

Decision No. 87449

June 7, 1977

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 MANFRED LAZARUS for certificate of)
 public convenience and necessity to)
 operate passenger service between)
 Burlingame, San Bruno, South San)
 Francisco and Sausalito, Muir Woods)
 and Sonoma.)

Application No. 57002
 (Filed January 13, 1977)

Manfred L. Lazarus, for himself, and Esther
E. Rosenblueth, for Manfred L. Lazarus,
 applicant.

Ernest R. Stent, Attorney at Law, for The
Gray Line, Inc.; and Maury Swidler, for
Hi-Way Tours, Inc.; protestants.

Thomas T. Hamamoto, for the Commission
 staff.

O P I N I O N

Manfred L. Lazarus, an individual, requests a certificate of public convenience and necessity authorizing operations as a passenger stage corporation to conduct round-trip tours from certain hotels in the San Francisco International Airport area of northern San Mateo County to points of interest in the Sausalito, Muir Woods, and Sonoma winery areas.

Applicant now operates a minibus passenger service from Burlingame, San Bruno, and South San Francisco to downtown San Francisco. He transports guests from a number of Peninsula hotels to Union Square on a scheduled basis. He operates this service under the authority of a certificate of public convenience and necessity as a passenger stage corporation (PSC 997) granted by this Commission in Decision No. 85962 dated June 15, 1976.

Public hearing was held in this application before Examiner James F. Haley in San Francisco on April 13, 1977.

The proposed operation would consist of two tours, primarily for hotel guests:

Tour 1 - From the following hotels: The Sheraton Hotel, Ramada Inn, Hyatt House, and Airport Marina in Burlingame; the Hilton Inn in San Bruno; and the Holiday Inn, International Inn/Travelodge, and Rodeway Inn in South San Francisco via Highway 101 through San Francisco to Highway 1 to Sausalito and Muir Woods, and return via the same route.

Tour 2 - From the same eight hotels via Highway 1 through San Francisco to Highway 37 and Highway 21 to the Sonoma winery area, and return via the same route.

Tour 1 would operate Sunday through Friday. The proposed fares for Tour 1 are \$12.50 for adults and \$10.50 for children under 11. Tour 2 would operate on Saturday only. The proposed fares for Tour 2 are \$17.00 for adults and \$15.00 for children.

The evidence shows that there are no tours now available from the designated hotels to the Muir Woods and Sonoma winery areas.

Applicant stated that he would not run a scheduled tour on those days when only a half dozen or so passengers had signed up. He made the commitment that on such occasions he would transport those passengers free of charge via his minibus service to a point from which they could take a similar tour originating in San Francisco.

Applicant testified that, according to need, he would use one or more Trans-Coach buses, Model 2514. These buses have a maximum capacity of 25 passengers. They are equipped with 400 hp engines. Applicant plans to lease this equipment. Initially, he intends to operate only one such bus in the proposed sight-seeing operation.

The application alleges that there are no Marin County tours such as he proposes available to guests residing at hotels in the San Francisco Airport area. Applicant testified that the managerial staff at each of the hotels has requested that the proposed tours be made available to their guests. He stated that he will provide comprehensive and well-directed tours which will relieve hotel guests of the necessity of using their own cars, thus reducing traffic congestion.

Attached to the application are letters from the management of five of the hotels from which applicant proposes to pick up passengers. Each letter states, in substance, that the proposed tours would fulfill a need for the hotel guests and that such tours are not now available. The letters recommend applicant and praise him for his reliability and courtesy. Managerial personnel from two of the hotels appeared and testified in behalf of the applicant.

The Gray Line, Inc. and Hi-Way Tours, Inc. appeared at the hearing as protestants. Both protestants undertook to show that the proposed operation would not be economical. Neither protestant took the position that it, or any other passenger stage corporation, provides service over the proposed routes; hence they did not contend that Section 1032^{1/} of the Public Utilities Code applies.

1/ Section 1032 of the Public Utilities Code reads, in part:

"The commission may, after hearing, issue a certificate to operate in a territory already served by a certificate holder under this part only when the existing passenger stage corporation or corporations serving such territory will not provide such service to the satisfaction of the commission."

Both protestants expressed the concern that, if the application were granted, applicant would undertake to extend the pickup points of his sight-seeing operation into San Francisco, and thus enter into direct competition with them. Applicant categorically denied any intention to do this, either in the short-term or long-term future. Applicant stipulated that any certificate granted to him should contain a stated restriction barring him from extending the pickup points of his sight-seeing operations into San Francisco. Applicant orally clarified the wording of his application by stating that he was seeking authority to pick up passengers at no points other than the eight designated hotels in the airport area.

