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Decision No. 90814 SEP 12 1979

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of Aslan Tours & Travel, Ltd.
for certificate of public
convenience and necessity to
operate passenger service within
the limits of Monterey County.

Application No. 58735
(Filed March 12, 1979)

O P I N I O N

Statement of Facts

The Monterey Peninsula, nature's beautiful jewel of a playground resting on the mid-California coast; a mere two hours' auto drive south of San Francisco, is profusely studded with recreational delights ranging from superb white sand beaches washed by vividly hued surf and craggy redwood lined coastline, to internationally renowned golf courses. The city of Monterey, capital of Alta California under three flags, Spanish, Mexican, and American, and offering famed eateries, maritime and historical museums, parks, and old adobes, is a mecca for both area visitors and tourists from afar. In 1978, nine million people visited the Peninsula. The Monterey Peninsula Airport alone logged 639,903 arrivals and departures. A larger percentage of them are visitors without ground transportation for sightseeing. A new conference center will soon further burden the leisure time accommodations of the area.

Recognizing the emerging need for a regularly scheduled local sightseeing service providing guides and transportation on a permanent and year-round basis, three individuals, M. Ilhan Kavaklioglu, Jennifer D. Kavaklioglu, and Indira L. Erkiletian among themselves pledged \$25,000 and on February 20, 1979 executed Articles of Incorporation to form Aslan Tours & Travel, Ltd. (Aslan), a California corporation,^{1/} to provide full-scale tour company services and travel agency facilities,^{2/} originating tours to Middle East points, and receiving tours from all points or origins. By this application, Aslan seeks a certificate of public convenience and necessity to establish and operate a passenger stage corporation service for the transportation of passengers, but not baggage or property, for local sightseeing tours within the limits of Monterey County. Aslan proposes three basic tours, each to be operated on a scheduled basis year-round on the days designated:

Tour A: A visit to a winery within Monterey County, points of interest in Monterey, Fisherman's Wharf, and Cannery Row. Price - \$8.50 for half-day guided tour. Monday, Wednesday, Friday, and Saturday (9:30-12:30 a.m.).

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- 1/ Aslan submitted a copy of the Articles of Incorporation, No. 911601, showing that they were filed with the Secretary of State's office on February 23, 1979. There is one class of stock, and 10,000 shares are authorized. M. Ilhan and Jennifer D. Kavaklioglu will each hold 35 percent of the shares to be issued, with Indira L. Erkiletian to hold the remaining 30 percent. All three persons are related.
- 2/ It is anticipated that the travel agency portion of the combined operation will be allocated two-thirds of the rent, utility, etc., expense initially. The travel agency became operational the first week in July, 1979 at 372 Calle Principal, Monterey ((408) 375-1550).

Tour B: Seventeen Mile Drive, Carmel Mission, and area. Price - \$8.50 for half-day guided tour. Monday, Wednesday, Friday, and Saturday (2:00-5:00 p.m.).

Tour C: Carmel Valley and Point Lobos Park. Price - \$9.00 for five-hour tour. Tuesdays and Thursdays (10:30 a.m.-3:00 p.m.).

Using a small 12-passenger van, Aslan will provide on-call, free pickup service from most major hotels and motels in the area adjoining Monterey to the point of departure for all tours at 372 Calle Principal in Monterey, a designated Monterey tour bus stop located one-half block from the entrance to the Convention Center. All tours will also return to this departure point. Aslan reserves the right not to operate any single tour with less than five passengers. Aslan proposes to operate 26-passenger Superior Cruiser transit-type buses in this service.^{3/} In addition, private tours will be arranged upon request. Lunches, when available, will be optional at an extra charge.

The application was noticed on the Commission's Daily Calendar for Tuesday, March 13, 1979. In addition, the Commission's Transportation Division directed Aslan to make service upon specifically designated local authorities, public transportation agencies, and potential competitors in the area. Aslan complied; furnishing evidence of service to the Commission. As initially filed, the proposed service area would have extended into San Luis Obispo County to embrace the Big Sur and Hearst Castle. These latter portions were subsequently dropped on April 24, 1979 from the area to be served, and proposed service would be confined within Monterey County. The Monterey Peninsula Transit agency responded to the notice and advised that its Board had voted to take no position on the application. There were no protests filed. Because of the uniqueness of the service proposed in this area, and considering the lack of any protest, a hearing is deemed unnecessary and the application will be processed ex parte.

3/ Buses will be leased.

Discussion

Section 1031 of the Public Utilities Code applies to the instant situation. As applicable here it provides:

"No passenger stage corporation shall operate or cause to be operated any passenger stage over any public highway in this State without first having obtained from the commission a certificate declaring that public convenience and necessity require such operation, ..."

