

Decision 93161 JUN 2 1981

ORIGINAL TD-28

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 PACIFICO CREATIVE SERVICE, Inc., a )  
 Hawaii corporation, for a certificate )  
 of public convenience and necessity )  
 for passenger sightseeing service )  
 in Alameda, Contra Costa, Los Angeles, )  
 Marin, Fresno, Mariposa, Merced, )  
 Monterey, Orange, Sacramento, )  
 San Diego, San Francisco, San Joaquin, )  
 San Mateo, Santa Clara, Santa Cruz, )  
 Solano, Sonoma, Stanislaus, Tuolumne, )  
 and Yolo Counties. }

Application 58739  
 (Filed March 14, 1979;  
 amended December 13, 1979,  
 February 20, 1981, and  
 May 13, 1981)

INTERIM OPINION

This application was formerly consolidated with Case (C.) 10732 J. Mark Lavelle (Dolphin Tours) v. Japan Air Lines et al. On December 2, 1980 we issued Decision (D.) 92455 finding that defendant Pacifico Creative Service, Inc., (Pacifico Hawaii), a defendant in the complaint, was operating certain unlawful passenger stage routes, at least as far as "optional" transportation (as that term was used in the decision) is concerned. Rehearing on that decision was denied (D.92691, February 4, 1981).

Although Pacifico Hawaii contended on various grounds that its bus sightseeing service was not of the passenger stage category, it filed this application on March 14, 1979 in the name of Pacifico Creative Service (California), Inc, its subsidiary (Pacifico California), in the event that its contentions were rejected. D.92455 prompted five applications from competitors, all filed in January or February of this year.<sup>1/</sup> The applications contain requests for interim relief which would grant temporary certificates.

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<sup>1/</sup> A.60164 Trans-Pacific Travel; A.60174, Kintetsu International Express, USA, Inc.; A.60181, Nippon Express USA, Inc.; A.60221, JATS Enterprise, Inc.; A.60286, Jetour USA, Inc. Trans-Pacific Travel has requested dismissal. Our principal decision covering the problems raised by the applications is that in A.60174, 60181, 60221 and 60286.

In D. 93079 dated May 19, 1981, we analyzed at length the problems relating to round-trip sightseeing service for the segment of the public those applicants serve (Japanese tourists and, in the case of one applicant, Chinese-speaking tourists as well). We determined that public convenience and necessity require us to grant the applicants (except for Trans-Pacific Travel, which has requested dismissal) temporary certificates for certain routes, the certificates to expire on October 31, 1981.

This application's history is similar to these other applicants, and it serves the same segment of the public with the same type of sightseeing tours by bus. This application was not consolidated with the others because it has already been set for hearing (hearings commenced on April 27 and are still in progress).

During the cross-examination of Yukio Takigawa, president of Pacifico Hawaii, it developed that Pacifico Hawaii had applied in the name of Pacifico California because Takigawa had been informed that only California corporations could obtain certificates from this Commission.<sup>2/</sup>

The result of this testimony was Pacifico's announcement that it would amend the application to make Pacifico Hawaii the applicant. Takigawa testified that this would simplify accounting and financial matters.

On May 13, 1981 such an amendment was filed. After review of it, it is clear that it does not affect our present hearing schedule and we may proceed with the consideration of the issues. This and future decisions will indicate Pacifico Hawaii as the applicant. "Pacifico" will hereafter refer to Pacifico Hawaii.

In our decision in A.60174 et al., we stated that the certificates issued would not be restricted to optional transportation.

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<sup>2/</sup> Reference was made to § 703 of the Public Utilities (PU) Code. This section has never been construed to prohibit out-of-state corporations to apply for certificates provided that such corporations have qualified to do business in California. Southern Pacific Co. and certain other utilities are not incorporated in California.

