

ORIGINAL

Decision No. 90109 MAR 27 1979

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SURTREKS, INC., a Passenger Stage Corporation, for certificate of public convenience and necessity to operate as a Passenger Stage Corporation for sightseeing service between Big Sur and Hearst Castle, San Simeon and Cambria. Presently, SURTREKS operates a Passenger Stage Corporation between Carmel/Monterey/Pebble Beach/Carmel Valley/Carmel Highlands and Big Sur.

Application No. 58374  
(Filed September 22, 1978)

In the Matter of the Application of SURTREKS, INC., a Passenger Stage Corporation operating between Carmel/Monterey/Pebble Beach/Carmel Valley/Carmel Highlands and Big Sur, for an extension of authority to include the Monterey Peninsula Airport for customers desirous of the Surtreks sightseeing tour of Big Sur.

Application No. 58375  
(Filed September 22, 1978)

O P I N I O N

Statement of Facts

The California coastal area named the Big Sur, located south of Monterey between Carmel and Lucia, contains some of the most ruggedly beautiful vistas in the world, featuring mile after mile of craggy coastline washed by the ever-crashing surf. Drenched alternately by the sun and fog, the coastal redwood and chaparral-studded wilderness has a pervasive primordial quality about it, and once seen is never forgotten. Twenty-five miles south of Lucia, perched atop of La Cuesta Encantada, is the famed castle of William Randolph Hearst, San Simeon. Although rather sequestered and somewhat remote from population centers, both the Big Sur and San Simeon are tourist attractions gaining increasing numbers of visitors.

Stephen Black, an individual doing business as Surtreks out of Big Sur, by Decision No. 88623 dated March 21, 1978 in Application No. 57254, was granted a certificate of public convenience and necessity to operate what essentially is a sightseeing tour passenger stage service providing round-trip transportation only, for passengers between named hotels and motels within the Monterey, Pebble Beach, Carmel, Carmel Valley, and Carmel Highlands area, on the one hand, and Big Sur, on the other hand. The operative rights granted Black by that certificate provide for twice-daily service between June 1 and September 30, with a provision for "on call" service during the balance of the year. Black's tours provide one meal. The luncheon tour is \$20, the dinner tour is \$26.

On August 15, 1978, Black filed articles of incorporation with the office of the California Secretary of State, incorporating his venture as Surtreks, Inc., a California "close" corporation, having an authorized issuance of 1,000 shares of a single class of stock, designated "common shares". Black is the Managing Director.

Now, by Application No. 58374, Black seeks additional approvals from this Commission as follows:

1. Sanction to change the name of his venture on our records from "Black, dba Surtreks", to "Surtreks, Inc."
2. A certificate of public convenience and necessity, pursuant to the provisions of Section 1031, et seq., of the Public Utilities Code, to extend his operations so as to establish and operate passenger stage corporation service, providing an approximately 8-hour long sightseeing round-trip tour between Big Sur and San Simeon/Cambria, and return, including en route points of interest, in particular the castle of San Simeon and the state parks. The tour would be operated daily between June 1 and August 31, with prearranged reservation basis service during the balance of the year. The applicant would utilize Dodge 15-passenger maxi-vans or larger equipment,

including full-sized buses. The per capita tour price would be \$30 which includes the cost of lunch and admission to the Hearst Castle. The applicant also seeks authority to add en route overnight accommodations with related meals on a request and supplemental cost basis.

In addition, by Application No. 58375, Black, also pursuant to the provisions of Section 1031, et seq., of the Public Utilities Code, seeks authority from this Commission to add the Monterey Peninsula Airport to his existing northern area service points, with all other terms and conditions established and set forth in Decision No. 88623 to be applicable to this extended service.

