

SW/dz

Decision No. 89074 JUL 11 1978

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of 24-HOUR AIRPORT EXPRESS, INC., for authority to operate as a passenger stage corporation between points in Los Angeles and Orange Counties and the Los Angeles International Airport, Orange County Airport, Long Beach Municipal Airport, Ontario International Airport and Hollywood-Burbank Airport.

Application No. 57765
(Filed December 16, 1977)

In the Matter of the Application of Luxe Livery Service, Inc., a California Corporation, for authority to operate a passenger stage service between points in Orange County and Los Angeles Harbor, Los Angeles International Airport and Ontario International Airport.

Application No. 57850
(Filed February 3, 1978)

Bewley, Lassleben & Miller, by Edward L. Miller, and Handler, Baker & Greene, by William D. Taylor, Attorneys at Law, for 24-Hour Airport, Express, Inc., applicant in A.57765; protestant in A.57850.

Virant & deBrauwere, by John E. deBrauwere, Attorneys at Law, for Luxe Livery Service, Inc., applicant in A.57850; protestant in A.57765.

James H. Lyons, Attorney at Law, for Airport Service, Inc.; and John Cockburn, for J. L. Evans, United Transportation Union Legislative Board; protestants in both applications.

Michael S. Ball and Thomas Otaola, for Golden State Transit, dba Los Angeles Yellow Cab; Keith Conway, for Royce Richards, dba Valley Checker Cab, and for Southern California Transit; and Virant & deBrauwere, by Thomas J. L. Virant and John E. deBrauwere, Attorneys at Law, for Crown Airport Commuter; protestants in A.57765.

Robert W. Russell, by Kenneth E. Cude, for Department of Public Utilities and Transportation, City of Los Angeles; and Joseph A. Lyle, for Southern California Rapid Transit District; interested parties.
Thomas Hunt, for the Commission staff.

O P I N I O N

These are applications of 24-Hour Airport Express, Inc. (24-Hour) and Luxe Livery Service, Inc. (Luxe) for certificates of public convenience and necessity to operate as passenger stage corporations. Both applicants propose to transport passengers and their baggage in van-type vehicles in door-to-door service between designated airports, on the one hand, and homes, places of lodging, commercial and industrial establishments, and any and all other places within their respective proposed service areas, on the other hand.

24-Hour proposes to serve Los Angeles International Airport (LAX), Hollywood-Burbank Airport (HNB), Long Beach Municipal Airport (LGB), Orange County Airport (OCA), and Ontario International Airport (ONT). The service area of 24-Hour would include the most populous portion of Los Angeles County lying south of the San Gabriel Mountains, almost all of Orange County, and a small portion of San Bernardino County in the vicinity of ONT. Luxe proposes to transport passengers between LAX, OCA, ONT, and all points in Orange County. Luxe also seeks authority to transport passengers and baggage between all points in Orange County and the docks and piers at Los Angeles and Long Beach harbors.

Nine days of public hearing were held on a consolidated record before Administrative Law Judge Norman Haley at Los Angeles between February 16 and May 2, 1978. Altogether 45 witnesses testified and 59 exhibits were received (61 numbered). The matters were submitted on May 19, 1978, the due date for concurrent briefs.

Background

24-Hour is now headquartered in Whittier, Los Angeles County. It soon will move to new headquarters which are nearby in La Habra, Orange County. Luxe is headquartered in Santa Ana, Orange County. For several years applicants and their predecessors have been performing services as charter-party carriers similar to those they seek to perform as passenger stage corporations, as discussed below. Each applicant alleges that if the certificate it seeks is granted the service to be offered will be substantially similar to that which is now rendered.

Both applicants would perform service 24 hours a day, seven days a week, primarily on an advance telephone reservation basis. A reservation, party, or group could include one or more than one person. Generally, from one to three reservations would be carried in one van on one trip. Ideally, service would be provided for reservations made 24 hours in advance. Over 95 percent of 24-Hour's reservations are made more than 24 hours in advance. However, it is anticipated that a number of reservations would be made with less notice than that. Charges which would include up to three persons would be published between points or zones, along with additional charges, as discussed below. The type of transportation proposed is referred to herein as airport shuttle. The principal business of both applicants would be handling airport shuttle traffic from and to LAX. Both applicants operate under permission from the airports and would continue to do so.

In addition to airport shuttle service, both applicants would continue to perform services which are typically those of charter-party carriers where only one party charters a vehicle on a particular trip, and where charges for various trips are based upon a vehicle mileage or time-of-use basis, or a combination thereof.

The matter of more than one reservation or party being transported by applicants in one vehicle at one time at the kind of charges involved under charter-party permits^{1/} was brought to the attention of the Commission staff upon different occasions over several years. Staff members generally assured applicants that they might properly provide the service in question under their charter-party permits. At one point Luxe was cautioned that its operation might raise a protest. In correspondence in 1975 with an officer of 24-Hour's parent company, the staff raised certain questions concerning whether operations between points in Orange County and LAX were those of a passenger stage corporation. In reply the company discussed the issues and stated that it desired to follow all regulations but was of the opinion that its operations at that time were not those of a passenger stage corporation. When 24-Hour filed A.56841 on November 3, 1976 to extend its charter-party permit, the application was protested by Airport Service, Inc. (Airport Service), a passenger stage corporation whose operations are described more fully below. On January 19, 1978 Airport Service filed a complaint against Luxe in C.10488. In D.88061, as modified by D.88381 (1978) involving operations of 24-Hour, and in D.88529 (1978) involving operations of Luxe, the Commission concluded that the airport shuttle operations, as performed by both carriers, exceeded permissible limits for charter-party carriers. Among other things, the Commission found that under the carriers' charter-party permits only one party may charter a vehicle on a particular trip. The method of charging fares also was determined to be improper for charter-party carriers.

^{1/} On page 12 of D.88061 (1977) we noted that the language of Public Utilities Code Section 5401 (charges of charter-party carriers) is ambiguous enough to encompass a multitude of interpretations.

The Commission determined that the charter-party permits of 24-Hour and Luxe should be renewed if they submit proposed changes in charter-party operations, rates, and charges to correct the impermissible aspects spelled out in D.88061 and D.88529. By D.88671 and D.88687 (1978) the expiration dates of the permits of 24-Hour and Luxe were extended to July 14, 1978 to permit orderly disposition of the instant applications for passenger stage authorities.

24-Hour and Luxe contend that the sought passenger stage authorities for airport shuttle service are absolutely necessary for economic survival. It is their position that operations can be performed efficiently and profitably only if more than one reservation or party can be transported in the same vehicle on the same trip. Assertedly, if only one party is permitted to be transported at a time, the operations would be reduced to the status of limousine service, that more vans and drivers would be required which would make costs and rates excessive, and that such operations would have no hope of success.

Both applications are protested by Airport Service, and by the United Transportation Union which represents drivers of Southern California Rapid Transit District (SCRTD). Crown Airport Commuter (Crown), a passenger stage corporation authorized to provide certain service from and to LAX and HWB, and two taxicab organizations protest the application of 24-Hour. Luxe and 24-Hour each protest the other's application.

Presentation of 24-Hour

Evidence on behalf of 24-Hour was presented through its president, Mr. Friesen, and 14 witnesses representing industrial and commercial firms, travel agencies, and other organizations.^{2/}

24-Hour Airport Express, Inc. is the solely owned subsidiary of 24-Hour Rent-A-Car, Inc. Mr. Friesen has been president of both corporations since 1974. Since 1976 he has owned all of the stock of 24-Hour Rent-A-Car, Inc. Approximately six years ago 24-Hour Rent-A-Car, dba 24-Hour Airport Service, obtained a charter-party carrier permit from the Commission. The permit is now issued under the name of 24-Hour Airport Express, Inc.

^{2/} The witnesses for 24-Hour and the firms they represent were:
(1) Gerald R. Friesen, president of 24-Hour, Whittier;
(2) Maria Kiefer, Firestone Tire and Rubber Company, Commerce;
(3) Evelyn M. Keener, Chevron Oil Field Research Company, La Habra; (4) Arthur J. Hughes, Bechtel Power Corporation, Norwalk;
(5) Dale Lissner, operator of Dale's RV Rentals, Inc., Irvine;
(6) Constance Judd, Customer Equipment Service Division, Eastman-Kodak Company, Whittier; (7) Gordon Brown, owner-operator of Good Time to Travel (travel agency), Laguna Hills;
(8) Rease Leverenze, Hughes Aircraft Company, Irvine; (9) Jerry York, Athletes in Action, Tustin; (10) Henry von Sieber, Fluor Engineers and Constructors, Irvine; (11) Dwane Brice, owner of Brice Travel Service, Whittier; (12) Karla Keller, Global Marine, Los Angeles; (13) John W. Miller, Honeywell, Inc., West Covina; (14) Charlene Jernigan, Western Employers Insurance Company, Fullerton; and (15) Alex Page, Air Canada, Los Angeles (LAX).

