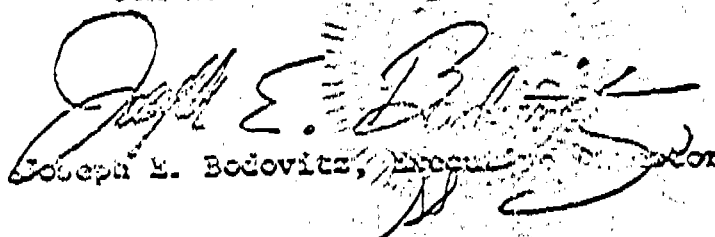
This order becomes effective 30 days from today.

Dated JAN 19 1984 , at San Francisco, California

LEONARD M. GRIMES, JR.
President

VICTOR CALVO
PRISCILLA C. GREW
DONALD VIAL
WILLIAM T. BAGLEY
Commissioners

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


Joseph E. Bojovitz, Executive Director

Appendix B
(D.89074)

LUXE LIVERY SERVICE, INC.
(PSC-1044)

Second Revised Page 2
Cancels
First Revised Page 2

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

*Luxe Livery Service, Inc., by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized as a passenger stage corporation to provide on-call, door-to-door service between points within the Orange County and Los Angeles County Service Areas, on the one hand, and Los Angeles International Airport (LAX), Orange County Airport (SNA), Ontario International Airport (ONT), Burbank-Glendale-Pasadena Airport (BUR), Long Beach Airport (LGB) and the docks and piers at Los Angeles and Long Beach harbors, on the other hand, subject to restrictions, as set forth below:

- (a) The equipment shall have a carrying capacity not to exceed 15 passengers.
- (b) No passengers shall be picked up at an airport or at an off-airport bus stop of Airport Service, Inc. unless a reservation has been made at least one-half hour in advance.
EXCEPTION: Passengers at airports completing round trips with Luxe Livery Service, Inc.
- (c) Luxe Livery Service, Inc. shall not spot any vehicle at an airport or at an off-airport bus stop of Airport Service, Inc., for the purpose of waiting for radio calls to pick up passengers.
- (d) No passengers shall be transported except those having origin or destination at LAX, SNA, ONT, BUR, LGB, or the docks and piers at the Los Angeles and Long Beach harbors, on the one hand, and on the other an origin or destination within the Orange County Service Area and/or Los Angeles County Service Area.

Issued by California Public Utilities Commission.

*Revised by Decision 84 01 062, Application 83-03-16.

Appendix B
(D.89074)

LUXE LIVERY SERVICE, INC.
(PSC-1044)

First Revised Page 3
Cancels
Original Page 3

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

- (e) Service shall be rendered via a direct route from the point of origin to the point of destination, except that when more than one passenger is to be transported in a single vehicle, service shall be rendered by the most direct routings possible, taking into consideration the various points of origin and destinations of the several passengers.
- (f) Luxe Livery Service, Inc. shall have discretion in choosing routings and order of origins and destinations, based upon the above considerations.

Issued by California Public Utilities Commission.

Decision 84 01 062, Application 83-03-16.

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Appendix B
(D.89074)

LUXE LIVERY SERVICE, INC.
(PSC-1044)

First Revised Page 4
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SECTION 2. SERVICE AREA DESCRIPTION.

Orange County Service Area

Includes all points within the geographical limits of
Orange County.

#Los Angeles County Service Area

Includes all points within the following cities and
communities:

ALHAMBRA
ALTA LOMA
ARCADIA
ARTESIA
AZUSA
BALDWIN PARK
BELL
BELLFLOWER
BELL GARDENS
CARSON
CERRITOS
CHINO
COMMERCE
CUCAMONGA
CLAREMONT
COVINA
CUDAHY
DIAMOND BAR
DOWNEY
DUARTE

EL MONTE
GLEN DORA
HACIENDA HEIGHTS
HAWAIIAN GARDENS
HUNTINGTON PARK
INDUSTRY
LAKEWOOD
LA MIRADA
LA PUENTE
LA VERNE
LONG BEACH
LOS ANGELES
LYNWOOD
MONROVIA
MONTCLAIR
MONTEBELLO
MONTEREY PARK
NORWALK
ONTARIO
PALOS VERDES

PASADENA
PICO RIVERA
POMONA
ROLLING HILLS
ROSEMEAD
ROWLAND HEIGHTS
SAN DIMAS
SAN GABRIEL
SAN MARINO
SANTA FE SPRINGS
SOUTH GATE
TEMPLE CITY
TORRANCE
UPLAND
VALINDA
WALNUT
WEST COVINA
WHITTIER

Issued by California Public Utilities Commission.

84 01 062

#Added by Decision 84 01 062, Application 83-03-16.

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After reviewing the evidence presented during the hearing, we conclude that Luxe has demonstrated that public convenience and necessity would be served by the proposed operation. As we indicated in D.91279 competitive service provides incentives for carriers to offer the most innovative and appealing service to members of the public. We further stated that we would not apply Section 1032 as a KW