Discussion

Because of the interrelated subject matters involved in the two applications, the applications have been combined herein for purposes of consideration and decision. Both applications were noticed on the Commission's Daily Calendar for Tuesday, September 26, 1978. In addition, the Commission's Transportation Division requested the applicant to make additional service upon local authorities and public transportation agencies in the areas to be served. No protests have been received. Black informed the assigned Administrative Law Judge that one area carrier, The Gray Line, Inc., has been helpful in preparing his venture to conduct business. A public transportation agency, Monterey Peninsula Transit, although specifically posing no objections to the proposed service extension to the Monterey Peninsula Airport (a posture conditioned upon limitation of applicant's service to inclusive round-trip sightseeing tours), pointed out that during the summer months it provided round-trip public transportation service from the airport to Big Sur. Because of the uniqueness of the service proposed to this area, and considering the lack of any protest, a hearing is deemed unnecessary and the consolidated applications will be processed ex parte.

While the term "public convenience and necessity" has no precise meaning and cannot be defined to fit all cases, broadly speaking it is synonymous with the public interest, and in the context of a passenger stage sightseeing service, we normally look to the following five factors in considering the merits of an application for such authority:

1. The adequacy and quality of the service proposed;
2. The financial, business, and technical ability of the applicant to carry on the proposed operation to serve the public at reasonable rates;
3. The good faith and willingness of the applicant to assume responsibility for service at all times and under all conditions;
4. The willingness of the applicant to abide by the law and Commission rules; and
5. A public requirement for the service proposed.

In the instant proceeding, from the considerable material provided by the applicant, it appears reasonably certain that the service proposed is fully adequate to the demand existing at this time and for the immediate future. The market for this local tour service is just emerging as more and more people learn of the breathtaking, wild, rugged, and incredibly beautiful Big Sur country and the treasure-filled important experience that is the Hearst Castle.<sup>1/</sup> The 15-passenger maxi-van featuring comfortable seats adequately provides economic and acceptable tour transportation on this limited distance tour, punctuated as it is by stops for nature walks, lunch, and picture-taking. With developing demand, the applicant plans to add full-sized buses. The guided and narrated tour service proposed is tailored to provide a pleasing, entertaining, and informative tour of an adequacy and quality to meet the satisfaction of the Commission.

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<sup>1/</sup> Currently, over 800,000 tourists yearly visit the Hearst Castle.

By way of evidencing his financial, business, and technical ability to carry on the proposed operation, Black points out that he has successfully operated a guided tour operation between the Monterey-Carmel area and the Big Sur since early 1978, and that based upon that successful venture he seeks this southward expansion to the San Simeon/Cambria area. As part of his application, Black furnished the Commission with a verified copy of a financial statement dated September 15, 1978 for Surtreks, Inc., stating total assets of \$33,068.40, total liabilities of \$14,312.54, and a net worth of \$18,755.86. In response to the request of the Commission staff, the applicant also submitted a projected income statement covering a 12-month period. This statement, projecting 245 tour trips with an anticipated 2,450 passengers carried, envisions revenues of \$73,500 a year against direct expenses<sup>2/</sup> of \$35,266 to provide gross income of \$38,234. However, as the staff pointed out, the applicant left out the indirect costs such as the cost of tour admissions to the Hearst Castle and meals<sup>3/</sup> for both the passengers and the drivers. When these indirect costs are entered, net revenue drops to \$12,509. The staff estimates the break-even point on any single tour as being between 7 and 8 passengers. The applicant asks that Surtreks, Inc. be allowed to cancel any tour, after notice, if less than five passengers have made reservations.

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2/ The direct expenses included in the annualized projections included transportation expense of \$19,306 and office and overhead expense of \$16,960. The transportation expenses projection (based upon an estimated 245 tours annually) listed lease payments, wages, fuel, repair and maintenance, license and regulation, and insurance. The office and overhead expense projection listed office staff and expenses, advertising, office lease, and telephone.

3/ The current cost per capita of the Hearst Castle tour admission (to Tour No. 1; the overall, first-look tour including gardens, pools, a guest house, and the main floor of the castle) is \$5. The per capita meal cost is \$5.