What 24-Hour seeks is authority to operate an airport shuttle service in the Orange/Los Angeles/San Bernardino County metropolitan area similar to, but more comprehensive than, the airport shuttle service authorized by the Commission for the San Francisco Bay area in Charter Sedan Service v National Executive Services, Inc. (NES) (1969) 70 CPUC 158. As an exception, 24-Hour seeks to provide airport shuttle service door-to-door, not only catering to businesses as in the case of NES, but also catering to resident users within the sprawling metropolitan Orange/Los Angeles/San Bernardino County area.^{3/} Also, unlike NES, 24-Hour proposes to charge on a group fare basis, which in effect produces a per capita discount for larger groups of persons. 24-Hour points out that in going door-to-door, it is much less expensive to carry four persons between one residence or place of business and an airport than to travel between four separate residences and/or places of business and an airport. By pooling several parties in each van-type vehicle, economies of operation assertedly are being achieved with a result that passengers are carried for approximately one-half of the fare which would be charged if the vehicle were under the exclusive control of one party, as in the case of most taxicabs. These economies save fuel, and reduce freeway, surface street, and airport congestion, especially at peak travel times such as Friday afternoons and evenings. It was alleged that to charge a single per passenger fare would discriminate against family groups, business groups, and other groups in favor of one or two individuals in a reservation.

^{3/} At 70 CPUC 163, we concluded in part as follows:

"With the ever-increasing growth and development of air travel there is developing a corresponding need for expeditious public transportation to and from our airports. The service herein offered is primarily designed to meet the business needs and requirements of companies in transporting their personnel traveling on company business between their homes or places of business and the airports; however, the service as proposed would also be available to anyone who wishes to make use of it."

According to the president of 24-Hour, the company's predecessor commenced charter operations about 1972 with one vehicle. A substantial public need was soon discovered for an economical way for people in the sprawling Los Angeles-Orange County area to travel with luggage from and to airports on a door-to-door basis. At that time it was found that certain bus service was provided from and to LAX and OCA, but little was available from or to LGB, ONT, or HWB. The available bus service consisted almost exclusively of service provided by Airport Service and SCRTD.^{4/} It is alleged that regular route fixed-point bus service does not satisfy the needs of much of the public for a convenient way to get to and from airports. Door-to-door service as provided by 24-Hour is not performed by Airport Service or SCRTD which provide transportation in large buses only between bus stops.

The president found that people using private automobiles must fight their way through traffic congestion at the airports. Private automobile transportation often was not available at all to the elderly traveler. Taxicab service assertedly was virtually nonexistent from outlying areas located substantial distances from airports, particularly late at night and early in the morning. It was alleged that where taxicabs were available, reservations could not be made on a firm basis with any assurance that the cab would show up on time for long distance transportation to an airport.

^{4/} Airporttransit also operated, but ceased doing so in December 1976. SCRTD now operates airport express buses between a number of points formerly served by Airporttransit. By D.88331 (1978), Crown's certificate was restated, and that carrier was authorized to provide certain additional service from and to HWB and LAX. Crown's operation is relatively small.

When a cab did show up, the cost assertedly was prohibitive to the bulk of the public. At one time, during the 1960's, there was a commuter helicopter service from LAX to the Whittier area and some other areas, but that service was very expensive and the company ultimately failed financially, so service no longer existed by the early 1970's.

It was testified that as businesses moved their area headquarters from centralized areas to more remote places, busy executives, engineers, physicists, scientists, sales personnel, trainees, customers, and other personnel traveling frequently by air had no satisfactory way to reach the airports except by private vehicle. Assertedly, this was very inconvenient with the congestion and parking problems, particularly where lengthy trips were involved. It was stated that neither taxicabs nor fixed-route buses could provide them with the necessary service. As to the fixed-route buses, the locations of bus stops some distance away from actual origins and destinations meant that elderly travelers, busy business people, and others would first have to find a way by taxicab or private vehicle to get to the bus stops. People would have to handle their own baggage into and out of private vehicles in both directions. If persons taking trips parked their own vehicles near bus stops, the vehicles were left exposed to the elements and to vandalism. Since bus schedules from and to some points were relatively infrequent, and did not meet specified scheduled flights, it also meant that the busy business person whose time is most valuable frequently would have to wait at an airport terminal for an hour or more to board a flight, or to wait for a bus after a return flight. Those problems were even more difficult late at night and early in the morning. The busy executive attempting to leave on an 8:00 a.m. or 9:00 a.m. flight would be required to arise very early in the morning, either impose upon a family member or friend to get him by private vehicle

to the nearest bus stop, or drive and park his vehicle for lengthy periods of time at the bus stop. A return late at night would again require imposing upon someone to meet the bus at a specified bus stop. Bus service assertedly is not convenient for a retired elderly person who must impose on a friend or relative to drive him, or find a taxicab for transportation in both directions to and from an airport bus stop. Some elderly people find it physically difficult or impossible to handle all of the baggage involved. Baggage handling in and out of private vehicles is avoided by using 24-Hour.

24-Hour will transport passengers directly from and to West Imperial, which is a terminal at LAX utilized by certain charter air carriers. West Imperial is not served by Airport Service or by on-airport shuttle buses, which assertedly often makes other ground transportation awkward and time-consuming.

The president of 24-Hour testified that the demand for door-to-door airport service was met by his company and that business expanded rapidly. The company currently operates 23 air-conditioned, radio-equipped vans that provide door-to-door service to the public between points in the three-county area and the five airports. A total of 30 vans for this service is contemplated. 24-Hour's radio transmitter in Whittier assertedly provides a signal satisfactory for van operations throughout the three-county area involved. In addition, 24-Hour proposes to continue service as a charter-party carrier to and from Los Angeles Harbor and sports events, and for other needs.

The witnesses representing industrial and commercial firms, travel agencies, etc. (footnote 2, above) testified in support of the application of 24-Hour for the door-to-door transportation which it performs. A number of advantages cited by representatives of businesses and industries for using 24-Hour were the same as those related by the company's president. In

addition it was disclosed that their companies have used the services of 24-Hour for various periods up to several years to transport people from and to one or more of the airports in the area. The principal reasons advanced for using the service of 24-Hour are that door-to-door service is needed; is efficient; saves time and salary costs; saves parking fees (particularly for long periods out of town); eliminates exposure of private vehicles to the elements; saves money in comparison to costs of taxicabs, limousines and rental cars; and reduces or eliminates some of the aggravations people experience when traveling, such as transferring between buses and other vehicles. It was stated that 24-Hour drivers will look for passengers arriving at airports with reservations. Families with children from out of state planning to vacation in rented recreation vehicles assertedly have found the best way to travel between airports and recreation vehicle rental facilities is by 24-Hour.

Air Canada benefits from 24-Hour's continuous service with respect to passengers on late flights out of Canada. Sometimes the last commuter flight by Golden West Airlines from LAX to OCA or ONT has departed, so there is no way for passengers to make connections at either of those airports, except by taxicabs with small load capacities. The witness from Air Canada supports the application of 24-Hour because it has the capacity to provide necessary service at odd hours and under difficult circumstances when no other carrier is available.

Several witnesses testified that using 24-Hour produces bookkeeping and accounting benefits to busy executives and other employees because the carrier bills the employer directly without bothering the traveler to personally advance the funds and then seek individual reimbursement.

Examples were cited where industrial and commercial firms had routed passengers by Airport Service buses. However, most locations to and from which airport ground transportation is needed are located substantial distances from bus stops. It was stated that for one or two passengers in a group, Airport Service is the low cost carrier between points which it serves. However, service of 24-Hour assertedly is no more expensive than Airport Service for larger groups. The problem is that in almost all cases other transportation must be arranged from and to bus stops which assertedly is time-consuming and inconvenient to the busy business traveler. Although some of the witnesses were aware of SCRTD bus service they either said they had not used it or would not use it. It was the testimony of a number of the witnesses that if the service of 24-Hour were not available, it would be better to transport personnel directly to and from airports in private vehicles (including rental cars) or taxicabs than to transport them to and from bus stops. Some executives refuse to wait for and ride buses. The president of 24-Hour was of the opinion that less than one percent of its passengers would opt for fixed-route bus line service if the sought authority is not granted.

The witnesses called by 24-Hour testified that the service of 24-Hour is prompt, reliable, convenient, dependable, and economical. It is the contention of these witnesses that there is no acceptable alternative to the type of service performed by 24-Hour. They urged that the sought passenger stage authority be granted.

The testimony of witnesses representing business and industry discloses that a number of them have employees and others who originate both in Los Angeles and Orange Counties. The president of 24-Hour stated that approximately 50 percent of 24-Hour's business originates in Los Angeles County, and 50 percent

in Orange County. He estimates that approximately 80,000 passengers will be carried in airport shuttle service in 1978. The number of reservations carried per trip is 1.7.^{5/} He contends that a proposal of Luxe, discussed below, that only it be authorized to serve Orange County would eliminate 24-Hour from an area it has traditionally served, would make it impractical to serve industries who make reservations that include passengers in both counties; and would reduce the number of reservations per trip to a point where the entire operations would be uneconomical.