This was because all the applications are not clear regarding whether optional and prepackaged tourists sometimes ride the same buses. Thus, if we so restricted the certificates and then determined in Lavelle v. Pacifico, C.10935, that we do have jurisdiction over the prepackaged transportation, we would again have to determine whether separate temporary or permanent certificates are necessary. In Pacifico's application, all the proposed routes are, according to Pacifico, for optional transportation exclusively, and the prepackaged transportation concerns other separate routes. However, in order to treat Pacifico equally with the other applicants, we will not specifically restrict the routes herein to optional transportation only.

In D.92455 we found that the following routes constituted passenger stage service (all originating in San Francisco):

Yosemite National Park  
Three Bridges and Bay Cruise  
Monterey - Carmel

The evidence presented at the opening day of hearings in this application on April 27, 1981 showed that from Los Angeles the following routes were conducted with sufficient frequency to constitute de facto passenger stage service during 1980:

Disneyland  
Los Angeles Night Tour

The Tijuana (Los Angeles - San Diego - Tijuana) tour also qualifies but since our cease and desist order against Pacifico in Lavelle v Pacifico (D.92779, C.10952)<sup>3/</sup>, Pacifico has used the services of Gray Line Tours for this purpose. Gray Line has its own authority from the Interstate Commerce Commission, under which its buses may cross the border and provide local transportation for its tour groups

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3/ Not to be confused with C.10935, having the same title. C.10935 concerns our jurisdiction over the prepackaged tours. C.10952 was filed by Lavelle because our cease and desist order in Lavelle v JAL, supra, did not cover Pacifico's Southern California routes. We issued an ex parte interim order in C.10952 (D.92779, March 3, 1981) ordering Pacifico to cease from operating these routes.

in Tijuana. At the hearing of April 27 Pacifico indicated that it has found this relationship advantageous and that it no longer wishes a certificate for the Tijuana route.

We will issue Pacifico a temporary certificate for the mentioned routes for the reasons set forth here and in our decision in A.60174 et al.

Findings of Fact

1. In D.93079 issued May 19, 1981, we issued temporary passenger stage certificates to four companies (see Footnote 1) offering round-trip sightseeing tours narrated in Japanese or Chinese. In that decision we fully explained the reasons for our action. ✓

2. Those reasons apply with equal force to Pacifico, and we should afford Pacifico equal treatment by issuing it a certificate on the same basis.

3. The order in this decision should be effective today because of the economic and transportation problems discussed in D.93079. ✓

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

Conclusions of Law

1. A temporary certificate of public convenience and necessity should be granted to Pacifico, restricted to round-trip sightseeing tours narrated in Japanese, for the routes set forth in the order which follows.

2. The certificate should expire on March 31, 1982 unless extended or made permanent by our further order.

INTERIM ORDER


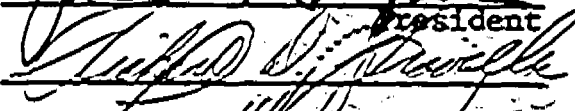
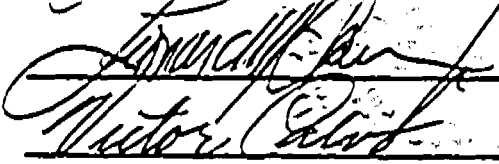
IT IS ORDERED that:

1. Pacifico Creative Service, Inc. (Pacifico), a Hawaii corporation, is substituted as applicant for Pacifico Creative Service, Inc. (California).
2. A certificate of public convenience and necessity is granted to Pacifico, authorizing it to operate as a passenger stage corporation, as defined in PU Code § 226, between the points and over the routes set forth in Appendix A.
3. Pacifico shall:
  - a. File a written acceptance of this certificate within 30 days after this order is effective.
  - b. Establish the authorized service and file tariffs and timetables within 120 days after this order is effective.
  - c. State in its tariffs and timetables when service will start; allow at least 10 days' notice to the Commission; and make timetables and tariffs effective 10 or more days after this order is effective.
  - d. Comply with General Orders Series 79, 98, 101, and 104, and the California Highway Patrol safety rules.
  - e. Maintain accounting records in conformity with the Uniform System of Accounts.
  - f. In the case of "on call" service, include in its tariffs any provisions relating to required notice and minimum number of passengers.

