

ORIGINAL

Decision No. 92201 SEP 3- 1980

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application )  
of Robert H. Souza and James F. )  
D'Aoust, dba Altamont Tours, for )  
a certificate to operate as a )  
passenger stage corporation in )  
home-to-work service between )  
Tracy, Pleasanton, and the San )  
Francisco International Airport. )

Application No. 59500  
(Filed March 6, 1980)

Robert H. Souza and James F. D'Aoust, dba  
Altamont Tours, for themselves, applicants.  
W. Kenneth Harrell, dba Harrell's Tours, for  
himself, protestant.  
Erik Juul, P.E., for the Commission staff.

O P I N I O N

Applicants Robert H. Souza and James F. D'Aoust, dba Altamont Tours, request a certificate of public convenience and necessity to conduct a home-to-work passenger stage operation between Tracy, Pleasanton, and the United Air Lines (UAL) Maintenance Base (maintenance base) at the San Francisco International Airport. The application was protested by Commute Service and W. Kenneth Harrell (Harrell), dba Harrell's Tours. A hearing on the matter was held July 1, 1980 at San Francisco before Administrative Law Judge Pilling.

Applicants live in Tracy and are employed at the maintenance base. They propose to buy and operate a 44-passenger General Motors bus leaving Tracy at 5:10 a.m. and arriving at the maintenance base at 6:42 a.m. with an intermediate stop at Pleasanton. In the reverse direction the bus will leave the maintenance base at 3:40 p.m., stop

at Pleasanton, and arrive at Tracy at 6:42 p.m. The bus will operate five days a week. No passengers will be transported except those having point of origin or destination at the maintenance base. The biweekly fare to and from Tracy will be \$32 and to and from Pleasanton will be \$24. Applicants estimate they will need 23 or 24 passengers each two-week period to break even. They expect their service at Tracy to attract maintenance base employees living in the Tracy-Manteca area. They testified that at least 11 maintenance base employees living in that area have already said they would use applicants' service. In addition, applicants feel assured their service will attract all the passengers now using two van pools to and from Tracy as applicants' fares will be less than those of the van pools. They estimate they will initially attract 20 Pleasanton passengers. One of the applicants had driven a charter bus for one-half years, had been a truck driver, and a heavy equipment operator. Between the two of them applicants have a combined net worth of approximately \$376,000. Applicants and most of the passengers they expect to serve are represented to be high on UAL's employee seniority list so they are not expected to be involved in any massive layoff by UAL.

A maintenance base employee with 21 years seniority who lives in Tracy appeared and gave testimony in support of the proposed service.

No representative of protestant Commute Service appeared at the hearing. However, protestant Harrell appeared and testified that he had purchased a bus from Commute Service and started his own home-to-work service between Livermore, Dublin, and the maintenance base some time in January 1980, having, as he thought, bought the rights from Commute Service to perform that operation. He stated that the owner of Commute Service, Paul Schneider, had filed

an application with the Commission for approval of such transfer on June 19, 1980<sup>1/</sup> and that Commute Service does not serve the Livermore Valley anymore. Harrell, an employee of UAL for 23 years, testified that his home-to-work bus service departs Livermore at 5:20 a.m. and arrives at the maintenance base at 6:45 a.m. with an intermediate stop at the corner of Regional and Dublin Boulevard in Dublin, and in the reverse direction leaves the maintenance base at 3:40 p.m. and arrives at Livermore at 4:55 p.m. with an intermediate stop in Dublin. Dublin is an unincorporated community lying immediately north of the northwest corner of the City of Pleasanton.<sup>2/</sup> Harrell stated that while there is a waiting list of persons to use his service, they are currently using the home-to-work bus service of Whippet Charter Service. Harrell stated that UAL has indicated that it will make mass layoffs in the near future, and if that is the case, Harrell fears he will not have enough passengers to sustain his service if another UAL maintenance base home-to-work service is instituted in the Livermore Valley. He said that traffic congestion in Pleasanton had prompted him to serve Dublin instead of Pleasanton and that when a proposed overpass across Interstate Highway 580 into Pleasanton is completed he will cease serving Dublin and establish a service point in Pleasanton. Harrell does not object to applicants' operating to and from Tracy but does object to them serving the Livermore Valley.

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1/ The records of the Commission's Docket Office reveal that Paul Schneider tendered an application to the Commission but it was rejected as not complying with many of the Commission's rules, including failure to pay a filing fee. As of the date of this hearing, the application had not been retendered.

2/ Commute Service's certificate contains no authorization to serve Dublin, or to serve Tracy.

Section 851 of the Public Utilities Code declares that a transfer of part of a public utility's operating rights is void unless first approved by the Commission.

The Commission's records reveal that Harrell has no tariffs or certificates of insurance on file with the Commission.

