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Decision No. 89741 DEC 12 1978

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 DANIEL F. STUART, doing business as)
 FLEETWOOD LIMOUSINE SERVICE, for)
 certificate of public convenience)
 and necessity to operate a passenger)
 stage (passenger and baggage) service)
 between the San Diego International)
 Airport - Lindbergh Field, San Diego,)
 California, and the following com-)
 munities located in San Diego County,)
 California: Oceanside, Carlsbad,)
 Leucadia, Encinitas, Cardiff-By-The-)
 Sea, Solana Beach, Del Mar, and that)
 certain area commonly known as Scripps)
 Miramar Ranch.)

Application No. 58274
(Filed August 3, 1978;
amended October 19, 1978)

O P I N I O N

Daniel F. Stuart (Stuart), dba Fleetwood Limousine Service, seeks a certificate of public convenience and necessity (certificate) pursuant to Section 1031 of the Public Utilities Code (Code) to perform passenger stage service for the transportation of passengers and baggage between the San Diego International Airport - Lindbergh Field (San Diego Airport) - and the following communities in San Diego County: Oceanside, Carlsbad, Leucadia, Encinitas, Cardiff-By-The-Sea, Solana Beach, Del Mar, and that certain area commonly known as Scripps Miramar Ranch over the routes set forth in Schedule I attached to the application.

By D.86120 dated July 19, 1976, Stuart has been granted authority to operate a passenger stage corporation on an on-call basis between San Diego Airport and the communities of Escondido, Vista, Fallbrook, San Marcos, Lake San Marcos, Penasquitos, and Poway in the county of San Diego. By D.88355 dated January 17, 1978,

Stuart has been granted a certificate authorizing him to extend his operations as a passenger stage corporation on an on-call basis between San Diego Airport and the communities of Rancho Santa Fe, Miramar, and Rancho Bernardo service territory, in the county of San Diego.

The proposed fares to be charged are set forth in Exhibit A and range from \$7 to \$12 per passenger for one-way transportation. The time schedule of the proposed service is set forth in Exhibit B to the application which provides for 24-hour on-call passenger and baggage service with a minimum of four hours' notice between the San Diego Airport and the communities for which the authority is sought.

A map showing the proposed route of operations, a description of the equipment to be operated in the proposed service, and a financial statement of Stuart are set forth in Exhibits C, D, and E attached to the application.

Stuart gave notice of the filing of the application and thereafter gave such notice to additional persons or entities as requested by the Commission staff.

By a letter to the Commission dated September 21, 1978, American Bus Lines, Inc. (American) gave notice of its protest to the application unless the application is amended to restrict service to equipment not exceeding 15-passenger capacity and to passengers originating at or destined to the San Diego Airport.

By a letter dated October 3, 1978, Stuart stated that the restriction requested by American was satisfactory, and by an amendment to his application filed October 19, 1978, he requested that:

"Service hereunder is restricted to transportation of passengers and their baggage in equipment not to exceed fifteen (15) passenger capacity and further restricted to passengers originating at or destined to the San Diego International Airport."

By letter of October 19, 1978 American stated that the amendment served to satisfy the interest of American, so there are no protests to the granting of the authority requested by the application as amended.

Findings

1. Public convenience and necessity require that Stuart be granted the authorization, in addition to that which he now has, to engage in the operation of passenger stage service from the San Diego Airport to Oceanside, Carlsbad, Leucadia, Encinitas, Cardiff-By-The-Sea, Solana Beach, Del Mar, and that certain area commonly known as Scripps Miramar Ranch, in the county of San Diego, over the routes set forth in Schedule I, for the proposed fares set forth in Exhibit A, to operate on the proposed time schedule between the points to be served as set forth in Exhibit B, over the proposed routes as set forth in Exhibit C, with the equipment as set forth in Exhibit D, attached to the application.
2. The additional authority requested shall be restricted to the operation of passenger stage service between the San Diego Airport, on the one hand, and the communities set forth in Finding 1, on the other hand, in equipment not to exceed 15-passenger capacity, and the authorization is restricted to passengers originating at or destined to the San Diego Airport.
3. Stuart possesses the desirable experience, necessary equipment, and financial resources to provide the proposed service.
4. The proposed fares are reasonable.
5. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

6. Public convenience requires prompt commencement of the proposed service, there are no protests to the granting of the application, and there is no valid reason to delay the granting of the relief requested.

