

Decision No. 8942 NOV 20 1979

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application of  
RALPH GARBINI, doing business as  
Santa Cruz Limousine Service, for  
certificate of Public Convenience  
and Necessity to operate a passenger  
stage corporation to transport  
passengers and their baggage between  
Santa Cruz and San Jose Municipal  
Airport, Oakland International Airport,  
San Francisco International Airport  
and San Francisco Pier.

Application No. 57354  
(Petition for Modification  
filed October 24, 1979)

O P I N I O N

Decision No. 89419 dated September 19, 1978, in Application No. 57354 granted a certificate of public convenience and necessity to operate as a passenger stage corporation for the transportation of passengers and their baggage between points in the County of Santa Cruz and San Francisco International Airport and San Jose Municipal Airport to Ralph Garbini, dba Santa Cruz Limousine Service (Garbini). That decision authorized Garbini to operate on an on-call basis, and provided that Garbini should petition the Commission to modify Decision No. 89419 should he desire to provide scheduled service.

A petition for modification of Decision No. 89419 filed by Four Seasons Limousine Service, Inc. (Four Seasons) on October 24, 1979 seeks temporary authority to provide scheduled service over the routes authorized to Garbini in Decision No. 89419. The application states that pending further consideration by the Commission,

Four Seasons proposes to provide a scheduled service between points in Santa Cruz County and the San Francisco and San Jose airports with 14-passenger vans in the period November 5, 1979 through December 4, 1980. Temporary authority is sought in order for Four Seasons to properly support the need for the proposed service.

Embraced within the request to operate a temporary scheduled service are requests to operate with 14-passenger vans in lieu of the 9-passenger limousines authorized in Decision No. 89419 and for Four Seasons to exercise control of the operative right granted to Garbini in that decision.

With respect to the request to operate 14-passenger vans, the application states as follows:

"Our analysis of the original application, and decision, indicates that although Mr. Garbini, in his original application, proposed to operate services in two '9' passenger station wagons and two 'Cadillac sedans', the decision rendered did not reflect this restriction of passenger-carrying capability. Further, Mr. Garbini's filed tariff stipulated that he would not use vehicles with more than a '7' passenger capability. As a result, his tariff was not filed correctly in this regard. Several other areas in his tariff were not correctly written, and need to be changed.

"Although we will be filing our amended tariff shortly, we petition that our temporary operations allow us to operate equipment with non-restricted passenger capability. At this time, it appears that services would be best initiated with 14 passenger vans."

With respect to acquisition of control of the Garbini operative right, the application states as follows:

"Services were delayed in being initiated because the applicant, Mr. Ralph Garbini, was physically unable to institute services. Subsequent to February 8, 1979, our own company Four Seasons Limousine Service, Inc., signed a master-contract with Mr. Garbini (dba Santa Cruz County) [Sic] providing us with full authority to manage and operate Santa Cruz Limousine Service, with particular emphasis to develop, with PUC approval, the scheduled operations originally requested by Mr. Garbini."

In support of the temporary modification of authority, the application alleges that Four Seasons has support from the following groups: airlines, travel agencies, airport officials, corporate traffic managers, hotels and motels, social organizations, and members of the general public. Four Seasons intends to inaugurate the proposed service on November 5, 1979 in order to meet travel needs to and from the airports during the Thanksgiving travel season. After gaining experience with scheduled service, Four Seasons will provide the Commission with additional facts concerning the number of passengers handled, the gross revenues earned, and the appropriate schedule of times and points.

On October 26, 1979 Four Seasons notified the parties of record in the proceedings leading to Decision No. 89419 of the filing of this petition. Notice of the filing of the petition also appeared on the Commission's Daily Calendar of October 26, 1979. There are no protests or requests for public hearing.

#### Findings of Fact

1. Garbini was granted a certificate of public convenience and necessity to operate as a passenger stage corporation for the transportation of passengers and their baggage between points in Santa Cruz County, on the one hand, and the San Francisco International Airport and the San Jose Municipal Airport, on the other hand, by Decision No. 89419 dated September 19, 1978.
2. Decision No. 89419 authorized on-call service with the proviso that should Garbini desire to operate scheduled service, further approval should be sought from the Commission.
3. The operative right granted to Garbini in Decision No. 89419 was leased to Four Seasons on or about March 15, 1979 because Garbini was not able to initiate the authorized service. Prior approval of the lease of the operative right in question has not been sought or granted by the Commission.

4. The authority sought in Decision No. 89419 was for the operation of 9-passenger vehicles. The tariff filed for the on-call service by Garbini provided for the use of 7-passenger vehicles.

