

Decision No. 90719 AUG 28 1979

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)
International Airport, Orange)
County Airport, Long Beach)
Municipal Airport, Ontario)
International Airport and Holly-)
wood-Burbank Airport.)

Application No. 57765
(Filed December 16, 1977)
Petition for Modification
of Decision No. 89074
(Filed September 12, 1978)

In the matter of the application)
of 24-HOUR AIRPORT EXPRESS, INC.,)
for modification of the authority)
issued in Decision No. 89074.)

Application No. 58314
(Filed August 21, 1978)

Bewley, Lassleben & Miller, by
Edward L. Miller, Attorney at
Law, for applicant.
James H. Lyons, Attorney at Law,
for Airport Service, Inc.; and
John Cockburn, for United
Transportation Union; protestants.
Robert W. Russell, Chief Engineer
and General Manager, by Kenneth E.
Cude, for Department of Public
Utilities and Transportation, City
of Los Angeles; and Joe A. Lyle,
for Southern California Rapid
Transit District; interested parties.
Thomas P. Hunt, for the Commission staff.

O P I N I O N

By D.89074 (1978)^{1/} 24-Hour Airport Express, Inc. (24-Hour) was authorized to transport passengers and baggage on-call in door-to-door service as a passenger stage corporation utilizing up to 40 van-type vehicles between five airports and all points and places within defined territory in Los Angeles, Orange, and San Bernardino counties. 24-Hour also holds charter-party carrier authority from the Commission.

The relief sought in both of the captioned proceedings is the same. 24-Hour seeks to have one of the restrictions in its certificate of public convenience and necessity modified. The restriction, which is in Section 1(b) of Appendix A^{2/} of D.89074, reads as follows:

"(b) No passenger shall be picked up at an airport or at an off-airport bus stop of Airport Service, Inc., AirportTransit, 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."

^{1/} Petition for rehearing of D.89074 filed by Airport Service, Inc. (ASI) was denied by D.89565 (1978). Petition for writ of review of D.89074 filed by ASI was dismissed by the California Supreme Court on January 17, 1979 (SF 23955). Rehearing was denied by the Court on February 12, 1979.

^{2/} Appendix B of D.89074 authorized Luxe Livery Service, Inc. to transport passengers and baggage on-call in door-to-door service utilizing up to 25 van-type vehicles between three airports and steamship docks and all points and places in Orange County. Luxe Livery Service, Inc. did not appear in the instant proceedings. Attorney for that company notified the attorney for 24-Hour that these proceedings do not affect his client.

24-Hour seeks to add the following second exception to paragraph (b):

"EXCEPTION: Passengers at Los Angeles International Airport who make a reservation through any direct telephone line at Los Angeles International Airport for which 24-Hour Airport Express, Inc. has received a permit from the Board of Airport Commissioners of the City of Los Angeles."

Public hearing on these matters was held on a consolidated record at Los Angeles on December 11, 1978 before Administrative Law Judge Norman B. Haley. The matters were submitted on January 8, 1979, the due date for letter briefs.

Presentation of 24-Hour

Evidence on behalf of 24-Hour was presented through Gerald R. Friesen, president of the company; Breton Lobner, deputy city attorney, city of Los Angeles; Robert M. Hamilton, Jr., manager of Los Angeles International Airport (LAX); and Kathy Hosking, telephone receptionist for 24-Hour.

About July 3, 1978, the president of 24-Hour learned about a call for bids by the city of Los Angeles Department of Airports (Department of Airports) for eight telephone call boxes (direct telephone lines) at the passenger terminals at LAX. In preparing the call for bids it was the purpose of the Department of Airports to increase from one to three the number of public limousine and/or van operators authorized to use telephone call boxes. Prior to leaving on a vacation to the Middle East, the president of 24-Hour prepared and signed bid documents on behalf of his company in the amount of \$705 per month for five years. D.89074 was issued on July 11 while the witness was out

of the country. 24-Hour was the high bidder and now is committed by contract (Exhibit 2)^{3/} to pay the \$705 per month beginning August 15, 1978. In addition to the \$705 per month which 24-Hour must pay to the Department of Airports, there was an installation charge of \$700 and a monthly charge of \$424 for use of 8 telephones. Two limousine operators are now also authorized to have call boxes at LAX.