The fares of 24-Hour would consist of base prices (minimum charges) which would include up to three passengers picked up at the same time at the same address. The base prices would vary with length of haul. Additional passengers picked up at the same time at the same address would pay \$3 each, regardless of length of haul. There would be a \$3 surcharge for pickup at an airport, except on prepaid round trips. A 60 percent surcharge on base prices would apply for service between 11:00 p.m. and 5:00 a.m. There would be a \$5 surcharge for meeting certain charter and overseas flights. There also would be a \$3 surcharge for additional stops in the same city, and a \$4 surcharge for additional stops in a bordering city. A four-hour notice would be required when canceling reservations.

The base prices of 24-Hour would be constructed between named airports and communities or zones based on length of haul, traffic density, and other considerations. For this reason, the base prices from and to the several airports would vary for the same lengths of haul. Between LAX and points in central and eastern Los Angeles County and Orange County base prices would range from \$15 for distances from zero to 24 miles to \$30 for distances from 75 to 80 miles. Base prices between LAX and points in northwest Los Angeles and the San Fernando Valley, and from and to OCA, would be higher.

^{5/} The number of passengers carried per trip is, of course, higher.

The charges of 24-Hour are both higher and lower than those of Luxe, depending upon a number of factors. They are lower than the charges for taxicab service for longer hauls. For short hauls generally under 10 miles the charges of 24-Hour are higher than for taxicab service. The charges of 24-Hour are substantially higher than those of Airport Service for up to three passengers in a single reservation. When additional passengers are included in the same reservation, charges can be much the same by either 24-Hour or Airport Service.

In the initial rate proposal of 24-Hour (Exhibits 20 through 24), base prices would have been stated only with respect to named cities, communities, and points. In its final rate proposal (Exhibits 58 through 61), 24-Hour would establish 66 zones in the most populous western portion of the sought area as a means of avoiding possible long- and short-haul rate situations. There are more than 100 incorporated cities in the three-county area involved. It is possible when traveling in a single direction to go in and out of the same city more than once after traveling through part of another city. This is because of many extremely irregular, elongated, and intertwined city boundaries. It is possible, therefore, that a greater charge may result for a shorter haul than for a longer haul over the same route in the same direction where city boundaries alone govern the application of rates. The proposed zones would help alleviate this problem. They also would have the advantage of providing definite rate boundaries where none would exist based only on local community names. For example, there are a number of communities in the city of Los Angeles between Wilmington on the south and Chatsworth and Sylmar on the north which have no separate boundaries. Charges from and to such places probably could be determined more accurately if specific zone boundaries were established.

The president of 24-Hour alleged that during the six years of operation the company has always shown a profit. The profit or loss statement for the year ending June 30, 1977 shows total income of \$576,826.67. Assertedly, most of this revenue was from airport shuttle operations. Net profit was \$21,557.24. The company anticipates that gross income for the year ending June 30, 1978 will be approximately \$800,000. The balance sheet as of June 30, 1977 shows total assets of \$139,340.72, stockholders' equity of \$26,557.24, and other liabilities of \$112,783.48. The value of equipment, less straight-line depreciation, exceeds \$120,000. The ratio of current assets to current liabilities is better than four to one, and that ratio is expected to continue into the future.

It was testified by the president of 24-Hour that the Ford Motor Company has extended to 24-Hour a \$300,000 line of credit, of which only \$44,577.18 has been drawn down. Assertedly, 24-Hour also has good credit with the National Bank of Whittier which can be utilized at any time required. If the sought authority is granted, 24-Hour plans to acquire additional vehicles using the Ford line of credit. The witness anticipates that by the summer of 1978 growth in demand will require additional vehicles which the company will be in a position to provide.

It is the position of 24-Hour that neither SCRID nor Airport Service provide transportation to and from airports in the sprawling three-county metropolitan area adequate to meet the needs of the great bulk of the flying public. 24-Hour contends that whereas it seeks to serve all of the area, Airport Service has elected to provide adequate scheduled bus service only between LAX and central Orange County points and between LAX and two hotels in Pasadena. It is asserted that elsewhere Airport Service's schedules are inadequate. 24-Hour contends that Airport Service

does not want to serve most of the remainder of the metropolitan area,^{6/} and does not desire to perform door-to-airport service, except from and to its regular bus stops. The president of 24-Hour stated that he does not intend to enter into a service that is directly competitive with buses of SCRTD or Airport Service. In this connection he said it would not be his company's procedure to allow vehicles to lay over or queue up at any bus stop waiting to respond to a radio call.

The president of 24-Hour contends that staff recommendations, discussed below, would restrict the company's proposed blanket authority, are impractical, and would hamstring its operations. In brief, 24-Hour points out that in the NES case, cited above, the Commission did not impose any such limitations on the operations of NES in the San Francisco Bay area. 24-Hour contends that only if there was evidence the NES operation had been detrimental to bus lines would it be appropriate to impose arbitrary and artificial limitations on 24-Hour. It is argued that since 24-Hour does not propose to solicit business at any bus stop, whether at airports or otherwise, this solves the problem the staff is concerned with. During February 1978, 24-Hour had a total of 3,151 reservations. Of these only 40 (less than one percent) were people who had called up 24-Hour from LAX without a prior reservation. Assertedly, most of the 40 were former customers who have used the service on prior occasions, but did not know what flight they would be coming in on.

The president of 24-Hour explained that when a person is already at a SCRTD bus stop and the bus is going directly to the airport, he is not about to use 24-Hour because of differences in price structure, unless he is part of a group being

^{6/} The record shows that Airport Service also seeks to serve certain additional points in Los Angeles County, as discussed below.

picked up elsewhere, or desires individualized service. Similarly, it is contended that a guest at a bus stop hotel serviced by Airport Service would not go out of his way to procure the services of 24-Hour unless there was something unique about that service which was needed and which justified the guest paying the higher cost.

Presentation of Luxe

Evidence on behalf of Luxe^{7/} was presented by Lawrence D. Robertson, president of the company; by Martha Atwood, manager of Anchor Up Travel Agency, Laguna Hills; and by Ben E. Palmgreen, retired resident of Laguna Beach.

The president of Luxe testified that he commenced charter-party operations in 1968 with one Cadillac limousine. In 1972 he initiated home-to-airport service using a 1972 Ford station wagon and a 1972 Buick station wagon. A need was found principally for persons living inside Leisure World who obtained transportation through travel agencies in the Laguna Hills area. It was found that charges necessary to cover costs of transporting one reservation at a time were too high. It was determined that if more than one party could be transported in a unit of equipment, they could share the costs which would bring the charges down. Airport shuttle service was provided by Luxe from and to LAX on an on-call basis without a specific time schedule. Business expanded and an additional limousine and one van were purchased. The only other company in Orange County providing the same general type of service was Ron's Limousine, which Luxe purchased in 1975. The witness stated he was not aware of the operation of 24-Hour in Orange County at that time. Two additional vans were acquired with the purchase of Ron's Limousine. Luxe now operates 15 radio-controlled

^{7/} The airport shuttle operations of Luxe are generally known as Orange County Limousine Service.

vans in airport shuttle service, and has commitments for five more. The base radio station is in Santa Ana with a repeater on Saddleback Mountain. The vehicles all have commercial band radios. Luxe has no difficulty reaching LAX or any other point because the radio has a range of about 100 miles.

When Luxe commenced airport shuttle service it made only two pickups per trip. A maximum of three pickups is now made. Most shuttle service is provided between Orange County points and LAX in Los Angeles County. Air passengers are not picked up or delivered in Los Angeles County other than at LAX. Airport shuttle service now is also performed from and to Orange County points and ONT and OCA. In addition, Luxe transports passengers and baggage in much the same manner between points in Orange County and the docks and piers at Los Angeles and Long Beach harbors (Los Angeles County). The latter service is for persons desiring transportation from and to cruise ships and other vessels.

Assertedly, Luxe's service is primarily designed for the resident rather than the transient. Luxe provides service from homes to airports and from airports to homes. Those wishing to avail themselves of service call the Luxe dispatcher and give their address, name, destination, and flight departure time, and a new, or nearly new, air-conditioned van is dispatched to their home. The driver goes up to the door, announces his presence, and carries the bags to the van where they are loaded aboard and the passenger is seated. The driver may pick up other persons enroute or he may not. Trips usually average less than one hour; however, this depends upon the number of stops enroute after the beginning of the particular trip, so it is possible for a trip to extend past one hour. Luxe renders service for a full 24-hour day, 7 days per week. There is no dispatching between the hours of 12:00 midnight and 8:00 a.m., and transportation between these hours is usually rendered on an advance reservation basis.