The Commission concludes that the authority requested by the application, as amended by the amendment to the application, should be granted as set forth in the ensuing order.

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

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Daniel F. Stuart, doing business as Fleetwood Limousine Service, authorizing him to operate as a passenger stage corporation, as defined in Section 226 of the Public Utilities Code, between the points and over the routes set forth in Appendix A of this decision.

2. Appendix A of D.86120, dated July 19, 1976, as amended by D.88355 dated January 17, 1978, is further amended by incorporating Second Revised Page 1, attached hereto, in revision of
First Revised Page 1.

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

- (a) Within thirty days after the effective date of this order, applicant shall file a written acceptance of the certificate granted. Applicant is placed on notice that if he accepts the certificate he will be required, among other things, to comply with the safety rules administered by the California Highway Patrol, the rules and other regulations of the Commission's General Order No. 98-Series, and the insurance requirements of the Commission's General Order No. 101-Series.
- (b) Within one hundred twenty days after the effective date of this order, applicant shall establish the authorized service and file tariffs and timetables, in triplicate, in the Commission's office.
- (c) The tariff and timetable filings shall be made effective not earlier than ten days after the effective date of this order on not less than ten days' notice to the Commission and the public, and the effective date of the tariff and timetable filings shall be concurrent with the establishment of the authorized service.
- (d) The tariff and timetable filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs and timetables set forth in the Commission's General Orders Nos. 79-Series and 98-Series.
- (e) Applicant shall maintain his accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or

Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of his operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 12th day of DECEMBER, 1978.

I dissent.
William Sprouns, Jr.

Robert Bateman
President

Vergon L. Stearns
Charles C. Howell
Alvin T. Decker
Commissioners

Appendix A
(Dec. 86120)-

Daniel F. Stuart
doing business as
FLEETWOOD LIMOUSINE SERVICE

Second Revised Page 1
Cancels
First Revised Page 1

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

Daniel F. Stuart, doing business as Fleetwood Limousine Service, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to operate as a passenger stage corporation to transport passengers and their baggage between San Diego International Airport-Lindbergh Field, in San Diego, on the one hand, and the communities of Escondido, Vista, Fallbrook, San Marcos, Lake San Marcos, Penasquitos, Poway, Rancho Santa Fe, Miramar, Rancho Bernardo Service Territory, *Oceanside, *Carlsbad, *Leucadia, *Encinitas, *Cardiff-By-The-Sea, *Solana Beach, *Del Mar, and *that certain area commonly referred to as Scripps Miramar Ranch located in the County of San Diego, on the other hand, over and along the most appropriate highways, roads, and streets, subject, however, to the authority of this Commission to change or modify the authority at any time and subject to the following provisions:

- (a) Service shall be operated on an "on-call" basis. The term "on-call", as used herein, refers to service which is authorized to be rendered dependent on the demands of passengers. The tariffs and timetables shall show the conditions under which each authorized "on-call" service will be rendered.
- * (b) Special restrictions for service between San Diego International Airport, on the one hand, and Oceanside, Carlsbad, Leucadia, Encinitas, Cardiff-By-The-Sea, Solana Beach, Del Mar, and that certain area commonly referred to as Scripps Miramar Ranch located in the County of San Diego, on the other hand:
 - (1) Service is restricted to the transportation of passengers and their baggage in equipment not exceeding fifteen (15) passengers capacity, including driver, and further restricted to passengers originating at or destined to the San Diego International Airport.
 - (2) Passengers may not board or be discharged at any intermediate points.

Issued by California Public Utilities Commission.

*Added by Decision No. 89741, Application No. 58274.