The call box system began operating the first week of October 1978.^{4/} Operation of the telephones required 24-Hour to add a man during the late night and early morning hours so the office would be manned continuously with a dispatcher. This involved an additional expenditure of \$800 a month. Altogether, the additional cost attributable to the telephones at LAX is \$1,929 a month, or \$115,200 over the five-year period. The net profit of the company for the year ending June 30, 1978 was \$36,900, as shown in Exhibit 3.

The Exhibit 2 contract was prepared by the deputy city attorney in consultation with Department of Airport's staff. He said it was the purpose of the contract to permit the call boxes to be used by limousine or van-type carriers (not bus or taxicab operators who have other arrangements). The carriers

^{3/} The concession agreement in Exhibit 2 provides, among other things, that 24-Hour shall use direct line telephones and "Vehicles for Hire" wallboards in the baggage claim areas in Ticketing Buildings Nos. 2, 3, 4, 5, and 6, and three locations in Ticketing Building No. 7 at LAX. There are four trunk lines at each of the eight locations. One trunk line serves Satellite 2 and TWA; the second serves American and Western; the third serves Delta, PSA, and Continental; and the fourth serves the United commuter terminal and two telephones at the regular United terminal.

^{4/} The call boxes logically would be used now by passengers completing round trips with 24-Hour (existing exception in Section 1(b), Appendix A of D.89074) as well as by other passengers willing to wait one-half hour or more.

involved may have charter-party permits, but may also be operating as passenger stage corporations. The main thing is they are operators of smaller shuttle-type vehicles. The contract identified 26 vehicles by year, make, and passenger capacity. It states that 24-Hour is allowed to furnish only those vehicles in response to requests made on the telephones involved.

The manager of LAX stated that the purpose of the direct telephone lines is to provide a method whereby incoming passengers can pick up telephones in the baggage claim area of any of the six main terminals and call direct to a dispatcher of small vehicles, other than taxicabs. This is intended to expedite the movement of passengers out of LAX by reducing the possibility they will go out to the curb and search for vehicles. Limousine and van operators are required to respond 24 hours a day, seven days a week, to persons calling for transportation from the airport to their ultimate destinations. ✓

One of the major problems around LAX is enforcement of airport traffic regulations. The general solicitation of passengers by limousine and van operators at curbside is prohibited at LAX because the practice aggravates traffic congestion. The call boxes have been approved for use at LAX as being a beneficial method whereby solicitation may occur with the least amount of traffic disruption.

The manager of LAX was of the opinion that the one-half hour reservation requirement was established by the Commission in 24-Hour's certificate for the purpose of avoiding solicitation. He is in favor of eliminating the requirement that 24-Hour must wait one-half hour after someone calls in from a call box before picking him up. He said the rule

probably causes inconvenience to the traveling public because individuals have to wait one-half hour after making a call, rather than being picked up as soon as possible. He was of the opinion that the one-half hour reservation provision may add to traffic congestion at LAX to the extent that some vehicles may drive around waiting to pick up passengers.

In other respects the manager of LAX desires that the one-half hour reservation provision continue to apply in cases where an individual just walks out onto the sidewalk and asks 24-Hour for service. 24-Hour agrees to this. The manager of LAX explained that the airport cannot have van carriers waiting at the islands or at curbside for potential customers because that jams up the entire ground transportation operation. He said the Department of Airports would not object to the inclusion of the language contained in the exception 24-Hour seeks to have added to the one-half hour reservation provision.

24-Hour assertedly has experienced some difficulties and inefficiencies under the one-half hour reservation provision in connection with operations in and out of LAX. The one-half hour delay assertedly can seriously limit operating flexibility in instances where a vehicle is available to make a pickup at LAX in answer to a call but cannot do so because of the restriction. In such instances 24-Hour may either lose the reservation (customer or customers), or it may try to get another vehicle to the airport to make the pickup. The president stated that this is very difficult to accomplish.

Another problem with the one-half hour reservation provision assertedly occurs when a passenger is loaded or about to be loaded in a van at LAX and another party requests transportation in the same direction with less than one-half hour's notice. The first customer does not want to wait for one-half hour to elapse before the second customer can be accepted. It was alleged that under such circumstances, neither customer understands the purpose of the delay. Usually a second van is sent to pick up the second customer, which can involve an even greater delay of from 45 minutes to one hour.