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. 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 material provided by Aslan, it appears reasonably certain that the service proposed is fully adequate to the demand existing at this time and likely for the immediate future. The market for this recreational local tour service is just emerging as more and more people come to visit the Monterey Peninsula. The 26-passenger Superior Cruiser bus with its fully padded 36-inch foam back and cushion seat accommodations should provide adequate and economical tour equipment for these tours. Guides will provide narrative, and the combination of modern, medium-sized equipment, and competent narration should provide a pleasing informative tour of an adequacy and quality to meet the satisfaction of the Commission.

The information provided the Commission shows that there are considerable financial resources available to Aslan for this venture,^{4/} and that through its associate and shared facilities with the tour travel agency it will be assured of a continuing supply of ready-made passenger clients. The president-to-be of Aslan, M. Ilhan Kavaklioglu, has five years experience as a professional guide in Turkey, and is a member of the American Society of Travel Agents. Aslan filed a monthly statement of projected income and expenses, showing that at one-half capacity (13 passengers), running one bus, the operation would produce a monthly loss of \$1,242, but that at full capacity for each tour (A, B, and C) of 26 passengers and running one bus, the service would produce a monthly profit of \$4,230. The operation would break even were it able on the A and B Tours alone (while keeping one-half capacity on Tour C) to increase the average load factor to 17.5 passengers.^{5/} While its allowance for maintenance expense appears optimistic, the bus will initially be under warranty. Overall, the expense factors are not unreasonable. Office

4/ Mrs. Indira Erkiletian submitted a Statement of Assets and Liabilities (unaudited), prepared by Tostevin Accountancy Corporation of Monterey and Carmel, showing an excess of assets over liabilities of \$570,485 at cost, or \$1,281,721 at estimated fair market value. Of this, \$93,700 was cash in checking and savings accounts. Basically the venture looks to Mrs. Erkiletian for its venture capital.

5/ Aslan anticipates considerable group business and would charter additional equipment from Greyhound and other charter operators to accommodate such overflow. This very profitable income is not included in the statement furnished, nor is there any allowance for "on-call" business which is anticipated apart from scheduled service.

expenses are to be shared with the travel agency operation, allocating one-third to Aslan. In that the proposed operation essentially is a luxury sightseeing operation, it has built into it self-limits as to what the sightseeing public will be willing to pay, and accordingly, at this time and stage of development, it will not be subjected to the same searching investigation into expense allocations as would be the case with a more essential passenger stage operation associated with a nonregulated but compatible business venture. (However, Aslan should be on notice that in the future, should it desire to increase its rates, in the resultant proceeding before this Commission, allocation of common expenses would be at issue.) At present we are reviewing mere projections, and lack any experience basis to test the allocations.

Aslan asks authority to operate Monday through Saturday year-round, although tours may be adjusted to cope with traffic and weather conditions. Aslan asks that it be allowed to cancel any tour, after notice, if less than five passengers are available for that tour. This is reasonable. Aslan will also require reservations for large groups.

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

The very fact that the number of local visitors to the Monterey Peninsula continues to grow year after year is alone indicative of an existing public need for a scheduled local sightseeing passenger stage service in this coastal playground area.

Sightseeing in California is an expanding market to be tapped by enterprising entrepreneurs. At present, apart from charter and "on-call" tour companies, and Greyhound day trip service from San Francisco, there is no regularly scheduled local sightseeing service providing transportation and guides in the area on a permanent year-round basis.^{6/}

From the above, we conclude that the applicant has shown that the public convenience and necessity require establishment and operation of local sightseeing passenger stage service on the Monterey Peninsula. Furthermore, to the extent such a service will also serve to consolidate individual tourists and touring families out of their cars into tour groups employing a van or bus, it will serve to reduce the number of individual autos on local highways and streets, providing a positive environmental result reducing congestion, noise, and pollution, and serving toward fuel conservation. Accordingly, we will authorize the granting of a certificate of public convenience and necessity to operate a passenger stage service as described herein.

Findings of Fact

1. The applicant has demonstrated that public convenience and necessity require establishment of a local passenger stage sightseeing service, excluding baggage and property, to provide sightseeing tours to en route points of interest within Monterey County on a scheduled basis.

^{6/} In that there were no protests filed against this operation, and to enable the operator to take advantage of this year's summer tourist season, we will make the certification effective immediately.

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2. There is no comparable local scheduled passenger stage sightseeing service available to the general public on the Monterey Peninsula.

3. The applicant has demonstrated the requisite fitness to provide a scheduled passenger stage sightseeing service on the Monterey Peninsula.

