

Decision No. 92820 MAR 17 1981

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of Jason Miller Greenlee (Fire and Land Management Enterprises) for a Class "B" Certificate to operate as a Charter-Party Carrier of Passengers, Boulder Creek.

Application No. 59399  
(Filed January 24, 1980)

FINAL OPINION

Interim Decision No. 92008 dated July 2, 1980 granted a temporary Class B certificate, to be renewed each year, to operate as a charter-party carrier of passengers pending final decision in the matter. The temporary certificate authorizes operations from a service area encompassing a radius of 40 miles from applicant's home terminal at 110 Pleasant Way, Boulder Creek, California 95006 and is restricted to the transportation of a fire-fighting crew in a motor vehicle having a capacity not exceeding 21 passengers, including the driver.

The interim decision pointed out, as stated in the application, that applicant:

1. Owns one 21-passenger 1960 International bus;
2. Is involved in fire prevention work and controlled burning;
3. Is paid by the U. S. Forest Service (USFS) to transport a fire-fighting crew; and
4. Does not make a profit from this specialized transportation.

Protests had been filed but were later withdrawn. At that time the fire season was beginning, and although additional information was necessary to make a determination with certainty whether the alleged specialized nonprofit transportation was

subject to our jurisdiction, the temporary certificate was issued to protect applicant.

Applicant has now furnished the following additional information regarding his passenger transportation service:

1. He is a member and not the foreman of a fire-fighting crew that is hired by the USFS;
2. In addition to payment for the fire-fighting service, he and the crew are paid an hourly wage by the USFS for time between their home base and the job location;
3. The crew is transported in his bus, and he or a crew member do the driving;
4. He pays all expenses for the bus, including gas, tires, oil, and repairs;
5. The USFS pays him a separate daily rate and mileage rate for the bus;
6. These payments cover his cost of operating the bus only; and
7. He asked the USFS for higher rates for the bus so he could make a profit from this operation, but it refused.

Based on this additional information, we are of the opinion that applicant does require a Class B charter-party carrier of passengers certificate to perform the transportation service in issue. In this connection, Section 5360 of the Public Utilities Code defines a charter-party carrier of passengers, subject to certain exclusions not involved herein, as "every person engaged in the transportation of persons by motor vehicle for compensation, whether in common or contract carriage, over any public highway in this State". Here all of the elements of the definition have been met. Applicant is transporting persons who, although they are his fellow workers, are not his employees. The transportation is for compensation. The USFS pays applicant both a daily and mileage charge for the transportation. Since the transportation is for compensation, the fact that he may or may not make a profit is irrelevant. The transportation is over the public highways.

The Class B certificate, to be renewed each year, granted to applicant on a temporary basis by Interim Decision No. 92008 will be made permanent.

Findings of Fact

1. Interim Decision No. 92008 granted a Class B charter-party carrier of passengers certificate to applicant on a temporary basis pending the development of additional information as to whether his operations require this authority.

2. Applicant will transport passengers for compensation.

Conclusions of Law

1. Based on additional information furnished by applicant, his passenger transportation service by motor vehicle is for compensation and over the public highways and falls within the definition of charter-party carrier of passengers in Section 5360 of the Code and is not covered by any of the exceptions thereto.

2. Applicant requires a Class B charter-party carrier of passengers certificate for the passenger transportation in issue.

3. The Class B charter-party carrier of passengers certificate to be renewed each year granted to applicant by Interim Decision No. 92008 on a temporary basis should be made permanent.

4. Since applicant already holds the certificate in issue on a temporary basis, the order which follows should be made effective on the date it is issued.

FINAL ORDER

IT IS ORDERED that:

1. The Class B charter-party carrier of passengers certificate to be renewed each year, issued on a temporary basis to Jason Miller Greenlee, an individual, doing business as Fire and Land Management Enterprises, shall be made permanent.

2. In all other respects, the order in Interim Decision No. 92008 is adopted as our final order in this proceeding.

The effective date of this order is the date hereof

Dated MAR 17 1981, at San Francisco, California.

John E. Boyson  
President  
Stephen D. ...  
Donald W. ...  
Victor ...

Commissioners