

ORIGINAL

Decision No. 92763 MAR 3 1981

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application)
of PINETREE SERVICE CORPORATION,)
INC., a California corporation,)
for a certificate of public con-)
venience and necessity to operate)
a sightseeing tour between points)
in Los Angeles and Orange Counties)
on the one hand and various points)
of interest in Los Angeles and)
Orange Counties on the other hand.)

Application No. 60094
(Filed November 19, 1980)

O P I N I O N

Pinetree Service Corporation, Inc. (Pinetree), a California corporation, seeks a certificate of public convenience and necessity, pursuant to the provisions of Section 1031, et seq., of the Public Utilities Code, to establish and operate a common carrier passenger stage service for nine sightseeing tours to operate between Los Angeles County and Orange County hotels, on the one hand, and various points of interest in Los Angeles and Orange Counties, on the other hand. As set forth in the application, the hotels presently planned to serve as pickup points for the tours consist of five in the downtown Los Angeles area, three in the mid-Wilshire area, four in the Beverly Hills-Century City area, five in the Los Angeles International Airport area, and three in Orange County. The nine tours, as described in Appendix B attached to the application, are as follows:

1. Los Angeles City Tour

Coaches will depart Los Angeles area hotels. Tour includes El Pueblo Historic Park, Los Angeles Civic Center, Chinatown, Little Tokyo, San Antonio Winery, La Brea Tar Pits, Farmer's Market, Mann's Chinese Theatre, and Hollywood Bowl. This tour is escorted by a trained lecturer-guide who will provide narration en route. At stopping points the lecturer-guide will tour with the group providing continuous narration. Tour will operate Monday through Friday, departing hotels at 9:00 a.m. and returning to hotels at 1:00 p.m. - \$14.85 per person.

2. Museum, City, and Luncheon Tour

Coaches will depart Los Angeles area hotels for different museums. Museums will be the Los Angeles County Museum of Art, the George Pace Museum, the J. Paul Getty Museum, and the Norton Simon Museum of Art in Pasadena. Luncheon will be provided at various restaurants. This tour is escorted by a trained lecturer-guide who will provide narration en route. At stopping points the lecturer-guide will tour with the group providing a description of the museum and works of art. Tour will operate Tuesday, Wednesday, and Thursday, departing hotels at 10:00 a.m. and returning to hotels at 3:00 p.m. - \$6 - \$8.50 per person.

3. City Tour and Beverly Hills Shopping Tour

Coaches will depart Los Angeles area hotels for Beverly Hills. After a tour of Beverly Hills' main streets, there will be time for shopping. This tour is escorted by a trained lecturer-guide who will provide narration en route. The guide will describe the various shops and stores in Beverly Hills and will walk through selected stores with those members of the group choosing to accompany the guide. Tour will operate Monday through Friday, departing hotels at 1:30 p.m. and returning to hotels at 5:30 p.m. - \$14.85 per person.

4. Dinner and Evening City Tour

Coaches will depart Los Angeles area hotels to various restaurants for dinner. This tour is narrated by a trained lecturer-guide who will provide narration en route. Tour will operate Monday through Thursday to a different restaurant each night from a given hotel. Tour will depart hotels at 6:30 p.m. and return to hotels at 10:00 p.m. - \$12 - \$16 per person.

5. Santa Anita - Oak Tree

During the racing season, coaches will depart from Los Angeles area and Orange County area hotels to Santa Anita-Oak Tree. Trip will operate on all racing days, Tuesday through Thursday, departing hotels at 12:30 p.m. and returning to hotels at 6:30 p.m.. This trip is not escorted - \$10.25 per person.

6. Hollywood Park

During the racing season, coaches will depart from Los Angeles area and Orange County area hotels to Hollywood Park. Trip will operate on all racing days, Tuesday through Thursday, departing hotels at 12:30 p.m. and returning to hotels at 6:30 p.m. This trip is not escorted - \$10.25 per person.

7. Dodger Stadium

Coaches will depart Los Angeles area hotels to baseball games at Dodger Stadium. Trip will operate on all game days, Monday through Thursday, departing hotels prior to game time and returning to hotels at the conclusion of each game. This trip is not escorted - \$14.50 per person.

8. Shopping Tour, Luncheon, and Newport Harbor Cruise

Coaches will depart Orange County area hotels for Lido Village. Group will have time to shop and will then go to the Cannery Restaurant for lunch. Group will then board charter boat for harbor cruise. Coffee and dessert will be served during the cruise. This tour is escorted by a trained lecturer-guide who will provide narration en route. Tour will operate on selected days, Monday through Friday, departing at 10:00 a.m. and returning at 3:00 p.m. - \$37.40 per person.

9. Gardens Tour, Luncheon, Fashion Show, and Shopping - Newport Beach

Coaches will depart Orange County area hotels for Rogers Gardens in Newport Beach. After a tour of the gardens and horticulture demonstration, the group will proceed to Fashion Island for luncheon and fashion show at Neiman-Marcus. This tour is escorted by a trained lecturer-guide who will provide narration en route. Tour will operate on selected days, Monday through Friday, departing hotels at 10:00 a.m. and returning to hotels at 3:00 p.m. - \$19.30 per person.