4. Lunch options, subject to change, should be separately stated in any tariff filed for a local passenger stage sightseeing service on the Monterey Peninsula.

5. It can be seen with certainty that there is no possibility that the requested new service will have a significant effect on the environment.

6. There are no protests to the application and the following order should be effective on the date of signature.

Conclusions of Law

1. The application to provide local passenger stage sightseeing tour service on the Monterey Peninsula within Monterey County, including associated en route points of interest, is in the public interest and should be approved.

2. A public hearing is not necessary.

Aslan 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

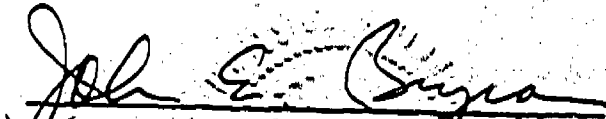
IT IS ORDERED that:

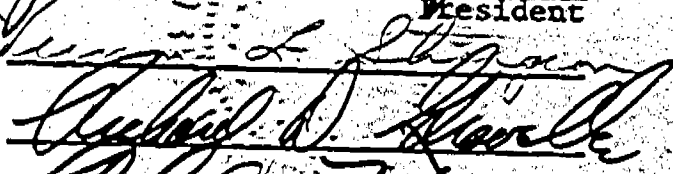
1. A certificate of public convenience and necessity is granted to Aslan Tours & Travel, Ltd., a corporation, authorizing it to operate as a passenger stage corporation, as defined in Section 226 of the Public Utilities Code, between the points and over the routes set forth in Appendix A of this decision.
2. 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 this order, applicant shall file a written acceptance of the certificate granted. 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.
 - (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.

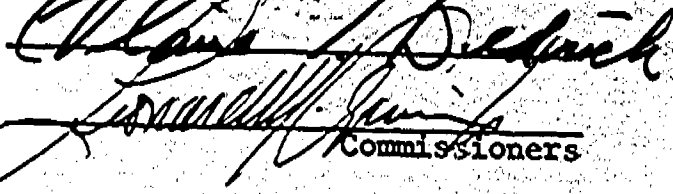
- (c) The tariff and timetable filings shall be made effective not earlier than ten days after the effective date of this order on not less than ten days' notice to the Commission and the public, and the effective date of the tariff and timetable filings shall be concurrent with the establishment of 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 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 SEP 12 1979, at San Francisco, California.



President




Commissioners

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Appendix A

ASLAN TOURS & TRAVEL, LTD.
(a corporation)

Original Title Page

CERTIFICATE

OF

PUBLIC CONVENIENCE AND NECESSITY
TO OPERATE
AS A PASSENGER STAGE CORPORATION
PSC - 1072

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. 90814, dated SEP 12 1979
of the Public Utilities Commission of the State of California in
Application No. 58735.

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

Aslan Tours & Travel, Ltd., by the Certificate of Public Convenience and Necessity granted by the decision noted in the margin, is authorized to transport sightseeing passengers between Monterey, and on-call pickup service as hereinafter described, on the one hand, and points of interest named in tours hereinafter described, on the other hand, subject to the following conditions and restrictions:

- (a) 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) All service herein authorized shall be limited to the transportation of round-trip passengers only.
- (c) Operations shall be conducted over the most suitable streets and highways subject to local traffic regulations.
- (d) Operation will be Monday through Saturday all year.

Issued by California Public Utilities Commission.

Decision No. 90814, Application No. 58735.

SECTION 2. SERVICE AREA

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

1. Monterey

- (a) 372 Calle Principal (1)
- (b) Double Tree Inn (#2 Portola Plaza)

2. Carmel

- (a) The Barnyard (near Carmel Rancho Boulevard and Carmel Valley Road)

(1) On-call service will be available to residents of Monterey, and guests at the various hotels and motels free of charge to the main departure point at 372 Calle Principal, via feeder vans.

Issued by California Public Utilities Commission

Decision No. 90814, Application No. 58735.

SECTION 3. Sightseeing Operations within the City and County of Monterey

Commencing at 372 Calle Principal, Monterey, thence over the most appropriate streets, roads and freeways to the following described sightseeing points of interest or combinations thereof in the City and County of Monterey, thence returning over appropriate streets, roads, and freeways to the point of beginning:

- Tour A. Visit a winery within Monterey County, points of interest in Monterey, Fishermans Wharf, Cannery Row, and lunch.*
- Tour B. Tour Seventeen Mile Drive and Carmel Mission area with guide.
- Tour C. Carmel Valley - Point Lobos Park and lunch.*

*Lunch options are subject to change. Refer to current brochure for details of lunches on the tour.

(END OF APPENDIX A)