

ORIGINAL

Decision No. 92671 FEB 4 1981<sup>51</sup>

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application )  
of Howard Equipment Corporation )  
doing business as ATS Transportation) )  
for a Class "B" certificate to )  
operate as a Charter Party Carrier )  
of Passengers, San Diego. (File )  
No. GO 98-A.) )

Application No. 59805  
(Filed July 11, 1980)

Kenneth L. Howard, for applicant.  
David L. Bain, for Goodall's Charter Bus  
Service, Inc.; and David V. Callender, for  
Sundance Stage Lines, Inc.; protestants.

O P I N I O N

Howard Equipment Corporation, doing business as ATS Transportation, requests a Class B certificate to operate as a charter-party carrier of passengers from a service area encompassing a radius of 40 air miles from San Diego.

Public hearing was held before Administrative Law Judge Daly on November 20, 1980 at Los Angeles and the matter was submitted.

Applicant's Showing

Applicant's office and terminal is located in San Diego, California. It is presently engaged in the transportation of crews and passengers between the San Diego Airport and hotels for Western Airlines, Pacific Southwest Airlines, and American Airlines. All of these

operations have been within the city limits of San Diego, but occasionally applicant has transported crews and passengers from San Diego to Los Angeles when flights have been grounded at San Diego because of fog or mechanical problems.<sup>1/</sup>

If the requested authority is granted, applicant proposes to continue this service for the airlines as well as perform chartered service for tour agencies.

Service would be conducted through the use of four 1965 GMC air-conditioned buses ranging in capacity from 41 to 45 passengers, one of which is equipped with restroom facilities. The equipment is subject to a daily maintenance program conducted at applicant's terminal; however, major work is performed at outside repair shops. The equipment is also covered by liability insurance with \$600,000 limits. As of January 31, 1980, applicant indicated a net worth in the amount of \$115,842.

Appearing in support of the application were representatives of Western Airlines and Horizon Traveling Tours.

The Western Airlines witness testified that applicant's service has been used in transporting crews and passengers between the airport and hotels and between Western Airlines' two terminals located ✓ at the San Diego Airport. According to the witness, applicant's service has been reliable and very satisfactory. He further testified that during emergency situations when a flight is grounded because of fog, mechanical breakdowns, or because of the city curfew on the use of the airport during the early morning hours, it is essential

---

<sup>1/</sup> A common carrier of passengers whose operations are 98 percent within the limits of a single city is not a passenger stage corporation, as defined by Section 225 of the Public Utilities Code.

to have buses available to transport crews and passengers between the airport and nearby hotels and on occasions between San Diego and Los Angeles. ✓

The witness representing Horizon Traveling Tours testified that during the busy season he would be able to use applicant's service approximately 10 days a month. He further testified that he has contracted Goodall's Charter Bus Service (Goodall's) and Sundance Stage Lines, Inc. (Sundance) and has not always been able to get equipment. According to the witness, Goodall's was recently contacted and was unable to provide a bus for the upcoming Rose Bowl Parade.

Protestants' Showing

The president and general manager of Goodall's testified that as a Class A charter-party carrier located in La Mesa, California, Goodall's operates 44 buses; that Goodall's has provided airlines in the San Diego area, including Western Airlines, with buses on an on-call basis; that during the past five months Goodall's has refused no request for service; and that arrangements for chartering buses for the Rose Bowl Parade are made many months in advance and are usually made by the same organizations on a renewal basis from year to year.

The secretary-treasurer of Sundance testified that as a Class A charter-party carrier located in San Diego, Sundance operates eight buses; that in the past five months Sundance has been able to handle all requests for service with its own equipment; that during the past year Sundance has provided service for Western Airlines when flights were grounded because of fog; and that during the past eight months Horizon Traveling Tours has booked eight charter trips with Sundance and in every instance the trips were canceled.

Protestants contend that there is sufficient charter service in the San Diego area and that certification of the proposed service would adversely affect the existing carriers.

Findings of Fact

1. Applicant is presently providing a specialized and necessary charter service for the airlines within the city of San Diego and as long as 98 percent of its operations as measured by total route mileage operated are within the city of San Diego no authority from this Commission is required.

2. Although the record fails to establish the present extent of applicant's outside city operations, it is reasonable to assume that this relatively new operation will soon meet, if not exceed, the statutory limits of 2 percent. In such event, it would be unreasonable and inequitable to deny applicant the right to meet the requirements of a natural business expansion and the airlines of a highly essential service.

3. As an existing service with which protestants are competing, it is unlikely that applicant's certification will have a material effect upon protestants' overall operations.

4. Applicant has the necessary experience, ability, fitness, and financial ability to conduct the proposed service.

5. Applicant's terminal is located at 1747 Pacific Highway, San Diego, California.

6. Public convenience and necessity require that applicant be granted a certificate to operate as a Class B charter-party carrier of passengers.

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

Conclusion of Law

The applied for operating authority should be granted.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity to operate as a Class B charter-party carrier of passengers as defined in Section 5383 of the Public Utilities Code, from a service area encompassing a radius of forty air miles from applicant's home terminal at 1747 Pacific Highway, San Diego, California, 92101, is authorized to be issued to Howard Equipment Corporation, doing business as ATS Transportation.
2. When the required California Highway Patrol clearances are received by the Passenger Operations Branch of the Commission and the evidence of adequate protection against liability imposed by law are filed in compliance with General Order No. 115-B, the annual renewable certificate on Form PE-695 will be issued by the Passenger Operations Branch of the Commission under the authorization of Resolution No. PE-303, approved July 29, 1975.
3. In providing service pursuant to the certificate herein granted, applicant shall comply with and observe, among other things, 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. 115-Series. Failure to do so may result in cancellation of the operating authority granted by this decision.

The effective date of this order shall be thirty days after the date hereof.

Dated FEB 4 1981, at San Francisco,  
California.

*John E. Supra*  
\_\_\_\_\_  
President  
*Richard W. Gavalda*  
\_\_\_\_\_  
*Donald W. Smith*  
\_\_\_\_\_

Commissioners