The president of 24-Hour said that only a small percent of total business comes from the call boxes at LAX. Exhibit 1 is an airport telephone survey which shows that between October 17 and 31, 1978, 24-Hour received 102 inquiries resulting in 39 reservations transported and 63 lost. Between November 1 and 30 there were 204 inquiries resulting in 52 reservations transported and 142 lost. In addition, there were five "no shows". The telephone receptionist for 24-Hour stated that a good 60 percent of the callers who did not reserve service indicated that they could not wait one-half hour.

In order to break even 24-Hour would need an average of 3.2 reservations per day on a multiple loading basis fitted into existing loads going in the same direction. For the 45 days involved 91 reservations were carried, or about two per day. If 60 percent of the 205 reservations which assertedly were lost because of the one-half hour provision had been carried, 123 reservations would have been added for a total of 214, or an average of 4.76 per day.

It is the position of 24-Hour that the one-half hour reservation provision was imposed by the Commission relative to the problem of solicitation by limousine and van operators at LAX.^{5/} However, the one-half hour pickup restriction assertedly conflicts with the intent of language in the Exhibit 2 contract which 24-Hour contends requires that the call box telephones and its vehicles be available continuously.

Presentation of ASI

It is the position of ASI that the one-half hour reservation provision in Section 1(b) of Appendix A of D.89074 shows on its face it was placed there for the protection of ASI and another carrier;^{6/} that prior to the time the Exhibit 2 contract was let, 24-Hour informed the Department of Airports that the provision was established by the Commission because of

5/ Exhibit 6 is a letter dated July 13, 1978 from 24-Hour's counsel to the manager of LAX which discussed the one-half hour reservation provision, among other things. The second paragraph, page 2, of the letter reads as follows:

"It is obvious that the only reason the Commission imposed this condition was to deal with the legitimate concern of yourself and of the management of the Airport relative to the problem of solicitation."

6/ ASI also cites the following language at the top of page 39 of D.89074:

"In this connection, applicants should not be permitted to stop their vehicles at airports or at airport bus stops of Airport Service or the former Airport Transit waiting for radio calls to pick up passengers."

the solicitation problem at LAX (Footnote 5, above); that the manager of LAX therefore was misled in preparing his affidavit in support of the sought exception; and that it would be improper for the Commission to lift the certificate restriction for no reason other than 24-Hour's contract with LAX. ASI states that the contract was let with the provision that 24-Hour have a valid permit issued pursuant to Division 2, Chapter 8, of the Public Utilities Code covering charter-party carriers, and that the contract makes no reference to passenger stage corporations and has nothing to do with them.

ASI alleges that 24-Hour's fear of adding to congestion by having vans circle the airport (cruise around the World Way cul-de-sac) is unfounded because the record shows 24-Hour has a holding area at the Standard station and also uses LAX's bus holding area. ASI contends that if the sought exception to the one-half hour restriction is granted, and a passing van is designated immediately to pick up a passenger at a particular satellite, the chances are the van will have to wait at the curb until the passenger picks up his baggage. Assertedly, this will add to congestion at the airport, not alleviate it.

Evidence on behalf of ASI was presented through Donald W. Boyles, president of the company, and Joseph A. Lyle, associate transportation planner of the Southern California Rapid Transit District (SCRTD).

The president of ASI said that on Friday, November 18, 1978 at 2:30 p.m., he arrived at LAX on an incoming flight and prior to picking up his baggage he called 24-Hour on the call box telephone in the baggage claim area of Ticketing Building No. 2 at LAX. He waited 15 minutes before there was an answer,

and then waited another 12 to 15 minutes while the receptionist checked with the dispatcher concerning availability of service to Orange County. He subsequently was told that all vehicles were in use except one which was out of service. He was not picked up. During approximately one-half hour at the call box the witness observed one of 24-Hour's vehicles at the curb. When approached, the driver explained he had an order to take someone from the airport to a destination then unknown and could not accommodate the witness. This testimony shows that 24-Hour's service was not used because service was not available.