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The evidence provided by the fact of the applicant's prior satisfactory service on the existing guided tour operation between the Monterey-Carmel area and the Big Sur is the best evidence of the good faith and willingness of the applicant in this proposal to provide service beyond Big Sur to the Hearst Castle/Cambria area attractions, a logical extension under the circumstances to the existing authority.

In all its approaches and dealings with this Commission to date on the record, the applicant has abided by the provisions of the Public Utilities Code and this Commission's rules. We have been presented with nothing to indicate that it would do less were this authority to be granted.

The very fact that there are increasing numbers of tourists seeking to visit the Hearst Castle/Cambria environs is alone indicative of a public need for local sightseeing service in this remote area. At present there is no local sightseeing tour transportation service between Big Sur and the Hearst Castle/Cambria area, or to the beautiful state parks in the vicinity.

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From the above we conclude that the applicant has shown that public convenience and necessity require the service between Big Sur and San Simeon/Cambria, and return, including intervening points of interest. The proposed service, to the extent it will serve to consolidate individual tourists and touring families into tour groups employing a tour van or bus, will serve to reduce the number of individual autos on the highway, providing a positive environmental effect reducing congestion, noise and pollution, and contributing toward fuel conservation. Accordingly, we will authorize this expanded certificate of public convenience and necessity, amending PSC-1037 to embrace the additional authority.

The requested expanded authority requested by Application No. 58375, adding the Monterey Peninsula Airport to the applicant's existing northern area pick-up and discharge points, is a logical and appropriate extension of service, and so long as it is confined to transportation of inclusive round-trip sightseeing tour passengers, will not impinge upon operations of Monterey Peninsula Transit. We will therefore approve amendment of applicant's certificate of public convenience and necessity to include this northern pick-up and discharge point, retaining the same terms and conditions upon that service as are set forth applicable to his existing service set forth and established in Decision No. 88623.

In another regard, Application No. 58374 must be recognized as also being essentially, in part, a transfer of operative rights in that the new emerging operator will henceforth be a "close" corporation rather than a dba venture. In such a transfer application the Commission is concerned chiefly with the question of whether the transfer would be consistent with the public interest. Where, as here, the evidence is that the resultant corporate organization has fully complied with the incorporation procedures of the office of the California Secretary of State, and is essentially the same venture merely clothed in a different legal cloak, comprised as before of

an experienced operator-driver, is financially responsible and adequately equipped to continue the service, we are justified in finding that the proposed change of form of the venture would not be adverse to the public interest. Accordingly, we will approve the transfer of the operational rights from Stephen Black, dba Surtreks, to Surtreks, Inc., a "close" corporation under the laws of California.

Findings

1. The applicant has demonstrated that public convenience and necessity require establishment of a round-trip passenger stage sightseeing service between Big Sur and San Simeon/Cambria, including en route points of interest as the Hearst Castle and state parks.
2. There is no comparable round-trip passenger stage sightseeing service available to the general public in the Big Sur and San Simeon/Cambria territory.
3. The applicant has demonstrated the requisite fitness to provide a round-trip passenger stage sightseeing service between Big Sur and San Simeon/Cambria.
4. The prices of admissions and meals, as well as charges for any other nontransportation items, should be separately stated in any tariff filed for a round-trip passenger stage sightseeing service between Big Sur and San Simeon/Cambria.
5. The addition of the Monterey Peninsula Airport to the applicant's existing northern area service points authorized by Decision No. 88623 is in the public interest and required by public convenience and necessity.
6. The same terms and conditions set forth in Decision No. 88623 as applicable to the authority therein granted should be applicable to any new or extended authority granted by the instant decision and order.
7. The change of form of the applicant's venture from that of a sole proprietorship dba, to that of a "close" corporation, is not adverse to the public interest.



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8. It can be seen with certainty that there is no possibility that the requested new service and extended authority may have a significant effect on the environment.

9. There are no protests to the applications and the following order should be effective the date of signature.

Conclusions

1. The change of legal form of the applicant's venture to a "close" corporation would not be adverse to the public interest and should be authorized.

2. The requested extension of authority to include the Monterey Peninsula Airport would not be adverse to the public interest and should be authorized.