The president of Luxe stated that he usually is in the office seven days a week and oversees dispatching and vehicle maintenance, coordinates drivers' training programs, and performs other activities. He said that in 1977 Luxe transported over 77,000 passengers both in airport shuttle service and in charter service involving exclusive use of equipment. Approximately 54,000 passengers were transported in airport shuttle service. About 75 percent of Luxe's airport business is from and to LAX, about 20 percent is from and to OCA, and about 5 percent is from and to ONT.

A balance sheet of Luxe as of February 28, 1978 shows total assets of \$143,704, total liabilities of \$73,884, and stockholders equity and retained earnings of \$69,820. A statement of earnings for the year ended February 28, 1978 shows net earnings of \$41,715 from net sales of \$424,726. During the period there was a net increase in working capital of \$33,590.

Base prices of Luxe are constructed in a manner very similar to those of 24-Hour. According to the president of Luxe, base prices of Luxe between LAX and Orange County points are both higher and lower than the comparable base prices of 24-Hour. He said that the base prices of Luxe are considerably lower from and to OCA. He contended that from and to ONT the base prices of Luxe are probably 30 percent higher than those of 24-Hour. Base prices are constructed upon a range from 47 cents per mile between Mission Viejo and LAX (the most frequent haul) to \$1.71 per mile between Santa Ana and OCA (the least frequent haul). For more than three persons in the same party, Luxe charges \$5 for each additional person compared to \$3 in the case of 24-Hour. Luxe charges \$5 for extra stops in the same city, and \$8 for extra stops in other cities. Equivalent charges of 24-Hour are \$3 and \$4, respectively. Luxe assesses a \$15 surcharge for service between

11:00 p.m. and 5:00 a.m. This compares to a surcharge of 60 percent of base prices assessed by 24-Hour. Assertedly, the Luxe surcharge is sometimes higher and sometimes lower than the 24-Hour surcharge, but mostly the Luxe surcharge is lower.

The manager of Anchor Up Travel Agency testified that she makes reservations by either air or ship, with business coming from Leisure World in Laguna Hills, Mission Viejo, El Toro, and Laguna Niguel. Anchor Up's clients pay the entire amount of Luxe's fares. Assertedly, the fares are satisfactory to the clients considering the high level of service provided. The basic charge from Mission Viejo is \$15 to OCA and \$24 to LAX. Taxicab service between Laguna Hills and LAX is between \$50 and \$60. Airport Service has a bus stop at the Hyatt Lodge in Laguna Hills, but there is service only three times a day each way from and to LAX. People leaving from Leisure World must be at the Hyatt Lodge by 5:55 a.m. to get a flight at 9:00 or 9:30 a.m. The main complaint is that travelers do not want to bother friends to take them to the Hyatt at that time in the morning. In the opposite direction the last bus leaves LAX at 4:05 p.m. and many clients need service after that time. Most of the travelers are elderly and cannot handle baggage themselves from and to residences. The manager of the travel agency has received only favorable comments about Luxe's service, both from and to airports and from and to cruise ships at the docks and piers. She supports Luxe's application.

The retired resident of Laguna Beach has traveled by air from and to LAX and OCA upon a number of occasions in the last two years. He uses Luxe for ground transportation in the area. He cited one recent trip to LAX as an example. The driver arrived at his home at 6:00 a.m. and removed and loaded three heavy bags. Two other stops were made enroute. The trip terminated at the airport 30 minutes before flight time. The witness

did not have to touch his baggage until he arrived in Newark, New Jersey. The witness said he knew of no other way of getting to the airport other than going to Santa Ana and taking a bus. He said he would not do that with the commotion of baggage transfer and bus travel. He also said he would not be interested in calling a taxicab. He said that if Luxe were not available, he would get a relative to take him to the airport.

The fare charged by Luxe between Laguna Beach and LAX (round trip) was \$52. The witness said that although he was living on social security, he did not consider this a lot of money to get to and from the airport when the air fare was \$200. He said he prefers comfortable, semi-private van service above saving a few dollars. The witness explained that he knows a number of retired people in the area, and was of the opinion that even for a retired person on a fixed income that Luxe is still an acceptable alternative to taking taxicabs or going to a central point (bus stop). He said that ordinarily a chauffeured limousine would be above his standards, but would hire one for \$126 to get to LAX in preference to having to go to a lot of trouble to get to the airport. He supports Luxe's application.

Under cross-examination by counsel for Luxe, a number of witnesses for 24-Hour stated that if the operations of 24-Hour did not exist, they would turn to another door-to-door carrier such as Luxe.

It is the position of Luxe that since it was the first door-to-door, multiple-reservation airport carrier to be based in Orange County, it should have exclusive authority to serve that county. Luxe apparently means that it alone should be authorized to transport passengers by the method it uses between Orange County points and OCA, ONT, and LAX, but that 24-Hour should be authorized to operate between all five airports and points in Los Angeles County. Luxe refers air travelers to 24-Hour when they request transportation to points in Los Angeles County, including the

San Fernando Valley. Luxe contends that 24-Hour does not and would not, even with 30 vehicles, have sufficient capacity to serve the three-county area it requests. Luxe asserts that it can serve Orange County with the vehicles it now has and soon will have. As explained above, 24-Hour strongly opposes any limitation of its operations through a prohibition against serving Orange County.

Luxe contends that its operations and those of 24-Hour could not have had more than minimal effect on the operations of Airport Service. It asserts that other transportation facilities have come into the picture, such as the SCRTD airport operations and the largest number of taxicabs ever located at LAX, which well could have had an effect. Luxe contends that before there can be a finding that certification of Luxe would be detrimental to Airport Service, evidence of substantial harm must be shown.

Presentation of Airport Service

Evidence on behalf of Airport Service was presented through six representatives of that company and 19 representatives of other companies and organizations.^{8/}

^{8/} The witnesses for Airport Service and the firms they represent were: (1) Donald W. Boyles, president of Airport Service; (2) D. F. Auld, vice president and general manager of Airport Service; (3) Winston L. Crain, Airport Service; (4) Betty Jean Zaruba, Airport Service; (5) Don Kelley, Airport Service; (6) Malcolm Dickerman, Airport Service; (7) John H. Davidson, Orange Coast Yellow Cab, Orange County; (8) Gene McNicholas, Disneyland Hotel, Anaheim; (9) Tom Chandler, Hughes Airwest, OCA; (10) Betty Morse, Saddleback Travel, Santa Ana; (11) Mario Dalessi, Jolly Roger Hotel, Anaheim; (12) William O'Connell, Stovall Hotel, Anaheim; (13) Hugh H. Knapp, Saddleback Inn, Santa Ana; (14) Barry Pallard, Grand Hotel, Anaheim; (15) Heinz Gehner, Pasadena Hilton Hotel; (16) Patrick Frayne, Pasadena Convention Bureau; (17) Vicki Harpole, Long Beach Hyatt House; (18) Peggy Miniatt, Alpha Pacifica Travel, Long Beach; (19) Donald Pruss, Holiday Inn, Buena Park; (20) John Thompson, Huntington Limousine, Pasadena; (21) Harry Gaines, Yellow Cab, Santa Ana; (22) Larry Slagle, Yellow Cab, Northern Orange County; (23) Robert M. Hamilton, Jr., airport manager, LAX; (24) Edward H. Clay, United Airlines, LAX; and (25) William J. Eccles, Airport Photography, Inglewood.

Airport Service commenced operation between Pasadena and LAX in 1951 and service to Orange County was instituted in 1957. Its authority is set forth in D.83743 (1974). At the present time, Airport Service has 70 coaches in its fleet. These are large, deluxe intercity motor coaches with reclining seats, air conditioning, public address systems, and under-the-floor luggage space. Assertedly, the quality of Airport Service's operations and the frequency of its schedules requires a volume of passenger traffic which would be seriously damaged if the applications were granted.

Airport Service maintains an office and a facility for dispatching and storing its vehicles at LAX. It also operates the Joint Airlines Ground Transportation Association (JAGTA), a joint venture of ticket agents at LAX, which maintains six ticket-selling facilities (kiosks) located on the sidewalk in front of the passenger terminals. Besides the terminal points of LAX, OCA, ONT, and LGB, this carrier utilizes hotels which constitute the other terminal points (bus stops) on its routes. The carrier has working arrangements with each of the hotels so that the general public may use the facilities of these hotels while waiting for the buses.

The various points served by Airport Service and the fares charged along each of its routes are shown in Exhibit 36 (Orange County Division), Exhibit 37 (Long Beach Division), and Exhibit 38 (Pasadena Division). Very frequent service is provided from early morning to late night between LAX and the Grand Hotel and the Disneyland Hotel in Anaheim, and the Hilton Hotel and the Huntington Sheraton Hotel in Pasadena. Service between LAX and other points, and from and to the other airports is less frequent. Service from and to other points ranges down from 12 times a day between LAX and OCA to three times a day each way between a number of points, to once a day each way between LAX

and Fullerton, Monrovia, Arcadia, San Marino, and Arroyo Motor Inn (Pasadena). Some service is on-call with a minimum of eight persons. Adult fares range from 60 cents to \$6, depending on the points served and the lengths of haul. Children five to 11 years ride at approximately half fare. Children under five ride free when accompanied by an adult.