The ASI witness from SCRTD stated that his organization operates 18 hours a day from and to LAX on Routes 777 and 779, and 24 hours a day on the downtown Los Angeles Route 776. SCRTD has 13 change makers on duty at LAX from early morning to just after 10 p.m. at night. This is to help the public meet the SCRTD requirement that persons boarding buses have exact change. A recent study was made concerning the feasibility of increasing the change-making force between 11 p.m. and 6 a.m. The study disclosed that between those hours there were 43 inbound flights of which 13 were wide-body class. There were 36 outbound flights of which 10 were wide-body class. The witness was of the opinion that the airlines feel it necessary to put the larger, more expensive aircraft on particular flights because of passenger requirements. The record does not disclose the relevancy of this testimony to this proceeding.

Exhibits 4 and 5 were introduced by ASI's attorney during cross-examination of 24-Hour's president. The purpose of this evidence was to show that an incorrect listing of "Airport Service 24 Hour" appears in certain telephone directory

white pages. In the fourth ordering paragraph of D.88061 (1977) the Commission directed 24-Hour to promptly withdraw any promotional literature, receipts, or other documentation promoting confusion between its operations and those of ASI. This matter was again discussed on page 29 (mimeo.) of D.89074 (1978). The witness stated that every effort had been made to remove incorrect advertising, etc. He said that all necessary changes had been made in telephone directory yellow pages. He assumed that by changing the yellow page listings the white page listings also would be changed. He said that the white pages are not a significant source of business and he had not looked at them recently. He stated he had not been aware of the incorrect white page listings until they were introduced at the hearing. The telephone receptionist for 24-Hour testified that during the approximate two years she has been working for that company, she has never received any calls intended for ASI.

Discussion

The record leading up to D.89074 contained some testimony relative to heavy vehicular traffic problems at LAX and the problem of solicitation by limousine and van operators, including the practice of drivers cruising inside the airport and waiting in their vehicles at the curb as a means of solicitation. Weight was given to these problems in establishing the one-half hour reservation provision in 24-Hour's certificate. The provision was established primarily, however, to protect the two common carriers named in the restriction and in consideration of the protests of taxicab operators. The main body of this provision should be retained for those reasons, as well as for the reason that the manager of LAX believes it to be a desirable tool in controlling unauthorized curbside solicitation.

This record shows that 24-Hour, the deputy city attorney, the manager of LAX, and the Department of Airports are primarily concerned herein with modifying the passenger stage certificate restriction involved so that it will not interfere with maximum efficiency and utilization of the direct telephone lines at LAX. In connection with those lines, the subject one-half hour reservation provision will not only be an inconvenience to the public but may also cause additional vehicular travel within the congested airport terminal area. It also may cause 24-Hour to send in additional vans from time to time to pick up passengers who otherwise could have been accommodated by vans already waiting in the airport area. This in turn would result in less efficient utilization of vehicles, fuel, and personnel.

The record shows that it is in the best interests of the public at LAX to authorize such certificate changes as are reasonable to accommodate the Department of Airports in its efforts to expedite the movement of inbound air passengers out of the airport by use of the telephone call boxes. The record does not disclose that the proposed change in 24-Hour's certificate relative to pickup at LAX will draw a substantial amount of patronage from any particular regulated carrier. The reservations initially seeking service by 24-Hour and subsequently lost during the test periods in 1978 logically would have been transported by several transportation agencies, including ASI, Luxe Livery Service, Inc. (Orange County Limousine), charter-party carriers, rental cars, and taxicabs. Use of 24-Hour's exclusive telephone lines mainly will help its passengers receive more expeditious transportation out of the airport.

The proposed exception to the one-half hour reservation provision will not authorize 24-Hour to solicit passengers at curbside. Patrons at the curb who have made reservations by the direct lines can be identified by name. The exception 24-Hour seeks, and which the Department of Airports does not oppose, should be adopted.

Findings of Fact

1. 24-Hour is authorized, among other things, to transport passengers and baggage on-call in door-to-door service as a passenger stage corporation utilizing up to 40 van-type vehicles between five airports and all points and places within defined territory in Los Angeles, Orange, and San Bernardino counties.

2. Section 1(b) of 24-Hour's certificate of public convenience and necessity in Appendix A of D.89074 contains the following restriction:

"(b) No passenger shall be picked up at an airport or at an off-airport bus stop of Airport Service, Inc., AirportTransit, 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."