Note: A minimum of one coach, depending on the number of confirmed reservations, will provide service for the hotels in each geographic region. After completing pickups at hotels in an area, the coach will proceed directly on its tour. No central staging area will be used. At the completion of its tour the coach will return passengers directly to their origination hotels.

Pinetree currently holds no operating authority from this Commission. However, its subsidiary company, California Charter Buses (CCB), is allegedly available to supply operating expertise and equipment if needed. The proposed service is based on Pinetree's chartering air-conditioned, over-the-road, recliner seat motor coach buses as required from certificated charter bus companies, including CCB.

The financial statement attached to the application indicated that the consolidated balance sheets for Pinetree and subsidiaries as of July 31, 1980 showed total assets of \$4,979,150, total liabilities of \$3,795,092, and shareholders' investments of \$1,184,058.

The Gray Line Tours Company (Gray Line) filed a protest to granting the requested certificate and requesting a public hearing on the matter. Should such a hearing be granted, Gray Line would present evidence on the extent its certificated tours would duplicate requested tours, the details of its operations, and the adverse financial impact on Gray Line's operations resulting from granting the requested certificate. Gray Line would further participate by cross-examination of Pinetree's witnesses concerning the feasibility of the proposed operations.

In the application Pinetree concedes that Gray Line's Los Angeles City Half-Day Tour, Grand Tour of Los Angeles, and Los Angeles By Night Tour are somewhat similar to Pinetree's proposed Los Angeles City Tour, its proposed Museum, City, and Luncheon Tour, and its proposed Dinner and Evening City Tour, but alleges that there are sufficient basic differences with respect to duration of the tour, points of interest, the provision of a tour guide, and fare differentials so that such tours are not directly competitive. The following is a comparison of these tours:

<u>Tour No.</u>	<u>Pinetree Proposed Tours</u>	<u>Tour No.</u>	<u>Gray Line Tours</u>
"A"	Los Angeles City Tour - <u>4 Hours, Cost: \$14.85/person</u> El Pueblo Historic Park Los Angeles Civic Center* Chinatown* Little Tokyo* San Antonio Winery* La Brea Tar Pits Farmer's Market Chinese Theatre Hollywood Bowl	"8"	Los Angeles City Half Day - <u>Cost: \$10.30/person</u> Olvera Street Music Center Los Angeles Civic Center* Los Angeles Coliseum Museum of Science and Industry Dodger Stadium Chinatown* Little Tokyo* Saint Sophia Greek Cathedral
"B"	Museum, City, and Luncheon Tour - 5 Hours, Cost: \$19.25/ <u>person**</u> Los Angeles County Museum of Art George Page Museum J. Paul Getty Museum Norton Simon Museum of Art*	"1"	Grand Tour of Los Angeles - <u>All Day, Cost: \$20.65/person</u> Miracle Mile Century City 20th Century Fox Studio Goldwyn Studio Columbia Studio Paramount Studio Griffith Park and Observatory Forest Lawn Norton Simon Museum* Rose Parade Route San Antonio Winery*

<u>Tour No.</u>	<u>Pinetree Proposed Tours</u>	<u>Tour No.</u>	<u>Gray Line Tours</u>
"D"	Dinner and Evening City Tour - 5 Hours, Cost: \$16.60** Depart Los Angeles area hotels for restaurants and dinner	"9"	Los Angeles By Night Tour - 3 Hours, Cost: \$9.30/person Chinatown Griffith Observatory Music Center ABC Studios Little Tokyo Hollywood Boulevard and Sunset Strip

*Locations served by Gray Line currently and are proposed to be served by Pinetree.
**Does not include luncheon, dinner, and/or museum admission.

It would appear from this tabular comparison that there are indeed sufficient differences that the provisions of Section 1032 of the Public Utilities Code, relating to similar service already being rendered by a competitive certificate holder, are inapplicable.

Pinetree alleges that granting the requested authority would have no significant adverse effect upon the environment of the areas to be served.

Findings of Fact

1. Pinetree seeks to establish and operate a common carrier passenger stage service for nine sightseeing tours in Los Angeles and Orange Counties.

2. Pinetree possesses the ability, experience, and financial resources to perform the proposed service.

3. Pinetree does not propose to use equipment of its own or equipment leased and operated as its own. The Commission has authorized other passenger stage corporations to operate by using charter-party carrier's equipment in lieu of owned or leased equipment.

4. Pinetree must abide by the requirements of GO 98-A in acquiring buses for its operations. ✓

5. Pinetree has demonstrated that public convenience and necessity require certification of the services sought.

6. The proposed operations constitute passenger stage operations between fixed termini and over a regular route even though Pinetree does not own nor does it propose to own any motor vehicles to be used in the operation of these tours.

7. The proposed individual fares are justified. Once published, fares may not be increased without the necessary showing and finding required by Section 454 of the Public Utilities Code.