5. In this application, Four Seasons requests, inter alia, authority to provide a scheduled service on a temporary basis between November 5, 1979 and December 4, 1980 to supplement the on-call service authorized in Decision No. 89419, and to operate larger sized vehicles (14-passenger vans) in providing the proposed scheduled temporary service.

6. Decision No. 89419 stated that there was a demonstrated public need for the airport service authorized therein and indicated that if an appropriate request was made for scheduled service, such request would be granted.

7. Four Seasons is an experienced charter-party operator (TCP-972-P) and possesses the financial ability, equipment, and experience to provide the proposed scheduled airport passenger service.

8. The fares proposed in Application No. 57354 are reasonable.

9. Flexibility should be provided in connection with the type of equipment to be used to provide the temporary service until experience is gained with respect to the type of equipment best suited for scheduled airport passenger operation from and to points in Santa Cruz County. Four Seasons should be authorized to operate 7-passenger, 9-passenger, and 14-passenger equipment under the temporary authority.

10. Lease of the operative right granted to Garbini in Decision No. 89419 by Four Seasons is not adverse to the public interest.

11. Adequate notice of the filing of the petition has been made, and there is no need for a public hearing.

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

Conclusions of Law

1. The temporary authority to operate scheduled service requested in Application No. 57354 should be granted to Four Seasons for the period ending December 4, 1980.

2. The lease of the operative right granted to Garbini in Decision No. 89419 by Four Seasons should be authorized nunc pro tunc. A true copy of the lease should be filed in this proceeding.

3. Four Seasons should be authorized to operate passenger vehicles not exceeding a carrying capacity of 14 passengers each in connection with the temporary authority granted herein.

4. The temporary authority granted herein should not be extended unless the Commission is furnished additional information concerning the revenues earned, passengers handled, and the need for continuation of the scheduled service.

5. Since there are no protests and since the public will benefit from the immediate institution of the proposed service, the order herein should be effective on the date of issuance.

Four Seasons 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. Ralph Garbini, dba Santa Cruz Limousine Service (Garbini), may lease to Four Seasons Limousine Service, Inc. (Four Seasons) the

operating right granted to Garbini in Decision No. 89419 in Application No. 57354. This authorization shall expire if not exercised by December 28, 1979, or within such additional time as may be authorized by the Commission.

2. Within ten days after the consummation of the lease, Four Seasons shall file with the Commission written acceptance of the certificate granted in Decision No. 89419 and a true copy of the lease agreement.

3. Four Seasons shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the passenger stage corporation operations under lease to show that it has adopted or established as its own, the rates and rules. The tariff filings shall be made effective not earlier than five days after the effective date of this order and on not less than five days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the beginning of the term of the lease.

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4. A temporary certificate of public convenience and necessity is granted to Four Seasons 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 as described in Appendix A hereof.

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5. In providing service pursuant to the authority granted by this order, Four Seasons 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, Four Seasons shall file a written acceptance of the certificate granted. Four Seasons is placed on notice that if it accepts the certificate it will be required, among other things, to comply with the safety rules of 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, Four Seasons 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 five days after the effective date of this order on not less than five 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) Four Seasons 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 is the date hereof.

Dated NOV 20 1979, at San Francisco, California.

John E. Byron  
President  
Wesley L. Sturgeon

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

Clare J. DeLoach  
James W. ...  
Commissioners



TEMPORARY  
CERTIFICATE  
OF  
PUBLIC CONVENIENCE AND NECESSITY  
TO OPERATE  
AS A PASSENGER STAGE CORPORATION  
PSC 1051

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. 91042,  
dated NOV 20 1979, of the Public Utilities  
Commission of the State of California, in Application No. 57354.

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

Four Seasons Limousine Service, Inc., by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to transport passengers and their baggage between points in the County of Santa Cruz, on the one hand, and the San Francisco International Airport and San Jose Municipal Airport, on the other hand, over the most appropriate routes subject to the following provisions:

- (a) No passengers shall be transported except those having point of origin or destination at two of the following places:

1. San Francisco International Airport.
2. San Jose Municipal Airport.
3. County of Santa Cruz.

- (b) When service is rendered it shall be on a scheduled basis. Tariffs and timetables shall show the conditions under which such scheduled service shall be operated.
- (c) No passengers shall be transported whose entire trips are between the San Francisco International Airport and San Jose Municipal Airport.
- (d) The temporary authority granted herein shall terminate on December 4, 1980 unless sooner changed or extended.
- (e) The service authorized herein shall be performed with vehicles having a seating capacity not exceeding 14 passengers.

Issued by California Public Utilities Commission.

Decision No. 91042, Application No. 57354.