3. 24-Hour seeks to add the following additional exception to the restriction identified in Finding 2:

"EXCEPTION: Passengers at Los Angeles International Airport who make a reservation through any direct telephone line at Los Angeles International Airport for which 24-Hour Airport Express, Inc. has received a permit from the Board of Airport Commissioners of the City of Los Angeles."

4. The direct telephone lines within the terminals to certain carriers operating limousines and vans have been approved by the Department of Airports for use at LAX as being a beneficial method whereby solicitation may occur with the least amount of vehicular traffic disruption.

5. The one-half hour reservation provision identified in Finding 2 causes inconvenience to the traveling public using the telephone call boxes because individuals have to wait at least one-half hour after making a call (unless they are completing round trips with 24-Hour).

6. The proposed exception to the one-half hour pickup provision identified in Finding 3 will assist in expediting inbound air passengers to depart LAX by reducing the possibility they will go out to the curb and search for vehicles.

7. The Department of Airports does not object to the proposed additional exception to the one-half hour reservation provision in 24-Hour's certificate identified in Finding 3.

8. 24-Hour has lost business from patrons using the direct telephone lines at LAX because of the one-half hour reservation requirement. It needs additional reservations from those lines to amortize the cost of those lines.

9. The proposed exception identified in Finding 3 will help 24-Hour increase efficiency.

10. The proposed exception identified in Finding 3 cannot be expected to cause any substantial reduction in traffic carried by any particular regulated carrier. Reservations lost by 24-Hour during test periods in 1978 due to one-half hour pick-up restriction in Finding 2 logically would have been transported by several transportation agencies, including ASI, Luxe Livery Service, Inc. (Orange County Limousine), charter-party carriers, rental cars, and taxicabs.

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

12. Public convenience and necessity require that modification be made in D.89074, as set forth in the order which follows.

13. In other respects, the restriction contained in Section 1(b) of 24-Hour's certificate protects other agencies of ground transportation serving LAX, helps the Department of Airports prevent unauthorized curbside solicitation, and, therefore, should be retained.

14. 24-Hour has taken steps to eliminate listings in telephone directory white pages which confuse its name with ASI.

Conclusions of Law

1. The certificate granted to 24-Hour should be amended as set forth in the order herein.

2. 24-Hour should be directed to complete the removal of telephone directory white page listings which confuse its name with ASI.

3. In order that applicant may provide better service to the public the order should become effective on the date hereof.

O R D E R

IT IS ORDERED that:

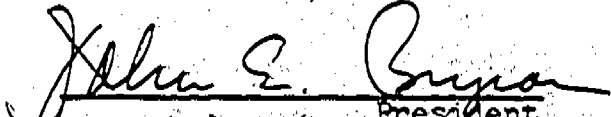
1. The certificate in Appendix A of Decision No. 89074 is modified by incorporating First Revised Pages 2 and 3, attached hereto, in revision of Original Pages 2 and 3.

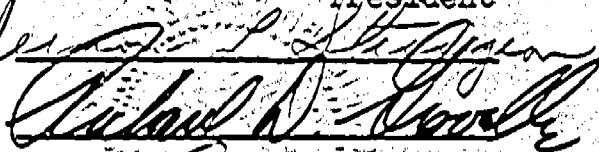
2. In all other respects Decision No. 89074 shall remain in full force and effect.


3. 24-Hour Airport Express, Inc. shall pursue to conclusion its efforts to eliminate all listings in telephone company white page directories which promote confusion between its operations and those of Airport Service, Inc.

The effective date of this order is the date hereof. ✓

Dated AUG 28 1979, at San Francisco, California.



President




Commissioners

Commissioner Claire T. Dedrick, being necessarily absent, did not participate in the disposition of this proceeding.

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., AirporTransit, 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.

*EXCEPTION: Passengers at Los Angeles International Airport who make a reservation through any direct telephone line at Los Angeles International Airport for which 24-Hour Airport Express, Inc. has received a permit from the Board of Airport Commissioners of the City of Los Angeles.

- (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 AirporTransit, 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.

Issued by California Public Utilities Commission.

*Added by Decision No. 90719, Applications Nos. 57765, 58314.

SECTION 1. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS
AND SPECIFICATIONS (CONT'D).

- ** (e) Service shall be rendered via 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.

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

**Previously shown on Original Page 2.

Issued by California Public Utilities Commission.

Decision No. 90719, Applications Nos. 57765, 58314.