The president of Airport Service outlined the company's present service areas and points, proposed service areas, routes, and alternate routes. The proposed service areas (San Fernando Valley, Hollywood area, Los Angeles area, and West Los Angeles area) are those in A.56980 wherein Airport Service seeks to serve a number of the places formerly served by Airport Transit. That matter was taken off calendar after three days of hearing early in 1977 because the United States District Court, Southern District of California, issued an order (filed February 2, 1977) in bankruptcy Cases 76-3054 and 76-3065-K restraining the Commission from taking further steps with respect to A.56916^{9/} and A.56980 concerning routes and points included in the Airport Transit certificate.^{10/} The restraining order is still in effect.

Airport Service has a subsidiary, Orange Coast Sightseeing Company, a passenger stage corporation, which provides transportation to certain attractions in Los Angeles and Orange counties. Both companies also have Class "A" charter-party permits. The president stated that under the present Airport Service certificate the company could provide door-to-door airport shuttle transportation, but has not entertained the prospect of doing so. He was of the opinion there was no need for such service.

^{9/} A.56916 (Gray Line Tours Company) was consolidated for hearing with A.56980 of Airport Service.

^{10/} By A.58082 (1978) Airport Service seeks authority to acquire certain additional certificated authority from the receiver for Airport Transit.

It is the position of Airport Service that the transportation of passengers in large buses between fixed points is the most efficient way to move people from and to airports, especially from and to LAX because of heavy congestion of ground transportation facilities, vehicle-waiting facilities, and parking facilities. In the Pasadena and central Orange County areas, the carrier draws passengers from the outlying communities at large. Passengers are brought to and dispersed from Airport Service bus stops by private automobiles, taxicabs, and limousines. A survey of passengers conducted by the company showed that 87.9 percent of passengers carried to Pasadena were permanent residents of Pasadena and surrounding cities. The remaining 12.1 percent of the riders represented transients who were staying with family and friends or at other hotels in the vicinity, as well as at the terminal point hotels. According to the Pasadena survey, Airport Service draws passengers from as far as La Crescenta, La Canada, and Glendale to the north and west of Pasadena; from Arcadia, Monrovia, and as far as Azusa to the east of Pasadena; and from Temple City, Monterey Park, and El Monte to the south. In Orange County, Airport Service draws passengers to its terminal points at the Disneyland and Grand Hotels in Anaheim, the Saddleback Inn in Santa Ana, and the Orange County Airport from significant distances surrounding these terminal points.

Orange Coast Yellow Cab Company has about 200,000 trips per year, of which 9.8 percent terminate at points served by Airport Service. Yellow Cab of Santa Ana takes passengers to Airport Service's terminals in Santa Ana about 10 times a day, and that even more frequently picks up passengers at the Saddleback Inn in Santa Ana. Yellow Cab of Northern Orange County has from 50 to 100 fares per day going to the Disneyland and Grand Hotels and between 75 and 125 from those hotels. Huntington Limousine

carries at least 20 to 24 patrons of Airport Service a day from their homes and places of business to the Huntington Sheraton Hotel in Pasadena. Those Airport Service customers constitute about 35 percent of that limousine company's business.

Complimentary hotel shuttle services also are used to transport passengers between the Jolly Roger Hotel in Anaheim and the Disneyland Hotel and the Grand Hotel terminal points of Airport Service. Assertedly, there is no need for door-to-door service between the airport and the Jolly Roger Hotel. That hotel is concerned about the liability involved in allowing vehicles in and out of the property due to children and pedestrians.

A number of the witnesses testified that Airport Service operates first class, modern equipment; that they are proud to offer the company's equipment and service to their patrons and clients; and that convention groups who come to their areas make favorable comments about Airport Service. These witnesses generally testified that Airport Service's schedules are frequent and dependable, and any deletion in schedules would have an adverse impact upon their patrons and clients which assertedly would be unacceptable. During the course of a year, more than 200 conventions are held in the Anaheim area and over 100 in the Pasadena area. It was testified that it is very important to have the availability of full-size buses which can transport large groups of conventioners without advance reservations. A number of witnesses testified that they were opposed to the granting of any application which might have an adverse effect upon the schedules of Airport Service.

The airport manager of LAX and the manager of station operations for United Airlines testified concerning conditions relative to ground transportation facilities at the airport. Vehicular congestion is heavy particularly during peak periods.

This is true, both at curbside in front of the terminals where there is a three-minute vehicle waiting limit and at the vehicle islands where buses load and unload. Both 24-Hour and Luxe load and unload at curbside along with limousines, other charter-party carriers, and private automobiles.

The manager of LAX stated that if applicants obtained certificates of public convenience and necessity, they probably would be required to operate from the vehicle islands along with the other buses rather than at curbside as they do now. He had received no complaints concerning the operations of applicants. He was of the opinion that if traditional charter-type van operations were modified so that more than one group could travel in a vehicle, it would tend to reduce traffic. He explained that there has been a substantial increase relatively recently in the number of taxicabs with approximately 750 operating currently in the airport. It is necessary for some taxis to cruise around the airport looking for parking space. In addition, there are van-type vehicles from hotels, motels, off-airport facilities, on-airport facilities, and from rental agencies.

The manager of station operations for United Airlines said that vans of 24-Hour, Luxe, and others have been observed waiting at the curb for periods longer than the three-minute limit. He was of the opinion that the best solution to airport congestion is the type of transportation offered by Airport Service which utilizes large buses and can handle passengers and baggage in volume. He was highly complimentary of the equipment, drivers, and service provided by Airport Service. He admitted, however, that it would be better for airport congestion for van-type operators to carry more than one reservation at a time rather than just one reservation.

The vice president and general manager of Airport Service introduced Exhibit 48 to demonstrate that the company's share of passengers transported from and to LAX has not kept up with the total growth in passengers handled by air to and from LAX. In 1971 Airport Service transported 4.02 percent of more than 20 million LAX passengers. In 1977 the figure dropped to 3.53 percent of more than 28 million passengers. This actually represents a net overall increase of about 25 percent in passengers carried by Airport Service between 1971 and 1977. The number of passengers transported by Airport Service to and from OCA has kept up on a percentage basis with the growth in air traffic from and to that airport. It transported 5.30 percent of approximately 950,000 passengers in 1971 and 5.18 percent of more than two million passengers in 1977. This was attributed to a relatively small amount of competition from and to OCA.

The vice president of Airport Service attributed the percentage reduction in passengers transported to and from LAX to competition from all sources, including carriers who began to operate outside the scope of their authorities in 1971. Assertedly, the operations of 24-Hour and Luxe have had a major impact on the decline of Airport Service's share of the LAX market, necessitating an application for a fare increase in 1976 and another in 1978. Prior thereto, the operations of Airport Service out of Orange County have not required a fare increase since the inception of service in 1957. Assertedly, a big lack of growth occurred in connection with transportation between the central Orange County area and LAX where applicants perform a substantial portion of their transportation. Airport Service has eliminated some schedules from and to Laguna Hills, Mission Viejo, Seal Beach, LGB, and the city of Orange.

Airport Service introduced testimony to show that 24-Hour's former name, 24-Hour Airport Service, is still carried on some of the vehicle logos depicted on brochures in the hands of some travel agents, in certain telephone directories, and on certain other documents. In the fourth ordering paragraph of D.88061 the Commission directed 24-Hour to promptly withdraw any promotional literature, receipts, or other documentation promoting confusion between its operations and those of Airport Service. Upon rebuttal, 24-Hour's president stated that he had tried to have all of the old advertising in the hands of travel agents replaced with new literature which omits all reference to operations under the former name. He stated, however, that some of the old literature had been placed under counters prior to being placed on display racks and it had been difficult to get agents to destroy all of it. He said he had been negligent in handling some renewals of telephone listings and advertising. He said he would make every effort to see that all of the old literature is taken out of circulation and that the remaining telephone listings with the old name are changed. Airport Service contends that it has lost telephone calls and passengers as a result of the name similarity. Additionally, Airport Service has received a number of calls from persons who thought that the company was 24-Hour demanding to know why they had not been picked up at their residence.

Airport Service contends that the fare structure of both applicants is unreasonably discriminatory in violation of provisions of the Public Utilities Code and of the California Constitution. It contends that applicants propose substantial variances in fares for precisely identical services. Airport Service feels that the basic problem with the proposed fare structure is the single charge which applies to one, two, or three persons. Assertedly, applicants' rates are calculated

not with relation to the cost of rendering the service, but rather in relation to the amount of revenue that may be generated from an area. Assertedly, long- and short-haul situations will result.

