

Decision 93471 AUG 18 1981

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
J. Mark Lavelle, dba DOLPHIN TOURS,)
to modify Decisions 89731 and 90270)
pertaining to the restriction of)
language on the decisions in)
granting the certificate,)
San Francisco, et al.)

Application 60582
(Filed May 20, 1981)

INTERIM OPINION

In this application J. Mark Lavelle, doing business as Dolphin Tours (Dolphin), seeks to amend his certificate of public convenience and necessity authorizing operations as a passenger stage corporation in providing sightseeing service between points in northern California as set forth in Appendix A to Decision (D.) 89731 as amended by D.90270. Dolphin requests the elimination of the restriction that "all tours shall be conducted in the Japanese language only." It requests interim authorization to conduct operations without having to abide by the subject restriction.

Dolphin intends to provide educational student tours for young Japanese students whereby they and other Japanese tourists wishing to improve their English can practice English comprehension during the bus tours while simultaneously learning about California's history, customs, and way of life through Japanese tour narration. Dolphin asserts that it has expended efforts and investment in the development of the Japanese student group market and has conducted such tours. However, because of its certificate restriction it can only give bilingual narration at rest stops, fueling stops, and other

tour stops. Dolphin states that it is experiencing extreme difficulty explaining why its guides cannot freely narrate in English and/or other languages as well as Japanese along the route when its buses are moving. Dolphin contends that presently there is no other passenger stage corporation providing even remotely similar bilingual sightseeing service and that a refusal to grant the requested interim elimination of the restriction will destroy its efforts and investment in its student program.

Dolphin also intends to provide a joint service with Mark Tours of San Francisco catering to the special needs of the Japanese gay community. Dolphin alleges that other tour bus companies have shied away from that market; therefore, no existing sightseeing bus services are available to that market.

Protests were filed by O'Connor Limousine Service, Inc., and by the Gray Line, Inc. Both protestants state that they provide English language sightseeing tour operations that would be duplicative and in direct competition with Dolphin's proposed service, but make no mention that they provide bilingual narrations.

Hearing on the application has been set for September 23, 1981.

Discussion

Dolphin's current authority (D.90270) was restricted because Dolphin indicated in its application (A.58261) that all tours would be narrated in the Japanese language. Dolphin now intends to expand the sightseeing services offered to Japanese tourists by providing educational tours in English and by offering special tours directed to the needs of the Japanese gay community.

Dolphin asserts that we have granted temporary certificates duplicative of, and directly competitive with, Dolphin's Japanese language tours to Kintetsu International Express, USA, Inc.; Jet Tour USA, Inc.; Nippon Express USA, Inc.; JATS Enterprise, Inc.; and Western Travel Plaza, Inc.; although these tour operations were opposed by Dolphin and other tour bus operations. Dolphin asks that we equalize competition by permitting it to begin English language tours operations pending completion of the hearing in this application.

In the circumstances, Dolphin's certificate will be amended on an interim basis, pending hearing, to provide for narration of tours in the English language to permit Dolphin to provide the sought educational services to Japanese students. The interim order should be effective immediately as the educational tours have been arranged for this summer. So that Dolphin will compete on the same basis with protestants, as the Japanese language tour operators were authorized to compete with Dolphin, this interim authority will expire on October 31, 1981, the expiration date of the interim authorities granted to the Japanese tour operators. This interim authority will not be extended beyond the October 31, 1981 expiration date.

Findings of Fact

1. Dolphin's certificate requires narration of all its tours in the Japanese language.
2. Dolphin seeks to eliminate its Japanese language restriction from its certificate so that it may provide educational tours narrated in the English language for its Japanese tourists.

3. Dolphin's efforts and investment in its development of the Japanese student group market is in imminent danger of being destroyed unless the amendment sought in Finding 2 is made.

4. Public convenience and necessity require that Dolphin's certificate be amended on an interim basis.

5. This interim order should become effective today so that the educational tours, which have already been arranged, may commence as soon as possible.

Conclusions of Law

1. Dolphin's certificate should be amended on an interim basis until October 31, 1981.

2. As no new routes are sought, this amendment seeks only a change in service.

INTERIM ORDER

IT IS ORDERED that:

1. The certificate of public convenience and necessity granted to J. Mark Lavelle, doing business as Dolphin Tours, authorizing operations as a passenger stage corporation as defined in PU Code Section 226 as set forth in Appendix A of D.89731 is amended on an interim basis by incorporating Second Revised Page 1 (attached) in Revision of First Revised Page 1.

2. The authority authorized above shall expire on October 31, 1981.

3. 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 interim order is effective today.

Dated AUG 18 1981, at San Francisco, California.

John E. Bayro
President
Richard P. Boehle
Terrence J. ...
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Commissioners

ALJ/rr/hh

Appendix A
(D.89731)

J. MARK LAVELLE
dba
Dolphin Tours

Second Revised Page 1
Cancels
First Revised Page 1

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

J. Mark Lavelle, an individual doing business as Dolphin Tours, 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, or the University of California campus at Berkeley, on the one hand, and certain points as named, 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 on the timetable filed with the Commission.

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Issued by California Public Utilities Commission.

* Deleted by Decision 93471, Application 60582.