3. The application to provide and serve round-trip passenger stage tour service between Big Sur and San Simeon/Cambria, including associated points of interest, is in the public interest and should be approved.

4. The order which follows should provide for the revocation of the certificate presently held by Stephen Black, an individual doing business as Surtreks, and the issuance of a single expanded certificate in appendix form to Surtreks, Inc.

5. A public hearing is not necessary.

6. The authorities granted shall not be construed as a finding of the value of the rights and properties authorized to be transferred.

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

O R D E R

IT IS ORDERED that:

1. Stephen Black, an individual doing business as Surtreks, may transfer the operative rights granted by Decision No. 88623, and referred to in the application, to Surtreks, Inc., a "close" California corporation.

2. A certificate of public convenience and necessity is granted to Surtreks, Inc., a "close" California corporation, authorizing it to operate a passenger stage corporation, as defined in Section 226 of the Public Utilities Code, between the points and over the routes, and subject to specific additional restrictions set forth in Appendix A attached to this order.

3. Within thirty days after the effective date of this order, Surtreks, Inc. shall file written acceptance of the certificate granted. The applicant is placed on notice that if it accepts the certificate it will be required, among other things, to comply with the safety rules administered by the California Highway Patrol, the rules and other regulations of the Commission's General Order No. 98-Series, and the insurance requirements of the Commission's General Order No. 101-Series.

4. Surtreks, Inc. shall amend or reissue the tariffs and timetables on file with this Commission pertaining to the service authorized by Decision No. 88623, naming rates and rules governing the common carrier operations transferred from Stephen Black, an individual doing business as Surtreks to Surtreks, Inc., to show that it has adopted or established, as its own, the rates and rules. 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 date of the acceptance by Surtreks, Inc. of the certificate of public convenience and necessity.

5. The certificate of public convenience and necessity granted by Decision No. 88623 is revoked concurrently with the effective date of the tariff filing required by paragraph 4.

6. Within one hundred twenty days after the effective date of this order, Surtreks, Inc. shall establish the authorized services sought by Application No. 58374, and file tariffs and timetables, in triplicate, in the Commission's office.

7. The tariff and timetable filings required by paragraph 6 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 to the public, and the effective date of the tariff and timetable filings shall be concurrent with the establishment of the authorized services.

8. All 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.

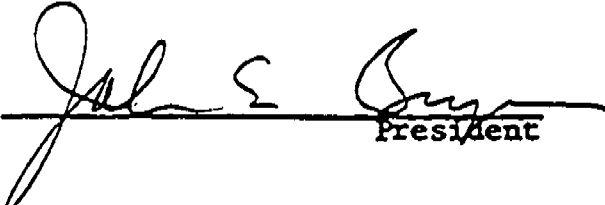
9. Surtreks, Inc. shall maintain its accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this

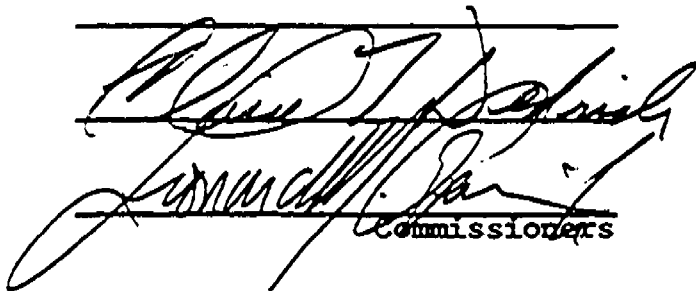
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Commission and shall file with the Commission, on or before March 31 of each year, an annual report of its operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

The effective date of this order is the date hereof.

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

  
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President

  
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Commissioners

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

Commissioner Richard D. Gravelle, being necessarily absent, did not participate in the disposition of this proceeding.

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Appendix A

SURTREKS, INC.  
(a corporation)

Original Title Page

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

PSC - 1037

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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. **90109**, dated  
MAR 27 1970, of the Public Utilities Commission of  
the State of California, in Applications Nos. 58374 and 58375.

