

Decision No. 90011 : FEB 27 1978

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Public Services Planning and Analysis Corp. for a certificate of public convenience and necessity to operate as a passenger stage corporation, operating between points in Alameda County and the Oakland International Airport.

Application No. 56928  
(Filed December 9, 1976;  
amended April 28, 1978)

Application of Bay Area Limousine Service, Inc. a California corporation, to amend its certificate of public convenience and necessity, PSC-935, by deletion of vehicle seating limitation; and to add operating permission for scheduled fixed route between/and Berkeley, Oakland and Oakland Airport; and the right to perform a fixed route shuttle service between/and the BART Coliseum Station Oakland and the Oakland Airport.

Application No. 57817  
(Filed January 20, 1978;  
amended June 2, 1978)

Clifford Orloff, for Public Services Planning and Analysis Corporation, dba Airport Connection; and Donald S. Tahl and James M. Anderson, for Bay Area Limousine Service, Inc.; applicants.

Handler, Baker & Greene, by Walter H. Walker, III, Attorney at Law, for SFO Airporter, Inc., protestant.

John E. Nolan, Attorney at Law, for Port of Oakland, interested party.

Marc E. Gottlieb, Professional Engineer, for the Commission staff.

INTERIM OPINION

Public Services Planning and Analysis Corporation (PSFA), dba Airport Connection, presently holds a certificate (PSC-1009) (Decision No. 88953 in Application No. 56927) to operate van-type vehicles between San Francisco Airport (SFO) and various East Bay locations. By its application it seeks to expand this operation

to include service between points in Alameda County and the Oakland International Airport (OAK).

Bay Area Limousine Service, Inc. (BAL) presently has three types of operations. The first is a charter operation which is not directly involved here. The second is a certificated limousine service offering on-call transportation between an area in Alameda and Contra Costa Counties to OAK and SFO. (PSC-935) (Decision No. 82957 in Application No. 54348, dated March 19, 1974.) The service is limited to 9-passenger vehicles. The third is a shuttle operation performed under contract with the Port of Oakland. This service provides a connection between the Coliseum Station of BART and OAK. This service is operated without any present authority of this Commission and is heavily subsidized by the Port of Oakland which operates OAK. Fares are those specified in the contract; they are retained by BAL on account and the remainder of the contract price to be received by BAL is made up by the subsidy. This service is presently performed in vehicles smaller than conventional buses.

As a result of a stipulation entered into between both applicants and protestant SFO Airporter, Inc. (Airporter), both applicants agreed that they would not oppose Airporter's application to purchase and operate the certificate of public convenience and necessity previously held by Airporttransit (Application No. 58233). In exchange Airporter undertook not to protest these applications. Each applicant also agreed to withdraw its protest to the other applicant's proposal as modified at the hearing.

PSPA, as a result of this stipulation, is to have its certificate amended to authorize it to institute service between the Marriot Hotel in Berkeley, the Holiday Inn in Emeryville, and Jack London Square (this latter point being on a reservation only basis) to and from OAK. BAL is to have its certificate amended so that its on-call operations may be conducted in 15-passenger vehicles. This will enable it to use vans as well as limousines. It will also receive a certificate for the BART shuttle operation with no size limitation on the type of vehicle to be used in such service.

The Port of Oakland, as an arm of the City of Oakland, has indicated that it wishes to reserve its right to argue that no certificate is necessary for the shuttle service and that it has been instituted in the same manner that a municipality would institute common carrier service by means of vehicles owned by it and operators employed by it. (cf. California Constitution, Article XI Section 9(a) and (b), but cf. Article XII Sections 5 and 8 and Section 216 (c) of the Public Utilities Code.)

A review of the contract between the Port of Oakland and Bay Area Limousine Service indicates that the service is being performed for the account of the Port of Oakland, at the Port's direction and control, with the Port paying all of the costs less the fares collected, which fares are established by the Port. In these circumstances the operation is for all intents and purposes a municipal operation. We conclude that no certificate is needed for the BART shuttle and thus that part of the application will be denied.

Applicants 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 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.

We find that the public convenience and necessity require that the applications as modified should be granted except for the BART shuttle. We further find that this should be accomplished by issuing each applicant a new certificate of public convenience and necessity in substitution for that presently held by it. We also find that PSC-935 is now in the name of James M. Anderson, dba Bay Area Limousine Service, and that the certificate should be reissued to reflect the incorporation of that business.

We conclude that the applications should be granted to the extent set forth in the order which follows. We also conclude that both

applicants owe a filing fee of \$75 pursuant to Section 1036, Public Utilities Code, and that BAL owes a second filing fee of \$75 for approval of the transfer of its certificate from individual to corporate ownership.

~~LAURENCE~~ LAURENCE ORDER

IT IS ORDERED that:

1. A certificate of public convenience and necessity (PSC-1009) is granted to Public Services Planning and Analysis Corporation, dba Airport Connection, authorizing it to operate as a passenger stage corporation, as defined in Section 226 of the Public Utilities Code, between the points and over the routes set forth in Appendix A-1 of this decision.

2. A certificate of public convenience and necessity (PSC -935) is granted to Bay Area Limousine Service, Inc., a corporation, authorizing it to operate as a passenger stage corporation, as defined in Section 226 of the Public Utilities Code, between the points and over the routes set forth in Appendix A-2 of this decision.

3. The certificates of public convenience and necessity presently held by each applicant will be revoked concurrently with the filing of the written acceptance provided below.

4. In providing service pursuant to the authority granted by this order, each 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, each applicant shall file a written acceptance of the certificate granted and pay the filing fees due. 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, each 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. Each applicant shall maintain its accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of its operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

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

Dated at San Francisco, California, this 27<sup>th</sup> day of FEBRUARY, 1979.