Airport Service questions the financial ability of applicants to perform the proposed services. It points out that the financial statements presented do not include any item for per person fees which applicants will have to pay for revenues generated at LAX in the event that the sought certificates are authorized. The protestant contends that there is no separation of truly charter income from the airport shuttle income. Protestant also pointed out that neither applicant presented evidence for determining expenses on a per mile basis. It also points out that neither applicant introduced a pro forma profit and loss statement to show whether or not their future operations as passenger stage corporations would be successful.

Evidence of Valley Checker Cab

Valley Checker Cab called Mr. Friesen, president of 24-Hour, Michael S. Ball, counsel for Los Angeles Yellow Cab (LA Yellow Cab), and Jerry Boston, chief taxicab supervisor at LAX.

The president of 24-Hour agreed that some taxicab companies do make time calls or reservations. He stated that taxicab companies in Orange County are not permitted to have multiple pickups. Within a ten-mile radius of LAX, the rates of 24-Hour for one or two persons are generally higher than taxi fares. In the outlying communities where most of 24-Hour's business comes from, it is usually more economical for one to four people to use 24-Hour's door-to-door service than to use a taxicab. The president of 24-Hour explained that his company is requesting a certificate limited to transportation to and from airports, whereas taxicabs can go practically anywhere. It is his position that 24-Hour does not conduct operations which are similar to taxicab operations.

According to the witness from LA Yellow Cab, that company can deliver passengers anywhere in California from LAX. In Los Angeles County LA Yellow Cab is authorized to pick up fares in the city of Los Angeles, including the San Fernando Valley. It is not authorized to pick up fares in the San Gabriel Valley (outside of East Los Angeles), the Covina area, the Whittier area, or the city of Pasadena. LA Yellow Cab does not have authority to operate from any point in Orange or San Bernardino Counties.^{11/} LA Yellow Cab estimates that it lost 6,000 trips to Orange County last year to applicants. The portion of applicants' business from Orange County admittedly would in no way cause an economic impact upon LA Yellow Cab.

The witness from LA Yellow Cab stated that based on his observations, there has not been any time in the last three or four months when there were people waiting on the taxi stand at LAX without any cabs being available. LA Yellow Cab has negotiated with LAX to locate a taxicab stand adjoining the baggage area, but has not been successful.

LA Yellow Cab operates 24 hours a day, seven days a week for the same rate every hour of the day. It accepts approximately 300 reservations a day in addition to providing service on demand. On-time arrivals for reservations placed more than two hours in advance are approximately 96 percent. Approximately 75 percent of on-demand calls in the downtown Los Angeles area are answered within 15 minutes. Assertedly, these statistics are those compiled by the city's Department of Public Utilities and Transportation. LA Yellow Cab also engages in shared rides where there is more than one person or group in a vehicle. The company advertises to transport people

^{11/} Although LA Yellow Cab is not authorized to pick up passengers outside of its franchised area, it is authorized to transport package freight, a type of service which allegedly is seldom performed. LA Yellow Cab is subject to this Commission's jurisdiction only with respect to the transportation of freight.

from West Los Angeles to downtown Los Angeles on a shared ride (commuter) basis where one passenger pays \$1 and shares the ride with seven other people for a total of \$8. Phone orders are now taken for those shared rides. The witness did not state that such shared rides are regularly offered to and from airports.

The witness from LA Yellow Cab said that the average fare of a taxicab run in Los Angeles is \$4.68, whereas out of LAX it is \$10.07. Assertedly, the short-haul trips (one, two, and three dollar trips), of which there are many, are totally unprofitable. LA Yellow Cab depends upon the airport trips and other longer trips to make a profit. A taxicab driver generally has to wait at the airport about 45 minutes to an hour before he can pick up a fare. In order to make any kind of money in the business, it assertedly is necessary to offset each small trip with at least two or three long trips every day. He estimated that by June 1978 there will be between 950 and 1,000 taxicabs on the streets of the city of Los Angeles, which he considers to be an overabundance.

The witness from LA Yellow Cab testified that in areas where that company is authorized to operate, its rates are substantially lower than those of 24-Hour; however, for longer hauls, such as from LAX to Anaheim, the rates of applicants are considerably lower than those of LA Yellow Cab. He compared rates for four persons in a reservation by 24-Hour between several points in Los Angeles County and rates for four persons in a taxicab. The comparisons were from LAX to Westwood Village; from Westwood Village to HWB; and from Huntington Park to LAX. In each case the taxicab fares were substantially lower. The witness alleged that 24-Hour's charges are not consistently related to length of haul.

The witness from LA Yellow Cab testified that the person who hails a cab at any point within the city of Los Angeles, and having entered the cab, has the exclusive right to the use of the cab until the point of destination.

Position of United Transportation Union

The position of United Transportation Union (UTU) was argued by the union's general chairman. He said he also represented the County Federation of Labor. UTU feels that SCRTD is a major airport carrier that is doing a good job. The spokesman said he knew of no complaints from the hotels or the people using the service. UTU sees no need for any additional competition. It is the position of UTU that SCRTD is a tax-subsidized carrier and that the people paying taxes should utilize that service to the various airports. No testimony was presented by UTU, the County Federation of Labor, or SCRTD. Neither the County Federation of Labor nor SCRTD are protestants in these proceedings.

Position of Crown

Crown's certificate was enlarged and restated in D.88331. Crown contends that it would be detrimental to allow 24-Hour to operate in the areas where Crown is certificated. No evidence was presented by Crown.

Position of Department of Public Utilities and Transportation

The Department of Public Utilities and Transportation represents the city of Los Angeles in these proceedings, except the city's Department of Airports. The Department of Public Utilities and Transportation is opposed to the granting of an areawide authority for passenger stage operations by 24-Hour. It was argued by the department representative that 24-Hour proposes to offer nothing more than taxicab-type service using larger than ordinary vehicles. Assertedly, no need was shown for 24-Hour's service from points within the city of Los Angeles

other than LAX. It was stated that there is alternative taxicab service available 24 hours, seven days a week either on an on-call or reservation basis, at fares which are generally lower than those proposed by 24-Hour for trips to and from points within the city. With respect to pickup operations at LAX, the Department would object to the granting of authority to either applicant which would include picking up at the airport on a walk-up basis. Because of the present heavy traffic conditions at LAX, the Department believes that applicants should provide their services at LAX as charter operators with the requirement that pickups at the airport be made only on an advance reservation basis and that the operators comply with all applicable Department of Airport rules and regulations. No evidence was presented by the Department of Public Utilities and Transportation.

Position of Staff

The Commission staff has concluded that applicants' present operations are properly those of passenger stage corporations as defined in Section 226 of the Public Utilities Code. The staff proposes that if either or both of the applications are granted, restrictions be imposed to protect existing private operators. The staff proposes a limitation of up to 30 vans in the case of 24-Hour and up to 20 vans in the case of Luxe. Within Orange County the staff proposes that a limitation be imposed on any certificate prohibiting service within 1,000 feet of any bus stop listed in a current operating schedule of Airport Service, or any successor entities regulated by the Commission. Within Los Angeles and San Bernardino Counties the staff recommends that a restriction be imposed prohibiting service within 1,000 feet of any bus stop listed in current operating schedules of Airport Service, Inc. and AirporTransit, Inc., or successor Commission-regulated entities. As an exception the staff proposes that service may be provided to and from points listed in current

timetables of Airport Service, Inc. or AirporTransit, Inc., or successor entities regulated by the Commission when said service is provided by applicant more than one hour before the first daily schedule or one hour after the last daily schedule as shown in the current public timetables. The staff also proposes that in the event the certificate is granted to 24-Hour that it be restricted to disallow any operations within the Pacific Palisades territory and the Palos Verdes territory presently served by Crown, since the operations between points in those territories and LAX are identical in nature to the operations being proposed by 24-Hour.

The staff notes that the service proposed by both applicants is economical, but not as economical as Airport Service, and recommends that the Commission take whatever measures deemed necessary to protect the operations of Airport Service, but to attempt to supply the market not presently served by Airport Service, where the need has been demonstrated in the record. The staff presented no evidence.

As explained above, 24-Hour contends that the proposed staff restrictions would be impractical and would hamstring its operations.

Discussion

Applicants have demonstrated a need for door-to-door passenger stage service on an advance reservation basis between airports in Los Angeles and Orange Counties and homes, places of lodging, commercial and industrial establishments, and all other places where airport passengers originate and terminate.