4. This certificate shall expire on October 31, 1981 unless extended or made permanent by our further order.

This order is effective today.

Dated JUN 2 1981, at San Francisco, California.

  
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President  
  
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Commissioners

Commissioner Priscilla C. Grew, being necessarily absent, did not participate in the disposition of this proceeding.

T/FS/ALJ/ec

Appendix A

PACIFICO CREATIVE SERVICE,  
INC.

Original Title Page

TEMPORARY CERTIFICATE

OF

PUBLIC CONVENIENCE AND NECESSITY

AS A PASSENGER STAGE CORPORATION

PSC-1154

EXPIRES OCTOBER 31, 1981

Showing passenger stage operative rights, restrictions, limitations, exceptions, and privileges.

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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 931.61,  
dated JUN 2 1981, of the Public Utilities  
Commission of the State of California, in Application 58739.

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

Pacifico Creative Service, Inc., a California corporation, by the certificate of public convenience and necessity to operate as a passenger stage corporation granted by the decision noted in the margin, is authorized to transport passengers for sightseeing and pleasure trips between the City and County of San Francisco, on the one hand, and certain named points, on the other hand, over and along the routes described, subject, however, to the authority of this Commission to change or modify these routes at any time and subject to the following provisions:

- a. All service authorized shall be limited to the transportation of round-trip passengers only.
- b. Service may be provided on a scheduled basis as reflected in the timetable filed with the Commission.
- c. All of the tours and special attractions shall be conducted in the Japanese language only.

Issued by California Public Utilities Commission.

Decision 93161, Application 58739.



SECTION II. TOUR DESCRIPTIONS - SAN FRANCISCO.

Tour No. - Description

- 1 Yosemite National Park Tour  
Commencing at passengers' San Francisco hotel, cross Bay Bridge to Modesto via Highways I-80, I-580, I-5I, and 132, thence to Yosemite National Park via Highways 99 and 140, sightseeing and lunch in the Park, return to San Francisco hotel.
  
- 2 Three Bridge Tour
  
- 2a Weekdays Except Holidays  
Starting at passengers' San Francisco hotel, cross Bay Bridge to U.C. Berkeley campus via I-80 and University Avenue, thence to Hilltop Shopping Center in Richmond, thence to Larkspur Landing via I-80, Richmond Bridge and Highway 101, sightseeing and lunch at Larkspur Landing, thence to Sausalito via Highway 101, thence to San Francisco Ferry Building via Golden Gate Ferry, passengers picked up at Ferry Building, thence to Pier 39 before being returned to hotel.
  
- 2b Weekends and Holidays  
Starting at passengers' San Francisco hotel and providing a similar tour to that described immediately above but modified to adjust to weekend and holiday ferry schedules.
  
- 3 Mystery Spot, Monterey, Carmel  
Starting at passengers' San Francisco hotel, to Mystery Spot via Highways I-280 and 17, thence to Monterey via Highway 1, sightseeing and lunch in Monterey, thence to Carmel via 17-Mile Drive, sightseeing and shopping stop in Carmel, and return to San Francisco via Highways 1, 151, and 101.

Issued by California Public Utilities Commission.

Decision 93151, Application 58739.

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Appendix A

PACIFICO CREATIVE SERVICE,  
INC.  
(PSC-1154)

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SECTION III. TOUR DESCRIPTIONS - LOS ANGELES.

Tour No. - Description

- 1        Disneyland  
Starting at passengers' Los Angeles hotel via local streets and Santa Ana Freeway, sightseeing at Disneyland, and return to hotel.
  
- 2        Los Angeles Night Tour  
Starting at passengers' Los Angeles hotel to Hollywood via Pasadena and Hollywood Freeways, thence to Olvera Street via Hollywood Freeway and local streets, return to hotel.

Issued by California Public Utilities Commission.

Decision 93161 , Application 58739.