

ORIGINAL

Decision 93219 JUN 16 1981

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application)
of WILLIAM ROSS HAYS, dba ORANGE)
COUNTY TOURS, for a certificate)
of public convenience and necessity)
to operate a sightseeing tour)
service in the Orange Co. area.)

Application 60214
(Filed January 26, 1981)

William Ross Hays, for himself, applicant.
James H. Lyons, Attorney at Law, for
Orange Coast Sightseeing Service,
protestant.
William Austin, for the Commission staff.

O P I N I O N

William Ross Hays (Hays), dba Orange County Tours, requests a certificate of public convenience and necessity to transport passengers on three sightseeing tours in the Orange County area. He proposes to provide pickup service at hotels in the Anaheim area and thus within close proximity to persons making a reservation and to proceed along the most convenient and appropriate roads to defined starting points of the tours. The purpose of the three proposed tours is to give persons staying at inland Orange County hotels a chance to see areas and attractions in the coastal sections of the county.

Public hearing was held before Administrative Law Judge Norman Haley at Los Angeles on March 30, 1981, and the matter was submitted.

Proposed fares are in Exhibit A to the application. The fares would be either \$26 or \$34 depending on the tour and whether dinner, lunch, dessert, or cocktail is included. The proposed time schedule is in Exhibit B. Maps showing proposed routes are in Exhibit C. Equipment to be used is described in Exhibit D. This would include a 15-passenger van and other equipment to be leased. An undated financial statement in Exhibit E shows total assets of \$143,025.

Hays testified at the hearing and presented the following additional facts. The tours would be primarily for small groups and would be run three times a week. Pickups initially would be made at approximately 18 central Orange County hotels primarily in the Anaheim area. He said that protestant, Orange Coast Sightseeing Company (Orange Coast), does not now offer a tour comparable to his Tour No. 1. He said his Tour No. 1 would be in the evening and would be quite different from Orange Coast's Tour No. 1 which that company has suspended because of lack of patronage. He was of the opinion that even if the comparable Orange Coast tour was operating, his Tour No. 1 would not actually offer much competition.

Hays said he would be willing to limit his service to operations with a 15-passenger vehicle. This would be a second-hand van which Hays would drive himself, except upon occasion. The same vehicle would be used for pickup and delivery as well as the tours themselves.

A projected operating statement is attached to the application. It is based on 10 passengers per trip, three times a week, and shows operating income of \$53,040 and operating expenses of \$28,618. Those figures include, beside transportation revenues and expenses, the revenues and expenses attributable to the dinners, cocktails, and desserts at the various points of interest. Absent from the expenses is an amount for bus depreciation. Only \$900 is projected for drivers' wages and bonuses. Hays's remuneration would be the difference between total revenues and expenses. He believes he can make a profit with six passengers on a tour and, of course, do better if the number exceeds six. He said he would not be losing much if the proposed operation is not successful.

Orange Coast presented evidence through its president. It is the position of Orange Coast that the proposed operation would have little chance of success and should not be authorized. Orange Coast also protests Hays's proposed Tour No. 1 because it would be similar in certain respects to its own Tour No. 1. Orange Coast operated its Tour No. 1 with regular buses from 1965 to 1980, but placed it under suspension because of lack of patronage. Hays believes his proposed tours are a good idea based on past experience working for a tour company. Orange Coast points out that the burden of proof is upon the applicant, and that Hays presented no public witnesses to support public convenience and necessity for the proposed service. The president of Orange Coast stated that three other carriers have authority to perform sightseeing service in the Newport area, which would be included in Hays's Tour No. 1. They are Town Tour Funbus Company, Co-Ordinators Sightseeing, and Gray Line Tours Company.

Assertedly the Orange County Transit District has advertised it intends to commence a tour generally between the same points as are encompassed in Hays's proposed Tour No. 1.

The record does not show there are any other carriers conducting service between the points involved with 15-passenger vehicles in a manner similar to that proposed by Hays. The record shows his proposed operations could make a profit if he is able to obtain sufficient business.

Potential customers would not likely be available to testify because many would be itinerant, and not domiciled in Orange County. Any witnesses that might have been produced from motels and hotels logically would have been in favor of the application simply because it would be another service they could offer their patrons. We notice that the proposed operation would be in a heavily populated metropolitan area where there are myriads of hotels and motels and where people come from all over the world to see Disneyland, Knott's Berry Farm, and various other attractions in southern California. We rely on Hays' experience and judgment that there is a need for the service and that the proposed operation has a chance of being successful. ✓

Hays did not propose a pickup and delivery territory. Since his tours would start from specific points and follow designated routes we see no reason to place restrictive limits on pickup and delivery. We will authorize a radius of 15 air miles from the intersection of Harbor Boulevard and Katella Avenue in Anaheim.

