

ORIGINAL

Decision No. 88064 NOV 1 1977

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of application of Michael A. Kadletz d/b/a Goodtime Tours & Co. for interim operating authority prior to issuance of permanent certificate of public convenience and necessity to operate a sightseeing tour between points in Buena Park, Ca, and points in Palm Springs, Ca.

Application No. 57236
(Filed April 18, 1977)

In the Matter of the Application of Michael A. Kadletz d/b/a GOODTIME TOURS & COMPANY to acquire a Certificate of Public Convenience and Necessity, and SOUTHERN CALIFORNIA COMMUTER BUS SERVICE, INC., to transfer, pursuant to Section 851, et seq., of the California Public Utilities Code.

Application No. 55921
(Filed September 8, 1975)
(Reopened August 17, 1977)

Michael A. Kadletz, dba Goodtime Tours & Co., for himself, applicant.
James H Lyons, Attorney at Law, for Skyview Limousine Service, Inc., interested party.
Elmer Sjostrom, Attorney at Law, for the Commission staff.

O P I N I O N

By this application Michael A. Kadletz, dba Goodtime Tours & Co., seeks a certificate of public convenience and necessity to establish and operate a bus sightseeing tour service for the transportation of passengers pursuant to Sections 1031 and 1032 of the Public Utilities Code from points in Buena Park to points in and around Palm Springs. Applicant proposes to operate this tour via the route set forth in Appendix A as well as on an on-call basis from any other hotel, motel, or inn in the general area of this route.

The proposed fares are \$20 for adults and \$17 for children under 16 years of age for the complete tour from Buena Park to Palm Springs and return. Applicant owns two 41-passenger General Motors' coaches, Model 4106, equipped with rest rooms, air conditioning, reclining seats, stereo, and CB radio which he proposes to use in the service for which authority is sought. The tour schedule calls for a 9:00 a.m. departure from Buena Park, returning at 7:10 p.m. the same day. It is proposed that the tour shall be operated daily with no less than 10 passengers, or with less than 10 passengers if the operator deems it feasible. Advance reservations are required and will be accepted up to 30 minutes before departure time. Any tour stop may be eliminated at the request of the tour group or, if any

of the tour sights are closed, the right is reserved to substitute any other sight or none at all; and the tour may be canceled due to poor weather conditions.

Tramway Transportation & Tours of Palm Springs (Tramway) filed a protest. Skyview Limousine Service, Inc. (Skyview) advised the Commission, by letter, that it would have no objection to the application if certain restrictions were placed upon any authority granted.

A duly noticed public hearing was held in Los Angeles on August 17, 1977 before Administrative Law Judge Bernard A. Peeters. The matter was submitted on that date.

Protestant Tramway orally withdrew its protest at the outset of the hearing. Applicant and Skyview stipulated that the following restrictions could be placed upon any authority granted here:

- "1. That the applicant is only authorized to provide round-trip sightseeing operations;
- "2. That all trips will begin and terminate the same day in Buena Park, Anaheim, or Santa Ana, including all on-call service;"
- "3. That there will be no transportation of baggage except that which is incidental to a daily trip by sightseeing passengers."

Applicant requested that we take official notice of the correspondence and voluminous attachments thereto between himself and the Commission staff, which were sent in support of his request

1/ Skyview subsequently advised it had no objection to authorizing all on-call service requested in the application.

for ex parte handling of this matter. We will take official notice of this material. Among the items of which we were requested to take official notice is a projected income and expense statement of the proposed operation for a one-year period.^{2/} This statement shows a projected annual income of \$14,484.00 before taxes. The staff did not question this statement. Another item is a resolution of the City Council of Buena Park dated May 13, 1977^{3/} which supports the grant of the authority sought. The Town Tour (Fun Bus) Co., Inc. submitted a letter dated June 14, 1977^{4/} wherein it is stated that Fun Bus will act as the exclusive marketing agent for Goodtime Tours; that it will assist in the mechanics of ticketing and voucher procedures; make its terminal in Anaheim available; and handle information calls and provide back-up equipment to handle overflow passengers or in the event of mechanical difficulty. Also, there were numerous statements from commuters who utilized applicant's commuter service to the effect that applicant provided excellent and reliable service. Certain statistical and advertising material was provided to demonstrate the number of tourists and visitors coming to Orange County and their desires to visit other attractions outside the county, viz., Palm Springs. This data shows that approximately 18 percent of all tourists and visitors to Orange County expressed a desire to visit Palm Springs during their stay.