Although there is scheduled airport bus service operating from and to many fixed points, including a number of major hotels, there are myriads of points in the populous portions of Los Angeles, Orange, and San Bernardino Counties here involved which are without direct airport bus service. The

proposed service of applicants on an advance reservation basis utilizing vans directly between origins and destinations, on the one hand, and airports, on the other hand, is a convenient and necessary service not being performed by carriers generally. The proposed service would reduce overall cost of airport ground transportation for many persons; would eliminate use of many private automobiles with attendant baggage handling; would provide a necessary service for persons located in remote areas or requiring ground transportation late at night or early in the morning; would be of assistance to persons who are elderly or feeble; and would provide a convenient and expeditious means for businesses and organizations to transport officers, employees, contractors, and others directly between airports and local origins and destinations.

Both applicants commenced operations in a small way as charter-party carriers several years ago. Following development of airport shuttle operations demand for their services has grown. Both applicants now have sizable operations which are profitable. They seek to continue their airport shuttle operations as passenger stage corporations.

The airport shuttle operations of applicants are unique and complement other methods of public and private airport ground transportation. We cannot agree with Airport Service that the public should use all existing methods except the method devised by applicants. The operations of applicants have been highly successful because they have filled a need not supplied by other carriers. Neither Airport Service nor SCRID provide door-to-door service from and to airports except, of course, to and from the bus stop hotels they serve. Airport Service does not desire to engage in door-to-door service to other points, except to bus stops involved in A.56980 and A.58082.

The applicants propose an on-call common carrier service as a passenger stage corporation, assessing an individual fare, but serving portions of several counties. The operations differ somewhat from the usual fixed terminal-to-terminal operations conducted by traditional passenger stage corporations, in that while one terminal is always specifically defined (an airport), the other points would be anywhere within a designated service territory zone. The proposed operations are those of a passenger stage corporation serving over regular routes even though there is operating flexibility as to the particular daily routes the carrier will take in serving one end of the service. The Commission has the authority to grant area-wide operating authority, as requested by the applicants, rather than prescribing unreasonably narrowly defined fixed termini routes. See Bay Area - Los Angeles Express, Inc. 75 CPUC 225 (1973), and NES, supra. If we narrowly defined the regular route fixed termini requirements of Section 226 of the Public Utilities Code, such an interpretation would be destructive and not in the public interest. The service proposed by the applicants will be of significant value to the communities to be served.

The record strongly supports 24-Hour's position that if its operation did not exist that most of its passengers would use private automobiles and vans, rental cars, taxicabs, and charter-party carriers to go all the way to and from the airport. In any event, the record does not show that applicants' operations have significantly affected Airport Service or any other carrier. In the face of competition from all sources, Airport Service experienced an increase in passengers from and to LAX of about 25 percent between 1971 and 1977. It did even better from and to OCA.

The record does not support contentions of taxicab companies that applicants' are operating as taxicabs. In this connection Section 5353(g) of the Public Utilities Code excludes from the provisions of the Charter-Party Carrier of Passengers Act taxicab transportation described as follows:

"Taxicab transportation service licensed and regulated by a city or county, by ordinance or resolution, rendered in vehicles designed for carrying not more than eight persons excluding the driver."

In Greyhound Lines, Inc. v Thomas Lawrence Nolan (1972) 72 CPUC196, the Commission described a taxicab operation as follows:

"A taxicab waits in a designated area or cruises the street until a passenger comes over or flags it down..."

Taxicabs go most anywhere within their service areas and are not limited to operations to and from airports in the manner of the applicants. When they take a fare outside of a franchised area, they frequently are in territory from which they may not accept a fare for a return haul. Taxicabs from Los Angeles may not accept a return passenger haul from Orange County. Taxicab companies mostly operate regular taxicab vehicles, although some larger vehicles also are used. Some taxicab companies take

reservations and permit shared rides by two or more parties; however, shared rides are not permitted in some areas such as Orange County. The rates charged by applicants and by taxicabs are constructed differently. Taxicabs accept hails, whereas applicants generally are not in a position to do so because their vehicles are usually committed to advance reservations between designated points. In Los Angeles a person who hails a cab and enters it has the exclusive right to the use of the cab until point of destination. Taxicabs are metered and carry a bell or dome light on their roof that is customarily lighted when the vehicle is in service. Applicants' vehicles are not so operated or equipped. It is clear that applicants' vehicles are not operated as taxicabs.

Both applicants should be authorized to conduct the type of operation they seek as passenger stage corporations subject to certain restrictions. 24-Hour and Luxe currently compete with each other in Orange County. Among the proposed staff restrictions on applicants' operations is the proposal to limit the number of vehicles each may be authorized to operate. Such a restriction would limit the amount of business either applicant could take away from each other in Orange County, or from other common carriers and agencies of transportation. Such a restriction would obviate the need to limit the proposed service area of either applicant. Both could serve Orange County. We feel, however, that the limitation should be 40 vehicles for 24-Hour to serve five airports, and 25 vehicles for Luxe to serve three airports and the docks and piers. These numbers of vehicles also should afford applicants a reasonable basis for adjustment and expansion. The maximum size of vans should be the same for each applicant.

Another restriction which should be placed on applicants' operations is a prohibition against accepting for transportation at any airport or bus stop of Airport Service or the former Airport Transit any passenger that has not made a reservation at

least half an hour in advance. The only exception should be passengers at airports which are completing portions of round trips with one of the applicants. In this connection, applicants should not be permitted to spot their vehicles at airports or at airport bus stops of Airport Service or the former Airporttransit waiting for radio calls to pick up passengers.

In other respects, the proposed restrictions of the staff would be too restrictive, generally unenforceable, and otherwise not in the public interest. Applicants are not performing the same kind of service as bus operators. Applicants may have a single advance reservation with one member located at a bus stop hotel and the remaining passenger or passengers located elsewhere. Some bus stops are served by buses relatively infrequently or just once a day each way. With respect to bus stops served frequently, the difference in fares for reservations of up to three persons normally would preclude people from choosing applicants' services unless there was something special about their services which was needed or desired.

Airport Service contends that applicants' rates are unlawful because (1) they will result in long- and short-haul situations; and (2) they vary depending upon airport served and direction of movement. Assertedly, this produces unreasonable discrimination in charges for transportation between persons and places.

Originally, 24-Hour and Luxe both proposed rates between airports and named points. In Exhibit 58, 24-Hour attempted to meet the criticism of Airport Service relative to long- and short-haul rate situations by proposing a zone system. A zone system

helps a great deal to eliminate technical problems of that kind. However, applicants may still find occasional long- and short-haul situations with their methods of rate publication. Applicants can be authorized to deviate from the statutory long- and short-haul provisions.

The assertion that applicants' rates will result in unreasonable discrimination in rates depending upon airport served and direction of movement is unsubstantiated. It is not unusual for common carriers to publish rates between points for movements over one route which are different from rates between different points over another route for the same lengths of haul. What applicants have done is to offer the public the lowest rates where the volume of traffic and competition are greatest. To be unlawfully discriminatory, the degree of preference or prejudice to persons or places must be unjust and undue. (Scott Lbr. Co. v ATSF Ry Co. (1947) 47 CPUC 593; Reduced Rates on Cement (1951) 50 CPUC 622; Reduced Rates on Cement (1939) 42 CRC 92.) Protestant has not demonstrated that any of applicants' rates would be unlawfully discriminatory to any person or corporation, or that any unreasonable difference in rates or charges would exist as between localities.

Applicants' basic charges for one to three persons in a reservation are, in effect, minimum charges to provide adequate compensation for situations where there are only one or two persons in a reservation. The basic charges, in conjunction with the additional charge of \$3 (24-Hour) and \$5 (Luxe), also provide a volume incentive to travel agents, industrial and commercial firms, and others to effect savings by arranging larger reservations. The basic charges also provide a minimum level of compensation considering the length of haul. For example, 24-Hour's basic charges are the same for all points within the range of 0 to 24 miles.

Although the individual minimum fare per passenger will vary depending on the total number of passengers per pickup, this fare structure is not discriminatory. Potential passengers are on notice from the carriers' tariffs that the fare will be within a specified zone and can decide whether to use the service with an understanding of the potential fare range that will apply. Passengers have notice of the fare structure, and the fare structure will be applied uniformly based on the number of passengers per pickup. Although the carriers could devise a single minimum rate based on costs, the higher basic fare would tend to be too high when a large number are picked up and transported, and too low when only one passenger was picked up. The fare proposal of applicants is reasonably related to equitable recovery of direct expense. Further, it is a workable fare structure for the specialized on-call operations proposed. It may be that such a fare structure is necessary to encourage maximum use of the service and equipment.

Findings

1. Applicant 24-Hour proposes to provide on-call door-to-door transportation as a passenger stage corporation between LAX, OCA, ONT, LGB, and HWB, on the one hand, and all points and places in an area encompassing portions of Los Angeles, Orange, and San Bernardino Counties, as defined in Exhibit 58, on the other hand.

2. Applicant Luxe proposes to provide on-call door-to-door transportation as a passenger stage corporation between LAX, OCA, ONT, and docks and piers at Los Angeles and Long Beach harbors, on the one hand, and all points and places in Orange County, on the other hand.

