

ORIGINAL

Decision No. 87762 AUG 23 1977

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application
of:

MISSION TRAILS
CHARTER SERVICE, INC.
A California Corporation

--and--

FALCON CHARTER SERVICE
A California Corporation

Application No. 57402
(Filed June 22, 1977)
(Amended July 11, 1977)

for authority to transfer the
Certificate of Public Convenience
and Necessity to operate as a
Passenger Stage Corporation
issued in Decision Number 79987,
pursuant to the provisions of
section 851, et seq. of the
California Public Utilities Code.

I N T E R I M O P I N I O N

By this application, Falcon Charter Service, (hereinafter known as transferor) seeks to transfer its Certificate of Public Convenience and Necessity as a passenger stage corporation to Mission Trails Charter Service, Inc., (hereinafter known as transferee).

Transferee is a closed corporation formed by Richard L. Campbell and Robert B. Wallace, present driver employees of transferor.

Transferor, a California corporation, is authorized by Decision 79987 in Application 52966 to operate as a passenger stage corporation between Foster City and San Francisco.

Transferor seeks to transfer its authority to transferee for the stated reason that it is pessimistic about its ability to continue to operate a profitable service.

Transferee believes that it can successfully and profitably operate such service. Transferee has worked with a certified public accountant and finds that the present interim fares of \$16.00 for ten rides or \$57.00 per monthly ticket project a satisfactory revenue to meet the present known costs of operation, including projections to purchase additional vehicles to meet future demands. The Commission staff has also estimated the operating results for this proposed service and has determined that the proposed fares are justified.

The parties in this application allege that transferee expects to generate a sense of enthusiasm and local support while the transferor found it impossible to do so.

Transferor and transferee have entered into a written agreement to transfer the certificate of the transferor issued by this Commission in Decision 79987. The parties have agreed that the purchase price of the certificate will be the sum of one dollar (\$1.00). Transferor has agreed to sell and transferee has agreed to purchase three 1951 GMC buses for \$2,500 each and three 1954 GMC buses for \$3,100 each.

By amendment to the application filed on July 11, 1977, it is stated that the transferee has issued 100 shares of stock, with 50 shares of stock each to Richard L. Campbell and Robert B. Wallace, at \$300 per share. The corporation is now capitalized in the amount of \$30,000. The two shareholders have also agreed to lend the corporation \$5,000 for working capital.

The application and the amendment were listed on the Commission's Calendars. Copies of the application and the amendment have been served on the United Transportation Union, Metropolitan Transportation Commission and the Foster City Transportation Committee. The Commission's Transportation Division staff has reviewed the application and recommends that in the absence of protest or request for public hearing, it be granted by ex parte order. No protest or request for hearing has been received; on the

contrary, numerous endorsements have been received from the public and passengers of the service, requesting that the transfer be made effective as soon as possible. A public hearing is not necessary.

We are of the opinion that this transfer of operating authority should be made on an interim basis. We will review the transferee's operating results, financial condition and service as of 12 months from the effective date of the transfer of operative rights between Falcon and the transferee. If the transferee is financially sound and in a position that it may reasonably be expected to continue to provide adequate and reliable service to the community of Foster City, we will issue a final order. If the transferee suffers financial failure and must abandon service within that period, Falcon must resume its public utility obligation to serve the public convenience and necessity for which it holds operating authority. The transfer authorized herein is temporary and interim because we are concerned about the transferee's capitalization; also, public utility passenger stage service has been found to be needed by Foster City and we have an obligation to insure that the public will be served. The transferee has enthusiasm for the passenger stage operations it is to embark upon and apparently has the support of many Foster City residents who now use Falcon's service. And while we wish the transferee success, we would be blind to the overall public interest if we were not to impose reasonable conditions to insure that a thinly capitalized transferee, who eventually may fail, will not result in a community the size of Foster City being without viable bus service. The economic hardship, inconvenience and possible environmental effects of no bus service between Foster City and San Francisco give us great concern.

F I N D I N G S

1. Mission Trails Charter Service, Inc., and Falcon Charter Service have entered into a written agreement to transfer the operative rights (passenger stage certificate) granted to Falcon by Decision No. 79937 from Falcon to Mission Trails.

2. The transferee (Mission Trails) possesses at this time the capability to provide adequate reliable passenger stage service between Foster City and San Francisco.

3. Because the transferee is not capitalized such that we may be reasonably sure that it can provide the passenger stage service contemplated to the community of Foster City over a period of time, the proposed transfer should be authorized on an interim basis.

4. The Commission should review the financial integrity, operating results and service of Mission Trails as of 18 months from the effective date of the transfer of operating authority between Falcon and Mission Trails and thereafter issue a final order in this proceeding.

CONCLUSION OF LAW

An interim transfer of Falcon's passenger stage authority to Mission Trails conditional upon a subsequent analysis of Mission Trails' ability to provide service over an extended period of time, is not adverse to the public interest.

After consideration we are of the opinion that the proposed transfer would not be adverse to the public interest and conclude that it should be authorized on an interim basis. The proposed fares are justified for the operations to be conducted by the transferee.

The order which follows will provide for an interim temporary transfer of the certificate presently held by Falcon Charter Service and the issuance of a certificate in appendix form to Mission Trails Charter Service, Inc.

Transferee 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 holders a full or partial monopoly of a class of business. This monopoly feature may be modified or cancelled 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. On or before November 1, 1977, Falcon Charter Service, a California corporation, may transfer the operative rights referred to in the application to Mission Trails Charter Service, Inc., a California corporation, on an interim basis.