Applicant introduced Exhibit 4 to support his position that the proposed operation would be a profitable undertaking from its inception. According to Exhibit 4, he would operate at a profit of over \$1,000 per month at an average of only six passengers per trip and at a profit exceeding \$6,000 per month at an average of 20 customers per trip.

The two protestants correctly brought out that applicant's computations of revenues and expenses did not make adequate allowances for commissions, overheads, and labor. Nevertheless, the evidence shows that, under the low overhead, personally operated and supervised operation contemplated by applicant, he should show a profit if he is able to develop a nominal patronage.

Financial data included in the application indicates that applicant had cash assets in excess of liabilities amounting to more than \$20,000 as of January 1977. He testified that he is the sole owner of the minibus operation referred to above and that the operation is valued at \$15,000.

Findings

1. Applicant has applied for a certificate of public convenience and necessity to operate as a passenger stage corporation for the purpose of conducting two scheduled sight-seeing tours from specified hotels in the vicinity of San Francisco International Airport to points of interest in the Muir Woods, Sausalito, and Sonoma winery areas.
2. There is no existing sight-seeing service between the San Francisco International Airport area in San Mateo County and said scenic areas of Marin and Sonoma Counties.
3. There is a public need for the proposed sight-seeing service originating directly from hotels in the area of San Francisco International Airport.
4. Applicant possesses the skill, experience, and financial experience to perform adequately the proposed service.
5. Public convenience and necessity require that the service proposed by applicant should be authorized.
6. The certificate granted herein should contain the restriction that applicant is not to pick up originating passengers within the city and county of San Francisco for his sight-seeing tours.
7. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

The Commission concludes that the application should be granted in accordance with the ensuing order.

Applicant is placed on notice that operative rights, as such do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. Aside from their purely permissive aspect, such rights extend to the holder a full or partial monopoly of a class of business. This monopoly feature may be modified or canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Manfred L. Lazarus, an individual, authorizing him to operate as a passenger stage corporation, as defined in Section 226 of the Public Utilities Code, between the points and over the routes set forth in Appendix A of Decision No. 85962, as amended herein.

2. Appendix A of Decision No. 85962 is amended by incorporating First Revised Pages 2, 3, and 4 and Original Page 5, attached hereto, in revision of Original Pages 2, 3, and 4.

3. In providing service pursuant to the authority granted by this order, applicant shall comply with the following service regulations. Failure so to do may result in a cancellation of the authority.

- (a) Within thirty days after the effective date of this order, applicant shall file a written acceptance of the certificate granted. Applicant is placed on notice that if he accepts the certificate, he will be required, among other things, to comply with the safety rules administered by the California Highway Patrol, the rules, and other regulations of the Commission's General Order No. 98-Series, and the insurance requirements of the Commission's General Order No. 101-Series.
- (b) Within one hundred twenty days after the effective date of this order, applicant shall establish the authorized service and file tariffs and timetables, in triplicate, in the Commission's office.
- (c) The tariff and timetable filings shall be made effective not earlier than ten days after the effective date of this order on not less than ten days' notice to the Commission and the public, and the effective date of the tariff and timetable filings shall be concurrent with the establishment of the authorized service.

- (d) The tariff and timetable filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs and timetables set forth in the Commission's General Orders Nos. 79-Series and 98-Series.
- (e) Applicant shall maintain his accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of his operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 7th day of JUNE, 1977.

Robert B. Belyne
President
William J. Lyons Jr.
Vernon L. Livingston
Richard D. Howell
Commissioners

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

Manfred L. Lazarus, by the Certificate of Public Convenience and Necessity granted by the decision noted in the margin, is authorized as a passenger stage corporation to *(1) transport passengers for sightseeing purposes, between hotels located in the Cities of Burlingame, San Bruno and South San Francisco, on the one hand, to points of interest in Sausalito, Muir Woods, and the Sonoma Winery area, on the other hand, over and along the routes hereinafter described; and (2) transport passengers and their baggage between various hotels located on the San Francisco Peninsula, on the one hand, and Union Square in San Francisco, on the other hand, over and along the routes hereinafter described, subject, however, to the authority of this Commission to change or modify said routes at any time and subject to the following provisions:

- *(a) All sightseeing service herein authorized shall be limited to the transportation of round-trip passengers only, originating and terminating at specific hotel locations in San Mateo County.
- *(b) Sightseeing service shall be operated on a scheduled basis but applicant will not be obligated to render service for less than six passengers.
- (c) Applicant shall not serve the San Francisco International Airport.
- (d) Union Square service shall be provided only between Union Square in San Francisco and the premises of the hotels listed in the route descriptions.
- (e) Applicant shall not operate vehicles with a carrying capacity of more than 14 passengers in providing the Union Square, San Francisco service.
- (f) Other than the transportation of personal baggage accompanying a passenger, no additional transportation service, including the transportation of express matter, shall be performed in the Union Square, San Francisco service.