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Appendix A

SURTREKS, INC.  
(a corporation)

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Issued by California Public Utilities Commission.

Decision No. 90109 i, Applications Nos. 58374 and 58375.

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

Surtreks, Inc., a corporation, by the Certificate of Public Convenience and Necessity granted by the decision noted in the margin, is authorized to:

1. Transport passengers between Monterey, Monterey Peninsula Airport, Pebble Beach, Carmel, Carmel Valley, and Carmel Highlands, on the one hand, and Big Sur, on the other hand, over and along the routes hereinafter described, subject, however, to the authority of this Commission to change or modify said routes at any time and subject to Provisions of Paragraph 3.

2. Transport passengers for sightseeing purposes, between Big Sur, on the one hand, and Hearst San Simeon State Historical Monument (San Simeon and Cambria), on the other hand, over and along the route described in Section 3, subject to the provisions of Paragraph 3.

3. Restrictions and limitations:

- (a) Motor vehicles may be turned at termini and intermediate points, in either direction, at intersections of streets or by operating around a block contiguous to such intersections, in accordance with local traffic regulations.
- (b) When route descriptions are given in one direction, they apply to operations in either direction unless otherwise indicated.

Issued by California Public Utilities Commission.

Decision No. 90109 1, Applications Nos. 58374 and 58375.

SECTION 1. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS  
AND SPECIFICATIONS (continued)

- (c) All service herein authorized shall be limited to the transportation of round-trip passengers only.
- (d) Applicant shall not pick up or discharge passengers except the specified service points as hereinafter set forth. This restriction shall not prevent stop-overs for the purpose of permitting sightseeing passengers to visit various points of interest along the route.
- (e) Daily service shall be operated from June 1 through September 30 of each year for tours to Big Sur but only from June 1 through August 31 of each year for tours to Hearst San Simeon State Historical Monument.
- (f) "On-call" service shall be operated from October 1 through May 31 of each year, for tours to Big Sur; and from September 1 through May 31 of each year for tours to Hearst San Simeon State Historical Monument.
- (g) 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.

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Decision No. 90109, Applications Nos. 58374 and 58375.



## SECTION 2. SERVICE POINTS.

Passengers may be picked up and discharged at any of the following described points, subject to local traffic regulations:

1. Monterey
  - (a) Holiday Inn
  - (b) Del Monte Hyatt House
  - (c) Monterey Peninsula Airport
2. Pebble Beach
  - (a) Del Monte Lodge
3. Carmel
  - (a) Pine Inn
  - (b) La Playa Hotel
  - (c) Holiday Inn
4. Carmel Valley
  - (a) Quail Lodge
5. Carmel Highlands
  - (a) Highlands Inn
6. Big Sur
  - (a) Surtreks Office
  - (b) Pfeiffer Big Sur State Park Lodge
  - (c) Ventana Inn
7. Meal Stops
  - (a) San Simeon or
  - (b) Cambria
8. Hearst San Simeon State Historical Monument  
(Hearst Castle)
  - (a) Parking lot

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Appendix A

SURTREKS, INC.  
(a corporation)

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SECTION 3. ROUTE DESCRIPTIONS.

I. Big Sur Sightseeing operation.

1. Regular Route

Commencing from any or all service Points 1 through 5 as described in Section 2, over and along the most convenient and appropriate streets and roads to California State Highway 1; thence continue California State Highway 1 to any appropriate point or points in Big Sur, returning in the reverse direction.

2. Alternate Route

Commencing Old Coast Road from Bixby Bridge, thence over and along Old Coast Road approaching Andrew Molera State Park to California State Highway 1.

II. Hearst Castle Sightseeing Operation.

Commencing from the Big Sur service points as described in Section 2, over and along the most convenient streets and roads to California State Highway 1 to any appropriate point at Hearst Castle, returning in the reverse direction to Big Sur.

(END OF APPENDIX A)

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Decision No. 90109, Applications Nos. 58374 and 58375.