3. The service applicants propose would be provided in van-type equipment 24 hours a day, seven days a week, on an advance reservation basis.

4. The services applicants seek to perform as passenger stage corporations have been performed by them for several years under charter-party carrier of passengers permits. However, by D.88061 (24-Hour) and D.88529 (Luxe), those operations were determined to be beyond the scope of those permits.

5. Applicants have the ability, financial resources, insurance, and experience necessary to perform the proposed service.

6. Applicants' proposed service would be profitable based on financial results of past operations.

7. Applicants have filled a need not supplied by other carriers. There are no other passenger stage corporations in the area that provide the same service as applicants, with the exception of Crown in the Pacific Palisades/Palos Verdes area. Crown did not present evidence on the level or adequacy of its service. Accordingly, we cannot find, based on the record, whether it does or does not provide service to the satisfaction of the Commission. Therefore, Section 1032 of the Public Utilities Code cannot be a barrier to 24-Hour's providing service as a passenger stage corporation.

7a. The service proposed by the applicants is that of a common carrier passenger stage corporation in that they will assess an individual fare and operate between reasonably defined fixed termini or over regular routes between airports and certain service territory zones.^{12/}

^{12/} Section 1035. Whether or not any stage, auto stage, or other motor vehicle is being, or is proposed to be operated as a passenger stage corporation "between fixed termini or over a regular route" within the meaning of this part is a question of fact, and the finding of the commission thereon is final and is not subject to review.

8. The bus service provided by Airport Service, Crown, and the former Airporttransit between airports and bus-stop points over regular and alternate routes is distinctly different from the door-to-door, advance reservation service from and to airports proposed by applicants. Therefore, the Commission finds that, except between bus stops, Airport Service, Crown, and Airporttransit have not and will not provide service to the satisfaction of the Commission.

9. None of the transportation between the points involved in these applications is provided by SCRFD on a door-to-door basis, except from and to bus stops. SCRFD does not provide individual fare transportation on an advance reservation basis.

10. Applicants' proposed service would draw business from private automobiles and vans, rental cars, charter-party carriers, taxicabs, Airport Service, Crown, and SCRFD.

11. Applicants do not operate their van-type equipment as taxicabs, and the sought authorities would not authorize them to operate van-type equipment as taxicabs.

12. The fares proposed by applicants are justified.

13. Applicants should be authorized to deviate from the long- and short-haul provisions of Sections 460 and 461.5 of the Public Utilities Code.

14. Public convenience and necessity require that applicants be authorized to provide on-call common carrier bus service between the airports and other points and places subject to the restrictions specifically set forth in Appendices A and B hereto.

15. The evidence does not show that the authorities identified in Finding 14 would impair the ability of Airport Service, or of any other agency of transportation, to continue to provide service to its customers.

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

24-Hour Airport Express, Inc. and Luxe Livery Service, Inc. are 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 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 24-Hour Airport Express, Inc., authorizing it to operate as a passenger stage corporation, as defined in Section 226 of the Public Utilities Code, between points within the boundary set forth in Appendix A of this decision.

2. A certificate of public convenience and necessity is granted to Luxe Livery Service, Inc., a corporation, authorizing it to operate as a passenger stage corporation, as defined in Section 226 of the Public Utilities Code, between points within the boundary set forth in Appendix B of this decision.

3. In providing service pursuant to the authority granted by this order, applicants 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, applicants shall file written acceptances of the certificates granted.

Applicants are placed on notice that if they accept the certificates they 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, applicants 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 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 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) Applicants shall maintain their 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, annual reports of their operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

*basis of
70%*

4. Applicants are authorized to depart from the long- and short-haul provisions of Sections 460 and 461.5 of the Public Utilities Code to the extent necessary to assess or otherwise apply the rates and rules authorized by this order.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 11th day of JULY, 1978.

Robert Bateman
President

Richard D. Gwathmey
Clare T. DeWitt
Commissioners

Commissioner William Symons, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.

CERTIFICATE

OF

PUBLIC CONVENIENCE AND NECESSITY

PSC-1043

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. 89074
dated JUL 11 1978, of the Public Utilities Commission of
the State of California in Application No. 57765.

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

24-Hour Airport Express, 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 provide on-call, door-to-door service between Los Angeles International Airport (LAX), Orange County Airport (OCA), Hollywood-Burbank Airport (HWB), Long Beach Airport (LGB), and Ontario International Airport (ONT), on the one hand, and all points and places in the Los Angeles Metropolitan Service Area, on the other hand, subject to restrictions, as set forth below:

(a) The equipment shall not exceed 40 vehicles, each having a carrying capacity not to exceed 15 passengers.

(b) No passenger shall be picked up at an airport or at an off-airport bus stop of Airport Service, Inc., AirpoxTransit, Inc., or successor entities, unless a reservation has been made at least one-half hour in advance.

EXCEPTION: Passengers at airports completing round trips with 24-Hour Airport Express, Inc.

(c) 24-Hour Airport Express, Inc. shall not spot any vehicle at an airport or at an off-airport bus stop of Airport Service, Inc., or AirpoxTransit, Inc., or successor entities, 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 one of the five airports identified above, on the one hand, and on the other an origin or destination within the Los Angeles Metropolitan Service Area.

(e) Service shall be rendered via a direct route from the point of origin to the point of destination of a passenger, 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 destination of the several passengers.

Issued by California Public Utilities Commission.

Decision No. 89074, Application No. 57765.

- (f) 24-Hour Airport Express, Inc. shall have discretion in choosing routings and order of origins and destinations, based upon the above considerations.

SECTION 2. SERVICE AREA DESCRIPTION.

LOS ANGELES METROPOLITAN SERVICE AREA:

The area is comprised of Metropolitan Zones 201 through 262 as described in Section 2-A of Distance Table 8 (DT 8), issued by California Public Utilities Commission effective July 1, 1975, and the following additional zones:

Zone 201A

Beginning at the intersection of Los Angeles County Line and Glendora Ridge Road, due east along a direct line to the northerly prolongation of Etiwanda Avenue, southerly along said prolongation and Etiwanda Avenue to the Riverside County line, southwesterly along the Riverside County line to State Route 71, northwesterly along State Route 71 to the Los Angeles County Line, northeasterly along the Los Angeles County Line to point of beginning.

Zone 201B

Beginning where Santiago Canyon Road intersects with the east border of Zone 261, southerly along the easterly border of Zones 261, 260, and 259 consecutively to a point 2 miles north of the Pacific Ocean, thence due east to the Orange and Riverside County Line, northerly along the Eastern Orange County Line to the point on the Orange County Line which is directly west of Glen Ivy Hot Springs, thence west to Silverado P.O. (as identified in DT 8), west on Silverado Canyon Road to Junction 6058 (as identified in DT 8), westerly on Santiago Canyon Road to the point of origin.

Zone 201C

Beginning at the point where the easterly border of Zone 259 intersects the Pacific Ocean, thence along an imaginary line 2 miles north, thence along an imaginary line east to Interstate 5, thence along a straight line southwesterly passing through the intersection of Pacific Coast Highway and Crown Valley Parkway to the Pacific Ocean, northwesterly along the coast line to the point of origin.

Issued by California Public Utilities Commission.

Decision No. 89074, Application No. 57765.

Zone 201D

Beginning at the south point where Zone 201C meets the Pacific Ocean, northeasterly through the intersection of Crown Valley Parkway and Pacific Coast Highway and then following the southeasterly border of Zone 201C until the line intersects Interstate 5, northerly on Interstate 5 to the southerly border of Zone 201B, thence due east to a point on the Orange County-Riverside County line, southerly along the Orange County line to the Pacific Ocean, northerly along the Pacific Ocean to the point of origin.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision No. 89074, Application No. 57765.

AM/dz

Appendix B

LUXE LIVERY SERVICE, INC.

Original Page 1

CERTIFICATE

OF

PUBLIC CONVENIENCE AND NECESSITY

PSC-1044

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. **89074**
dated **JUL 11 1978**, of the Public Utilities Commission of
the State of California in Application No. 57850.

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 all points and places within its Orange County Service Area, on the one hand, and Los Angeles International Airport (LAX), Orange County Airport (OCA), Ontario International Airport (ONT), 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 not exceed 25 vehicles, each having 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, OCA, ONT, 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.
- (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.

Issued by California Public Utilities Commission.

Decision No. 89074, Application No. 57850.

- (f) Luxe Livery Service, Inc. shall have discretion in choosing routings and order of origins and destinations, based upon the above considerations.

AM/dz

Appendix B

LUXE LIVERY SERVICE, INC.

Original Page 4

SECTION 2. SERVICE AREA DESCRIPTION.

ORANGE COUNTY SERVICE AREA:

Includes all points within the geographical limits
of Orange County.

(END OF APPENDIX B)

Issued by California Public Utilities Commission.

Decision No. 89074, Application No. 57850.