John E. Cuy  
President  
Deborah L. Sturgeon  
Richard D. Koval  
Chas. J. F. F. F.  
Commissioners

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Appendix A-1

Public Services Planning  
and Analysis Corporation  
dba  
AIRPORT CONNECTION

Original Page 1

CERTIFICATE  
OF  
PUBLIC CONVENIENCE AND NECESSITY  
AS A  
PASSENGER STAGE CORPORATION  
PSC-1009

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

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All changes and amendments as authorized by the Public Utilities  
Commission of the State of California will be made as revised pages  
or added original pages.

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Issued under authority of Decision No. 90011 ;  
dated \_\_\_\_\_, of the Public Utilities Commission  
of the State of California, in Application No. 56926.

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Appendix A-1

Public Services Planning  
and Analysis Corporation  
dba  
AIRPORT CONNECTION

Original Page 2

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

The certificate hereinafter noted supersedes all authority heretofore granted to Public Services Planning and Analysis Corporation to operate as a passenger stage corporation.

Public Services Planning and Analysis Corporation, doing business as Berkeley-Airport Connection, 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 the San Francisco and Oakland International Airports, on the one hand, and the points hereinafter described, on the other hand, subject, however, to the authority of this Commission to change or modify said authority at any time and subject to the following provisions:

- (a) Only passengers destined to or originating at the San Francisco or Oakland International Airport passenger terminals shall be transported.
- (b) Pickup and discharge of passengers will be limited to the specific points hereinafter described.
- (c) Service shall be provided with vehicles seating no more than fifteen (15) passengers, including driver.

Issued by California Public Utilities Commission.

Decision No. ~~90011~~ Application No. 56928.

Section 2. ROUTE DESCRIPTIONS

Route 1. Berkeley/San Francisco Int'l Airport

Between the City of Berkeley and the San Francisco International Airport passenger terminals, over the most appropriate route.

Route 2. Berkeley-Emerlyville/San Francisco Int'l Airport

Commencing at the Durant Hotel, 2600 Durant Avenue, in the City of Berkeley (pick-up point), then over the most appropriate routes to the:

Marriott Inn, 200 Marina Boulevard, Berkeley  
(pick-up point - by reservation only)

Holiday Inn, 1800 Powell Street, Emeryville  
(pick-up point - by reservation only)

then via the San Francisco-Oakland Bay Bridge and the most appropriate route to the San Francisco International Airport passenger terminals. Return via reverse of same route.

Route 3. Concord-Walnut Creek/San Francisco Int'l Airport

Commencing at the Concord Inn, 1401 Willow Pass Road, Concord (pick-up point), then over the most appropriate routes to the:

Walnut Creek Bay Area Rapid Transit (BART)  
Station (pick-up point - by reservation only)

Intersection of Mt. Diablo Blvd. and  
Pleasant Hill Road, Lafayette  
(pick-up point - by reservation only)

Orinda Bay Area Rapid Transit (BART)  
Station (pick-up point - by reservation only)

Holiday Inn, 1800 Powell Street, Emeryville  
(pick-up point - by reservation only)

then via the San Francisco-Oakland Bay Bridge and the most appropriate route to the San Francisco International Airport passenger terminals. Return via reverse of same route.

Issued by California Public Utilities Commission.

Decision No. 90011 !, Application No. 56928.

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Appendix A-1

Public Services Planning  
and Analysis Corporation  
dba  
AIRPORT CONNECTION

Original Page 4

Section 2. ROUTE DESCRIPTIONS (continued)

Route 4. Berkeley-Oakland/Oakland International Airport

Commencing at the Marriott Inn, 200 Marina Boulevard, Berkeley (pick-up point), then over the most appropriate route to the Holiday Inn, 1800 Powell Street, Emeryville (pick-up point), then over the most appropriate route to Jack London Square, Oakland (pick-up point - by reservation only), then via the most appropriate route to the Oakland International Airport passenger terminals. Return via reverse of same route.

(END OF APPENDIX)

Issued by California Public Utilities Commission.

Decision No. 90011, Application No. 56928.

CERTIFICATE  
OF  
PUBLIC CONVENIENCE AND NECESSITY  
AS A  
PASSENGER STAGE CORPORATION  
PSC-935

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

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All changes and amendments as authorized by the  
Public Utilities Commission of the State of California will  
be made as revised pages or added original pages.

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Issued under authority of Decision No. 90011,  
dated \_\_\_\_\_, of the Public Utilities Commission  
of the State of California, in Application No. 57817.

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

The certificate hereinafter noted supersedes all authority heretofore granted to James M. Anderson or to Bay Area Limousine Service, Inc., to operate as a passenger stage corporation.

Bay Area Limousine Service, Inc., by the decision noted in the margin, is authorized to operate as a passenger stage corporation to transport passengers and their baggage over and along the routes hereinafter described, subject to the provisions noted.

## SECTION 2. ROUTE DESCRIPTIONS.

Route 1. East Bay/SFO-OAK Airports

Between points in the counties of Alameda and Contra Costa, on the one hand, and the San Francisco and Oakland International Airports, on the other hand, over the most appropriate routes and subject to the following provisions:

- (a) No passengers shall be transported except those having point of origin or destination at one of the above specified airports.
- (b) When service is rendered, it shall be on an "on-call" basis. Tariffs and timetables shall show the conditions under which such "on-call" service will be operated.
- (c) Service shall be provided with vehicles seating no more than fifteen passengers, including the driver.
- (d) No service shall be provided to Treasure Island, the Oakland Army Base, the Alameda Coast Guard Station, Buchanan Field or the Hayward Airport.

(END OF APPENDIX)

Issued by California Public Utilities Commission.

Decision No. 90044 1, Application No. 57817.