Issued by California Public Utilities Commission.

*Revised by Decision No. 87449, Application No. 57002.

SECTION 2. ROUTE DESCRIPTIONS.

(1) Sightseeing Routes:

*TOUR 1. Commencing at the Sheraton Inn - San Francisco Airport at 1177 Airport Boulevard, Burlingame; thence to Ramada Inn at 1250 Bayshore Highway, Burlingame, Burlingame Hyatt House at 1333 Bayshore Highway, Airport Marina Hotel at 1380 Bayshore Highway, Burlingame, Hilton Hotel at the San Francisco Airport, Holiday Inn at 245 S. Airport Boulevard, South San Francisco, Travelodge at 326 S. Airport Boulevard, South San Francisco, Rodeway Inn at 380 S. Airport Boulevard, South San Francisco; thence via Highway 101 to Sausalito and via Highway 1 to Muir Woods, and return via the same route.

*TOUR 2. Commencing at the same eight hotels in Tour 1; thence via Highways 101, 37, and 121 to the Sonoma winery area, within five miles of Sonoma, and return via the same route.

Issued by California Public Utilities Commission.

*Revised by Decision No. 87449, Application No. 57002.

SECTION 2. ROUTE DESCRIPTIONS (Continued)

(2) Airport Hotels - San Francisco Union Square Routes:

ROUTE 1. Commencing at Rodeway Inn, 380 S. Airport Blvd., South San Francisco; thence via South Airport Blvd. to Travelodge, 326 S. Airport Blvd. in South San Francisco, continue on South Airport Blvd. to Royal Inn, 275 South Airport Blvd., South San Francisco, South Airport Blvd. to Holiday Inn, 245 South Airport Blvd., South San Francisco, South Airport Blvd. to Imperial Hotel, 222 South Airport Blvd., South San Francisco, Highways 101, and Interstate 280, Sixth Street, Taylor Street, and Post Street to Union Square in San Francisco.

Return via Post Street, Montgomery Street, New Montgomery Street, Howard Street, 4th Street, Brannan Street, 6th Street, Interstate 280, Highway 101 to Imperial Hotel, Holiday Inn, Royal Inn, Travelodge, and Rodeway Inn.

ROUTE 2. Commencing at Ramada Inn, 1250 Bayshore Blvd., Burlingame; thence via Bayshore Blvd. to Hyatt Hotel, 1333 Bayshore Blvd., Burlingame, continue on Bayshore Blvd. to Airport Marina, 1380 Bayshore Blvd., Burlingame, Bayshore Blvd. to Vagabond Motor Hotel, 1640 Bayshore Blvd., Burlingame, Millbrae Ave. and Bayshore Blvd. to Airport Plaza Hotel, 101 Bayshore Highway, Millbrae, Millbrae Ave., and Bayshore Blvd. to Hilton Inn, at the San Francisco International Airport, Highway 101, Interstate 280, Sixth Street, Taylor Street, and Post Street to Union Square in San Francisco.

Return via Post Street, Montgomery Street, New Montgomery Street, Howard Street, 4th Street, Brannan Street, 6th Street, Interstate 280, Highway 101 to Hilton Inn, Airport Plaza Hotel, Vagabond Hotel, Airport Marina, Hyatt Hotel and Ramada Inn.

Issued by California Public Utilities Commission.

Revised by Decision No. 87449, Application No. 57002.

SECTION 2. ROUTE DESCRIPTIONS (Continued)

ROUTE 3. Commencing at Howard Johnson Motor Hotel, Veterans Blvd. and Whipple Ave., Redwood City; thence via Highway 101 and Marine World Parkway to Holiday Inn, 1101 Shoreway Rd., Belmont, continue on Marine World Parkway, Ralston and El Camino to Villa Hotel, 4000 S. El Camino Real, San Mateo, El Camino and E. Hillsdale Blvd. to Hillsdale Inn, E. Hillsdale Blvd. and South Bayshore Blvd., San Mateo, E. Hillsdale Blvd., Highway 101, Highway 92, Delaware St., and Concar Dr. to the Royal Coach Motor Hotel, 1770 S. Bayshore Blvd., San Mateo, Concar Drive, Delaware Ave., Highways 92, 101 and 280, 6th Street, Taylor Street, and Post Street to Union Square in San Francisco.

Return via Post Street, Montgomery Street, New Montgomery Street, Howard Street, 4th Street, Brannan Street, 6th Street, Interstate 280, Highway 101 to Royal Coach Motor Hotel, Hillsdale Inn, Villa Hotel, Holiday Inn, and Howard Johnson Motor Hotel.

Issued by California Public Utilities Commission.

Revised by Decision No. 87449, Application No. 57002.