Findings of Fact

1. Hays has the equipment and financial capability to conduct the proposed passenger stage operation.
2. The proposed service would be profitable if Hays can generate sufficient business.
3. The proposed fares are justified.
4. The record does not show that the proposed service would impair the ability of Orange Coast or any other carrier to perform service.
5. Public convenience and necessity require that Hays be authorized to provide common carrier passenger stage sightseeing service in vehicles not exceeding 15 passengers carrying capacity, between the points requested in the application, with pickup at any and all points within a 15-air mile radius of Harbor Boulevard and Katella Avenue in Anaheim.
6. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.
7. Hays' proposed service, is materially different from that offered by Orange Coast in that his tours are for smaller groups, at different times, or for points not actively served by Orange Coast.
8. The following order should be effective today since there is a demonstrated public need for Hays' service.

Conclusion of Law

It is concluded that the application should be granted as set forth in the ensuing order.

Only the amount paid to the State for operative rights may be used in rate fixing. The State may grant any number of rights and may cancel or modify the monopoly feature of these rights at any time.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to William Ross Hays, authorizing him to operate as a passenger stage corporation, as defined in Section 226 of the Public Utilities Code, using vehicles not exceeding 15-passenger carrying capacity, between the points and over the routes set forth in Appendix A.

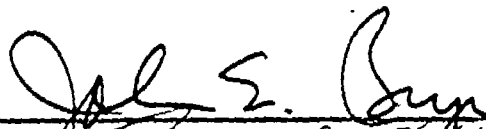
2. Applicant shall:


- 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 his 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.

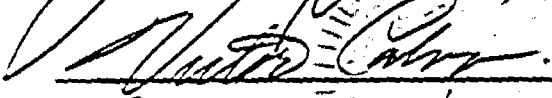
This order is effective today.


Dated JUN 16 1981, at San Francisco, California. ✓



President








Commissioners

T/clb/ec

Appendix A

WILLIAM ROSS HAYS
doing business as
ORANGE COUNTY TOURS

Original Title Page

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
TO OPERATE AS A
PASSENGER STAGE CORPORATION
PSC - 1168

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

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 93219 dated JUN 16 1981
of the Public Utilities Commission of the State of California in
Application 60214.

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Appendix A

WILLIAM ROSS HAYS
doing business as
ORANGE COUNTY TOURS
(PSC 1168)

Original Page 1

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

William Ross Hays, dba Orange County Tours, 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 Orange County, on the one hand, and various points of interest as named, on the other hand, over and along the routes described subject, however, to the authority of this Commission to change or modify the 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) When route descriptions are given in one direction, they apply to operation in either direction unless otherwise indicated.
- (c) Service shall be provided in vehicles with seating capacity of fifteen passengers or less.

Issued by California Public Utilities Commission.

Decision 93219, Application 60214.

SECTION 2. AUTHORIZED POINTS OF ORIGIN/TERMINATION.

All tours shall originate and terminate at any and all points within 15 air mile radius of Harbor Boulevard and Katella Avenue in Anaheim.

SECTION 3. TOUR DESCRIPTIONS.

TOUR NO. DESCRIPTIONS

1. CALIFORNIA: PAST TO PRESENT

Commencing from pickup points as described in Section 2, thence over the most appropriate and convenient routes stopping at points of interest including, Crystal Cathedral in Orange, Mission San Juan Capistrano, Dana Point Marina, and City of Laguna Beach, and return to points of origin.

2. NEWPORT: BEACH TOWN OF BEACH TOWNS

Commencing from pickup points as described in Section 2, thence over the most appropriate and convenient routes stopping at points of interest including Roger's Gardens, City of Newport Beach, Balboa Island, Balboa Peninsula, and return to points of origin.

3. FASHION ISLAND - NEWPORT BAY CRUISE

Commencing from pickup points as described in Section 2, thence over the most appropriate and convenient routes stopping at points of interest, including Fashion Island in Newport Beach, Newport Harbor Art Museum, Balboa Island, Newport Bay Cruise, and return to points of origin.