

ORIGINAL

Decision No. 88413 JAN 24 1978

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of Rutherford Scott Hartz (SIGHT SKIING TOURS) seeking a passenger stage authority with a certificate of public convenience and necessity, P. U. CODE Sections 1031-1036. Application No. 57396 (Filed June 22, 1977, amended September 20, 1977)

Rutherford Scott Hartz, for himself, applicant.
Silver, Rosen, Fischer and Stecher, by John Paul Fischer, Attorney at Law, for Gray Line Scenic Tours, Inc., dba California-Nevada Golden Tours; and Handler, Baker and Greene, by Randall M. Faccinto, Attorney at Law, for Allen Transportation Co. and Amador Stage Lines, Inc.; protestants.
Ora A. Phillips, for the Commission staff.

OPINION

Rutherford Scott Hartz, now operating as Sight Skiing Tours, Inc., applied for authority to transport skiers between South Lake Tahoe, and Kirkwood, Alpine Meadows, Squaw Valley, Incline Northstar, Mt. Rose, Bear Valley, June Mountain, and Mammoth Mountain, with a single 12-passenger Chevrolet van. Summer sightseeing tours to Virginia City, Lake Tahoe points, and the Gold Country were also proposed. Protests were filed and a public hearing was held in South Lake Tahoe on September 20, 1977 before Administrative Law Judge Fraser.

The application was amended at the hearing to eliminate Northstar, Incline, Bear Valley, Mt. Rose, June Mountain, and Mammoth Mountain. Two sightseeing tours were deleted because they were partially in the State of Nevada. Gray Line Scenic Tours, Inc. withdrew as a protestant after the amendment was filed.

Applicant is employed as a bus driver by the city of South Lake Tahoe. He drives skiers from downtown to Heavenly Valley Ski Runs, and his riders have asked if bus service is provided to other nearby resorts. This type of transportation has never been offered, although some skiers ride in pools, or hitchhike between resorts. Hartz testified that he inquired and was advised that a group of South Lake Tahoe motels would advertise the service and sell tickets. The resorts also reacted favorably and offered reduced fares on ski lifts and parking privileges.

Applicant will provide one round trip each day, seven days a week, for eight or more passengers. He will pick up at motels in South Lake Tahoe, drive to the ski area selected, ski all day with his passengers, and return to their motels. One ski area will be visited each day. If there are several requests, the first group of eight will be served. Applicant will do all the driving until hiring another man is justified. He will operate out of his home with the 12-passenger Chevrolet van. He estimated an average of 10 passengers at a fare of \$8 and 80 miles daily. His current expenses include the van purchase, insurance payments, advertising expense, and extra equipment (i.e. fire extinguisher, flares, chains, etc.) for the van. He will not pay a commission to the motels who advertise and sell his tickets. There will be no radio or newspaper advertising because he is sure he can obtain sufficient business from satisfied customers. He will purchase a 17-passenger vehicle if his business expands, but has no intention of operating any vehicle with a passenger capacity of 20 or more. Four persons testified for the applicant. A representative from the South Lake Tahoe Chamber of Commerce stated there is a need for service to nearby ski resorts during the winter. The manager of a large South Lake Tahoe motel advised that he has inquiries almost daily regarding bus service to local ski resorts. He advised

that the larger motels sell ski lift tickets which are accepted at all nearby ski resorts. This policy encourages patrons to ski at more than one resort if transportation is available. A South Lake Tahoe bus driver testified that his winter job is transporting skiers to Heavenly Valley. He is asked every day about service to other ski areas. A cross-country skiing instructor from Kirkwood Meadows advised they especially need the proposed service. The cross-country instruction area is two miles from the downhill ski lifts and there is no room to accommodate large buses. Several witnesses emphasized that most drivers from the Bay Area prefer not to drive when snow is on the highway. These people prompted the city to establish local bus service which is very popular in the winter.

The vice president of Allen Transportation Co. (Allen) testified that protestants operate with 25 47-passenger buses. Allen transports charters to all nearby ski areas and Amador Stage Lines, Inc. (Amador) has a scheduled service between Stockton and Reno, Nevada, every Tuesday and Thursday, which serves Kirkwood in both directions. The bus leaves Stockton, California, at 8:00 a.m. and goes by Kirkwood about 10:50 a.m.; it arrives in Reno, Nevada, at 1:12 p.m. The return trip starts at 4:30 p.m., passing through Kirkwood at 6:50 p.m. and is back in Stockton at 9:41 p.m. The witness testified that Allen inaugurated service for skiers between South Lake Tahoe and Kirkwood during the 1973-74 ski season. A 47-passenger bus was provided, carrying an average of less than eight in each direction. Service was terminated in March of 1974 due to lack of patronage. The 1975 and 1976 seasons had insufficient snow and business was bad. Allen will provide this service again if there is a good ski year. This protest was filed so Allen can continue to provide service to

Kirkwood, with a 47-passenger bus. Protestant's experience indicates that a 12-passenger van may not have sufficient capacity for holiday weekends. Protestants object only to applicant's proposed service to Kirkwood and to charter service, which applicant will not provide.