The staff presented its evidence through two witnesses. The evidence consisted primarily of a showing of the difficulties

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- ^{2/} Attachment to letter of 6/13/77. Received as Exhibit A.
^{3/} Attachment to letter of 5/13/77. Received as Exhibit B.
^{4/} Attachment to letter of 6/13/77. Received as Exhibit C.

experienced with obtaining applicant's compliance with directives for the filing of evidence of insurance, time tables, and tariffs in connection with prior authority granted applicant, which he no longer holds.

It was pointed out by the staff that a request had been received from the applicant to suspend his certificate to operate a home-to-work passenger stage until further notice.^{5/} It is stated this suspension is necessary because of layoffs at the Hughes Aircraft Company in El Segundo which affected many of his commuters. Kadletz reaffirmed this request at the hearing. Although this matter is beyond the scope of this proceeding, in the interest of efficiency, we will dispose of the matter here by reopening the proceeding in A.55921 and authorize a six-month suspension rather than leave it open-ended as requested. We do not deem it to be in the public interest to permit a certificated carrier who has dedicated his property and service to the public use to suspend operations for an indefinite period of time. To do otherwise would remove any incentive to carry out the purpose of the authority granted. Therefore, we will also order that if the service is not reinstated within an approximate six-month period, the authority will automatically lapse on the grounds that the service has been abandoned.

Findings of Fact

1. There is a public need for the proposed service for which authority is sought.
2. Applicant has the fitness, financial ability, and experience to inaugurate the service.

^{5/} Letter from Goodtime Tours & Co., dated May 18, 1977. Received as Exhibit D.

3. Applicant has requested in writing that the home-to-work passenger stage certificate granted by D.85611 in A.55921 be suspended until further notice because many employees who used this service were laid off by the Hughes Aircraft Company in El Segundo.

4. An indefinite suspension of the certificate referred to in Finding 3 is not in the public interest; therefore, an approximate six-month suspension should be granted subject to an automatic lapse of the authority if service is not reinstated by April 1, 1978. A.55921 should be reopened to accomplish this modification.

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.

Conclusions of Law

1. A certificate of public convenience and necessity should be granted applicant to operate sightseeing tours as requested, restricted in accordance with the stipulation entered into.

2. D.85611 in A.55921 should be modified to provide for the automatic expiration of the authority granted therein if service is not reinstated by April 1, 1978.

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 Michael A. Kadletz, an individual doing business as Goodtime Tours & Co., authorizing him to conduct daily operations as a passenger stage corporation, as defined in Section 226 of the Public Utilities Code, between the points and over the route, as set forth in Appendix A, and on an on-call basis from points in the area set forth in Appendix A to Palm Springs and return.

2. 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.

3. Application No. 55921 is reopened for the purpose of modifying Decision No. 85611.

4. The authority granted by Decision No. 85611 is hereby suspended for a period not to extend beyond April 1, 1978.

5. Decision No. 85611 is amended to provide for the automatic lapse of the authority granted therein if service is not reinstated by April 1, 1978.

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

Dated at San Francisco, California, this 1st day of NOVEMBER, 1977.

Robert B. Robinson
President

William J. Quinn

James L. Stitzgen

Richard D. Shoval

Clair L. DeLoach
Commissioners

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Appendix A

MICHAEL A. KADLETZ
Doing Business As
GOODTIME TOURS & CO.

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CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
No. 995
TO OPERATE AS
A PASSENGER STAGE CORPORATION

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.

Issued under authority of Decision No. 88064
dated NOV 1 1977, of the Public Utilities
Commission of the State of California, in Application No. 57236.

Section 1. General Authorizations, Restrictions, and Specifications.