Harrell is placed on notice that he is operating without a certificate in violation of Section 1031 of the Public Utilities Code and he is warned to cease and desist such operations until his operations are in conformance with the Public Utilities Code and the various Commission General Orders pertaining to passenger stage corporations.

Findings of Fact

1. Applicants request authority to provide a home-to-work passenger stage service between Tracy, Pleasanton, and the maintenance base on a five-day-a-week basis.
2. Applicants live in Tracy and are employed at the maintenance base.
3. Applicants intend to purchase a 44-passenger bus to use in the proposed service.
4. The proposed fares will be charged on a biweekly basis and will be \$32 for Tracy passengers and \$24 for Pleasanton passengers.
5. Applicants' service will attract sufficient passengers to sustain their service.
6. Applicants are fit, willing, and able to conduct the proposed operation.
7. Harrell does not object to the proposed operation to and from Tracy but does object to the applicants picking up or delivering passengers in the Livermore Valley.
8. Harrell commenced operating a home-to-work passenger stage service between Livermore, Dublin, and the maintenance base with his own bus in January 1980.
9. Harrell possesses no operating authority from this Commission to conduct his operation.
10. Harrell has no tariffs or certificates or insurance on file with the Commission covering his operation.

11. Commute Service has operating authority to serve, among other points, Livermore, Pleasanton, and the maintenance base but has no operating authority to serve Tracy or Dublin.

12. Commute Service has ceased operations at Livermore and Pleasanton. ✓

13. Harrell may have entered into a contract with Commute Service in January 1980 to purchase the rights of Commute Service to serve between Livermore, Pleasanton, and the maintenance base.

14. Harrell and Commute Service took no steps for six months after the alleged contract of sale of rights to Harrell to seek Commission approval of the sale and transfer, and then such steps that were taken proved faulty.

15. At the time of the hearing Harrell and Commute Service had no request before the Commission to approve the sale and transfer of any operating rights.

16. No certificate holder is presently rendering home-to-work passenger stage service between the Livermore Valley and the maintenance base.

17. Public convenience and necessity require the issuance of the requested certificate.

Conclusion of Law

The application should be granted.

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.

The effective date of this order should be made the date hereof because there is now no certificated passenger stage service available to the many maintenance base workers who have become dependent on bus service.

O R D E R

IT IS ORDERED that:




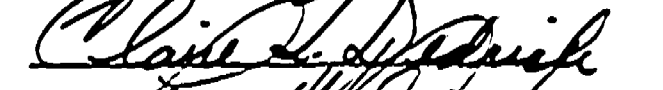
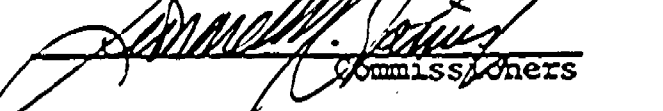
1. A certificate of public convenience and necessity is granted to Robert H. Souza and James F. D'Aoust, dba Altamont Tours, authorizing them to operate as a passenger stage corporation, as defined in Section 226 of the Public Utilities Code, between the points and over the routes set forth in Appendix A of this decision.

2. In providing service pursuant to the authority granted by this order, applicants 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, applicants shall file a written acceptance of the certificate granted. Applicants are placed on notice that if they accept the certificate 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, applicants 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) Applicants shall maintain their 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 their 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 3 - 1980, at San Francisco, California.

  
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President  
  
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Commissioners





Appendix A

ROBERT H. SOUZA and JAMES F. D'AOUST  
(a partnership)  
Doing Business As  
ALTAMONT TOURS  
(PSC - 1132)

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

Robert H. Souza and James F. D'Aoust (a partnership),  
doing business as Altamont Tours, 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 between points in Tracy and Pleasanton on the  
one hand, and the United Airlines Maintenance Base at the San Francisco  
International Airport 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) All transportation of passengers shall originate  
at the pickup points hereinafter specified, on the  
one hand and shall be destined to the United Airlines  
Maintenance Base at the San Francisco International  
Airport on the other hand, or the reverse.
- (b) Motor vehicles may be turned at termini and inter-  
mediate points, in either direction, at intersections  
of streets or by operating around a block contiguous  
to such intersections, in accordance with local  
traffic regulations.
- (c) When route descriptions are given in one direction,  
they apply to operation in either direction unless  
otherwise indicated.

Issued by California Public Utilities Commission.

Decision No. 92201, Application No. 59500.

SECTION 2. ROUTE DESCRIPTIONS.

Commencing in the City of Tracy with a pickup point at the intersection of Lammers Road and Grant Line Road; thence to the City of Pleasanton with a pickup point at the intersection of Santa Rita Road and Valley Avenue; thence to a pickup point (also in Pleasanton) at the intersection of Hopyard Road and W. Las Positas Boulevard; thence to a pickup point (also in Pleasanton) at the intersection of Hopyard Road and Highway 580; thence on Highway 580, Highway 17, Highway 92, Highway 101 to the United Airlines Maintenance Base at the San Francisco International Airport.

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