Findings

1. Hartz drives a city bus from South Lake Tahoe to the Heavenly Valley ski area.
2. He has applied for authority to operate a regular service between South Lake Tahoe and ski resorts in the winter and South Lake Tahoe and the Gold Country in the summer.
3. One round trip will be made each day to a selected destination for a minimum of eight passengers.
4. Service will be instituted with a Chevrolet 12-passenger van, driven by applicant Hartz.
5. Applicant has incorporated as Sight Skiing Tours, Inc., since filing his application.
6. Protestant Allen transported skiers between South Lake Tahoe and Kirkwood during the last profitable ski season and will provide this service again when sufficient skiers require it.
7. Protestant Allen has provided satisfactory service to Kirkwood in the past and has a priority to reinstate service whenever there is sufficient business to justify it.
8. Applicant should be authorized to provide service during the ski season between South Lake Tahoe, Alpine Meadows, and Squaw Valley; and during the rest of the year between South Lake Tahoe and the Gold Country, over routes described in the application.
9. Applicant has the ability, experience, equipment, and financial resources to perform the proposed service.
10. 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 to the extent set forth in the following 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 Sight Skiing Tours, Inc., a California corporation, authorizing it 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 this decision.
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 it accepts the certificate it 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 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.

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

Dated at San Francisco, California, this 24th day of JANUARY, 1978.

Robert Belmont
President

William S. ...

...

Richard D. ...

Clair L. ...
Commissioners

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
PSC-1033
TO OPERATE AS
A PASSENGER STAGE CORPORATION

Showing passenger stage operative rights, restrictions, limitations, exemptions 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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SECTION 1. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS
AND SPECIFICATIONS.

Sight Skiing Tours, Inc., a 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 and their baggage and equipment on an on-call basis for ski tour and sightseeing tour services originating in the City of South Lake Tahoe to various points and over the routes hereinafter described, subject to the following conditions and restrictions:

- (a) 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.
- (b) No service shall be operated for a trip that is totally within the City of South Lake Tahoe.
- (c) No service shall be operated in a vehicle with a designed seating capacity exceeding 20 passengers.
- (d) Ski tours may be operated during the winter sports season of the year.
- (e) All ski tours shall be round trip.
- (f) Sightseeing tours may be operated during the remainder of the year other than the winter sports season.
- (g) All sightseeing tours shall be for the complete trip as hereinafter described.
- (h) Vehicles on sightseeing tours may divert from the numbered and named roads and highways identified in the route description to visit the intermediate points of interest identified in those route descriptions.

SECTION 2. SKI TOURS

Ski Tour 1. Alpine Meadows

From points in the City of South Lake Tahoe, north via State Highway 89 to the junction of State Highway 89 and Alpine Meadows Road, then west via Alpine Meadows Road to the Alpine Meadows Ski Area, and return over the reverse route.

Ski Tour 2. Squaw Valley

From points in the City of South Lake Tahoe, north via State Highway 89 to the junction of State Highway 89 and Squaw Valley Road, then west via Squaw Valley Road to the Squaw Valley Ski Area, and return over the reverse route.

SECTION 2. SKI TOURS

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SECTION 3. SIGHTSEEING TOURS

Sightseeing Tour 1 - Placerville - Auburn - Donner

From points in the City of South Lake Tahoe, south and west via U. S. Route 50 to Placerville, then north via State Highway 49, visiting the intermediate point of Coloma, to Auburn, then east via Interstate 80 to the junction of Interstate 80 and State Highway 89, west of Truckee, then south via State Highway 89, visiting the intermediate points of Donner Lake and Museum, Tahoe City and Emerald Bay, returning to points in the City of South Lake Tahoe.

Sightseeing Tour 2 - Kirkwood - Jackson - Placerville

From points in the City of South Lake Tahoe, south via U.S. Route 50 and State Highway 89 to the junction of State Highways 89 and 88, then west on State Highway 88, visiting the intermediate points of Kirkwood, Silver Lake, and Volcano, to Jackson, then north via State Highway 49, visiting the intermediate points of Sutter Creek and Amador City, to Placerville, then east via State Highway 50 to points in the City of South Lake Tahoe.

- End of Appendix A -