Michael A. Kadletz, doing business as Goodtime Tours & Co., is authorized as a passenger stage corporation to transport passengers over the routes hereinafter described subject to the authority of this Commission to change or modify said routes at any time and subject to the following provisions:

- (a) All service herein authorized shall be limited to the transportation of round-trip sightseeing passengers only.
- (b) All trips will begin and terminate the same day (Route 1) in Buena Park, Anaheim, or Santa Ana, or (Route 2) within the on-call service territory described in Route 2.
- (c) Applicant shall not pick up or discharge passengers except within the limits described in each service route as hereinafter set forth. This restriction shall not prevent stopovers for the purpose of permitting sightseeing passengers to visit various points of interest along the route.
- (d) The term "on-call" as used herein 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.
- (e) There shall be no transportation of baggage except that which is incidental to a daily trip by sightseeing passengers.
- (f) Service shall be operated daily with no fewer than 10 passengers except at the operator's discretion.

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- (g) Advance reservations are required and will be accepted up to 30 minutes before departure time.
- (h) Any tour stop may be eliminated or substituted at the request of tour group or if any of the tour sights are closed.
- (i) The tour may be canceled due to poor weather conditions.
- (j) Sightseeing Routes 1 and 2 will not be operated in conjunction with each other.

GOODTIME TOURS & CO.

Section 2. Route Description.

Route 1. SIGHTSEEING SERVICE: BUENA PARK, ANAHEIM,
SANTA ANA/PALM SPRINGS.

Commencing and picking up passengers at the Le Baron Hotel (west of the intersection of Crescent Avenue and Beach Boulevard) in Buena Park; thence easterly on Crescent to Beach and northerly on Beach to Holiday Inn (at Junction of Beach and State Route 91) where passengers are to be picked up; thence easterly on State Route 91 to Interstate Route 5, southerly on Interstate 5 to Ball Road in Anaheim, westerly on Ball Road to Sheraton-Anaheim Hotel where passengers are to be picked up, westerly on Ball to West Street, southerly on West Street to Disneyland Hotel where passengers are to be picked up; thence southerly on West Street to Convention Way, east on Convention Way to the Quality Inn (at the intersection of Convention Way and Harbor Boulevard) where passengers are to be picked up; thence northerly on Harbor to Hyatt Hotel in Anaheim where passengers are to be picked up; thence northerly to 1380 S. Harbor Boulevard for passenger pickup at Howard Johnson's Motor Lodge; thence southeasterly on Interstate 5 to First Street in Santa Ana; westerly on First Street to Saddleback Inn where passengers are to be picked up; thence easterly on First Street to Interstate 5, southeasterly on Interstate 5 to State Route 55, northerly on State Route 55 to State Route 91, easterly on State Route 91 to State Route 60, easterly on State Route 60 to Apache Trail off ramp to Hadley's Fruit Market in Cabazon for a 45 minute refreshment stop; thence easterly on State Route 60 to State Route 111, southerly on State Route 111 (eventually becoming Palm Canyon Drive) into the City of Palm Springs; thence westerly on Tahquitz-McCallum Way to Palm Springs Desert Museum, where passengers disembark for a two-hour narrated walking tour of the museum and the central shopping district of Palm Springs.

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Appendix A

Michael A. Kadletz
Doing Business As
GOODTIME TOURS & CO.

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Passengers then reboard the bus for a sixty-minute bus tour of the greater Palm Springs area, following the most convenient and appropriate streets to view such sights as Angel Stadium (Baseball training grounds), Agua Caliente Indian Reservation, and Moorten Botanical Gardens. Following this area tour, the bus heads northerly on State Route 111 to Tramway Drive, westerly on Tramway Drive to Palm Springs Aerial Tramway, where passengers disembark for a tram ride to and from the top, then reboard the bus for the return portion of the tour. The bus then proceeds northerly on Palm Canyon Drive to State Route 60, westerly on State Route 60 to State Route 91, westerly on State Route 91 to State Route 55, southerly on State Route 55 to Interstate Route 5, northwesterly on Interstate Route 5 to First Street in Santa Ana to Saddleback Inn, thus commencing the reversal of the hotel pickups.

Route 2 SIGHTSEEING SERVICE: On-Call

From points in the on-call service territory bordered on the north by State Highway 91, on the south by State Highway 1 (Pacific Coast Highway), on the west by State Highway 39 (Beach Boulevard), and on the east by State Highway 55, Interstate Route 5, and State Highway 133; thence by the most direct route to Hadley's Fruit Market in Cabazon for a 45-minute rest stop, thence by Route 1, above, to Palm Springs and return to the points of origin.

Issued by California Public Utilities Commission.

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