8. Pinetree's proposed Los Angeles City Tour, its proposed Museum, City, and Luncheon Tour, and its proposed Dinner and Evening City Tour are sufficiently different from Gray Line's comparable tours with respect to duration of the tour, points of interest, provision of tour guide, and amounts of fares so that such tours are not directly competitive and Section 1032 of the Public Utilities Code is inapplicable.

9. A public hearing is not necessary.

10. 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 application should be granted.

Pinetree 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 Pinetree Service Corporation, Inc., 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 described in Appendix A hereof.

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 of 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 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 shall be thirty days after
the date hereof.

Dated MAR 3 1981 , at San Francisco, California.

John E. Gray
President
Richard W. ...
Edward ...
Victor ...
Commissioners

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
TO OPERATE AS
A PASSENGER STAGE CORPORATION
PSC-1152

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. 92763,
dated MAR 3 1961 of the Public Utilities Commission of the
State of California, in Application No. 60094.

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

Pinetree Service Corporation, Inc., by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to transport passengers for sightseeing and for pleasure trips between points in Los Angeles and Orange Counties, on the one hand, and various points of interest as named herein, on the other hand, over and along the routes hereinafter described subject, however, to the authority of this Commission to change or modify said routes at any time and subject to the following provisions:

- (a) All service herein authorized shall be limited to the transportation of round trip passengers only.
- (b) Service shall be operated on an "on-call" basis. 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 timetable shall show the conditions under which each authorized "on-call" service will be rendered.
- (c) When route descriptions are given in one direction, they apply to operation in either direction unless otherwise indicated.

SECTION 2. AUTHORIZED POINTS OF ORIGIN/TERMINATION.

All tours shall originate and terminate at one or more of the following locations:

LOS ANGELES COUNTYDowntown Los Angeles Area

Biltmore Hotel
Bonaventure Hotel
Hyatt Regency
Los Angeles Hilton
New Otani Hotel
Los Angeles Convention Center

Mid-Wilshire Area

Ambassador Hotel
Hyatt Wilshire
Sheraton Townhouse

Beverly Hills-Century City Area

Beverly Hills Hotel
Beverly Wilshire Hotel
Beverly Hilton Hotel
Century Plaza Hotel

Los Angeles Airport Area

Airport Marina Hotel
Hyatt Airport
Marriott Airport
Sheraton Plaza La Reina
Travelodge LA Airport

ORANGE COUNTY

Disneyland Hotel
Grand Hotel
Marriott Anaheim
Anaheim Convention Center

SECTION 3. TOUR DESCRIPTIONS.

TOUR NO. DESCRIPTIONS

- A. LOS ANGELES CITY TOUR: Commencing from pickup points in Los Angeles County as described in Section 2, thence over the most appropriate and convenient routes stopping at points of interest including, El Pueblo Historic Park, Los Angeles Civic Center, Chinatown, Little Tokyo, San Antonio Winery, La Brea Tar Pits, Farmer's Market, Mann's Chinese Theatre and Hollywood Bowl, and return to points of origin.
- B. MUSEUM, CITY, AND LUNCHEON TOUR: Commencing from pickup points in Los Angeles County as described in Section 2, thence over the most appropriate and convenient routes to the Los Angeles County Museum of Art and George Page Museum, the J. Paul Getty Museum, and the Norton Simon Museum of Art in Pasadena and luncheon at various restaurants, and return to points of origin.
- C. CITY TOUR AND BEVERLY HILLS SHOPPING TOUR: Commencing from pickup points in Los Angeles County as described in Section 2, thence over the most appropriate and convenient routes to Beverly Hills main streets and return to points of origin.
- D. DINNER AND EVENING CITY TOUR: Commencing from pickup points in Los Angeles County as described in Section 2, thence over the most appropriate and convenient routes to various restaurants in Los Angeles County for dinner and return to points of origin.
- E. SANTA ANITA-OAK TREE Commencing from pickup points in Los Angeles and Orange Counties as described in Section 2, thence over the most appropriate and convenient routes to Santa Anita Race Track in Arcadia and return to points of origin.

Issued by California Public Utilities Commission.

Decision No. 92763, Application No. 60094.

SECTION 3. TOUR DESCRIPTIONS. (Continued)

TOUR NO. DESCRIPTIONS

- F. HOLLYWOOD PARK: Commencing from pickup points in Los Angeles and Orange Counties as described in Section 2, thence over the most appropriate and convenient routes to Hollywood Park in Inglewood and return to points of origin.
- G. DODGER STADIUM: Commencing from pickup points in Los Angeles County as described in Section 2, thence over the most appropriate and convenient routes to Dodger Stadium in Los Angeles and return to points of origin.
- H. SHOPPING TOUR, LUNCHEON AND NEWPORT HARBOR CRUISE: Commencing from pickup points in Orange County as described in Section 2, thence over the most appropriate and convenient routes to Lido Village and Newport Harbor in Newport Beach and return to points of origin.
- I. GARDENS TOUR, LUNCHEON, FASHION SHOW AND SHOPPING NEWPORT BEACH: Commencing from pickup points in Orange County as described in Section 2, thence over the most appropriate and convenient routes to Rogers Gardens and Fashion Island in Newport Beach and return to points of origin.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

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