2. Within thirty days after the transfer the transferee shall file with the Commission written acceptance of the interim certificate and a true copy of the bill of sale or other instrument of transfer.

3. Transferee shall amend or reissue the tariffs and timetables on file with the Commission, naming rates and rules governing the common carrier operations transferred to show that it has adopted or established, as its own, the rates and rules. Transferee is authorized to establish the fares proposed in the application. The tariff and timetable filings shall be made effective not earlier than five days after the effective date of this order on not less than five days' notice to the Commission and the public, and the effective date of the tariff and timetable filings shall be concurrent with the transfer. The tariff and timetable filings made pursuant to this order shall comply in all respects with the

regulations governing the construction and filings of tariffs and timetables set forth in the Commission's General Orders 79-Series and 98-Series. Failure to comply with the provisions of General Orders 79-Series and 98-Series may result in a cancellation of the operating authority granted by this decision.

4. In the event the transfer authorized in Paragraph 1 is completed, effective concurrently with the effective date of the tariff filing required by Paragraph 3, a Certificate of Public Convenience and Necessity is granted to Mission Trails Charter Service, Inc., authorizing it to operate as a passenger stage corporation, as defined in Section 226 of the Public Utilities Code, between Foster City and San Francisco over the routes set forth in Appendix A, attached hereto and made a part hereof.

5. The Certificate of Public Convenience and Necessity granted by Decision 79907 is suspended until further order of this Commission, effective concurrently with the effective date of the tariff filings required by Paragraph 3.

6. Transferee shall comply with the safety rules administered by the California Highway Patrol, the rules and regulations of the Commission's General Order 98-Series, and insurance requirements of the Commission's General Order 101-Series.

7. Transferee shall maintain its 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 its operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

3. Transferee shall file with this Commission, during the 15th month following the effective date that Falcon Charter Service transfers its operating rights to the transferee, the following information:

- a) A balance sheet covering its first year of operations and the latest three months of operations.
- b) The results of operations for its latest six months of operations.

9. Falcon Charter Service shall continue to be subject to the Second Interim Order of Decision 87450, and shall continue to maintain a separate interest-bearing escrow account until further order of the Commission decision on the disposition of the funds in the account.

Public request has been received to make this interim transfer effective as soon as possible. The effective date of this order is the date hereof.

Dated at San Francisco, California, this 23rd day of AUGUST, 1977.

*I dissent -
no sale has taken
place - we have
just created a
partnership -
Robert Baturian*

 President
William S. Quinn, Jr.

Yusuf L. Sturgeon

Richard D. Chavall

Clare T. Debrich
 Commissioners

MEC

Appendix A

MISSION TRAILS CHARTER
SERVICE, INC.
(a corporation)

Original Title Page

INTERIM CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
AS A PASSENGER STAGE CORPORATION

PSC-911

Showing passenger stage operative rights, restrictions, limitations, exceptions
and privileges applicable thereto.

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.

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Issued under authority of Interim Decision No. _____, dated
AUG 23 1977, of the Public Utilities Commission of the
State of California, in Application No. 57402.

MEC

Appendix A.

MISSION TRAILS CHARTER
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SECTION 1. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS AND SPECIFICATIONS.

The certificate hereinafter noted temporarily and conditionally supercedes all passenger stage operative authority heretofore granted to Falcon Charter Service, a California corporation.

Mission Trails Charter Service, Inc., a California corporation, by the Certificate of Public Convenience and Necessity granted by the decision noted in the margin, is authorized as a passenger stage corporation, to transport passengers between Foster City, on the one hand, and the City and County of San Francisco, on the other hand, over 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) 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) Applicant shall not pick up or discharge passengers except along the routes hereinafter described within the City of Foster City and/or within the limits of the specified districts (service areas) in the City and County of San Francisco as hereinafter set forth.
- (d) The "Financial District" as used herein includes that area bounded by Kearny Street, Jackson Street, Battery Street, and Market Street.
- (e) The "Civic Center District" as used herein includes that area bounded by Turk Street, Polk Street, Grove Street and Larkin Street.

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SECTION 2. ROUTE DESCRIPTIONS.

Route No. 1

Commencing at the intersection of Foster City Boulevard and Polynesia Drive, in the City of Foster City; thence via Polynesia Drive, Comet Drive, East Hillsdale Boulevard, Gull Avenue, Beach Park Boulevard, Shell Boulevard, Bounty Drive, Foster City Boulevard and East Hillsdale Boulevard to U.S. Highway 101; thence along U.S. Highway 101 to the "Financial District" as defined in Section 1(d) and/or the "Civic Center District" as defined in Section 1(e), in the City and County of San Francisco using the most appropriate streets or highways within the City and County of San Francisco to reach said Districts.

Route No. 2

Commencing at the intersection of East Hillsdale Boulevard and Altair Avenue, in the City of Foster City; thence along Altair Avenue, Polaris Avenue to the first intersection of Beach Park Boulevard and Polaris Avenue; thence via Beach Park Boulevard, Edgewater Boulevard, East Hillsdale Boulevard, Gull Avenue, Beach Park Boulevard, Foster City Boulevard and East Hillsdale Boulevard to U.S. Highway 101; thence along U.S. Highway 101 to the "Financial District" as defined in Section 1(d) and/or the "Civic Center District" as defined in Section 1(e) in the City and County of San Francisco, using the most appropriate streets or highways within the City and County of San Francisco to reach said Districts.

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