

ORIGINAL

Decision 93642 OCT 20 1981

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 California Natural History Tours, a)
 California corporation for a cer-)
 tificate of public convenience and)
 necessity to operate naturalist-)
 led tours from Los Angeles to)
 various points of interest in Kern,)
 Inyo, Fresno, Tulare, and Mono)
 Counties.)

Application 60607
 (Filed June 1, 1981;
 amended June 23, 1981)

O P I N I O N

By its amended application, California Natural History Tours (applicant) seeks a certificate of public convenience and necessity to establish and operate naturalist-led passenger stage sightseeing tours for the transportation of passengers and their baggage from Los Angeles to various points of interest in Kern, Inyo, Fresno, Tulare, and Mono Counties.

Applicant originally also sought vessel common carrier authority to tour to Santa Barbara Island. After protest and request for public hearing filed June 22, 1981 by Island Packers Company (Island), applicant filed an amendment to delete the vessel common carrier request. Island conducts vessel common carrier operations between Oxnard and Ventura and the Channel Islands, providing numerous sightseeing and per capita tours under a certificate of public convenience and necessity (Decision (D.) 79497). Applicant's amendment makes the protest moot.

Proposed Tours

A description of the proposed tours, essentially as described by the applicant, is as follows:

1. Earth and Sky (San Andreas Fault and the Perseids Meteor Shower)

This tour will leave from the Federal Building, 11000 Wilshire Boulevard in Westwood at approximately 8 a.m. in an air-conditioned 46-passenger bus. A natural history expert will accompany the passengers on the bus pointing out the geologic interests along the trip. Special emphasis will be placed on the area of the San Andreas Fault. The tour should arrive at its destination in the Tehachapi Mountains close to lunch time. A solar observation program will be informally conducted in the early afternoon by an astronomer. A nature walk will be conducted by the natural history expert later in the afternoon. A more formal program will be given after dark on the meteor shower and the visible planets. A telescope will be available for observation. The two afternoon programs will be offered again in the morning. The tour will return at approximately 5 p.m. the end of the second day. All food is provided and prepared. Participants will bring their own sleeping bags. Tour site is based upon the bus capacity of 46.

2. The Ancient Ones (Bristle Cone Pine)

This tour begins from the Federal Building, 11000 Wilshire Boulevard in Westwood in a van at approximately 9 a.m. arriving in the Owens Valley area in the late afternoon. A natural history expert leads this tour covering the Bristle Cone Pine (the world's oldest living tree), the inland sand dunes, a ghost town, and a desert valley. There will be many other points of interest covered along the way. Two nights will be spent in a rustic lodge in the Owens Valley. One night will be spent camping under the boughs of the pinyon pine. All food, accommodations,

and camping equipment is provided. The tour returns to point of departure late the afternoon of the fourth day at approximately 4 p.m.

3. The Mysteries of Mono Basin

The tour leaves from the Federal Building, 11000 Wilshire Boulevard in a van at approximately 9 a. m. and arrives in Owens Valley for lodging that night. This is a natural history expert-led tour covering the vast Mono Basin and surrounding areas. The main points of interest are Mono Lake (America's oldest continually existing lake), the volcano geology of this area, the ghost town of Bodie, some of the High Sierra, and the forest ecology of the area. Three nights are spent in historic inns. Two nights are spent camping under the stars. All food, camping equipment, and accommodations are provided. The tour returns late in the afternoon of the sixth day to the point of origin at approximately 4 p.m.

Applicant asserts that arrangements have been made for personnel, equipment, food, accommodations, transportation, insurance, and permission of special areas.

Applicant proposes to charter certified charter-party carriers and has leased a luxurious 15-passenger club wagon. It states that its insurance covering transportation will exceed the requirements of General Order 101-C.

Applicant's president has 15 years experience with the Los Angeles Museum of Natural History, including planning of field trips for the Museum Alliance. The president has also participated in other natural history organizations.

Applicant believes that the public convenience and necessity require the proposed tours because the tours are in unique natural areas of California that no other tour offers. A natural history expert guides each group, interweaving California's history, biology, and geography. It further states that the tours will assist in education and share some of California's natural wonders.

Attached to the application are Exhibit D, proposed seasonal dates, fares, and rules and regulations; Exhibit E, financial statement; and Exhibit F, forecasted expense and income, indicating applicant's financial ability to provide the requested service.

Applicant states that it knows of no other current common carrier with authority to offer this same type of tour service.

Application (A.) 60607 was noticed on the Commission's Daily Calendar of June 3, 1981 and June 25, 1981. No protests to the application were received except for the one protest about vessel common carrier service which became moot when that proposed service was deleted in the amendment to the application.

Discussion

In our review of the tours proposed we find that the primary activity of applicant would be providing logistical and educational services, with transportation being incidental. The situation is akin to that addressed in A.60123, D.93066, Pacific Mountain Adventurers, issued May 19, 1981. Here as in that matter, the applicant makes arrangements for guides, naturalists-educators, meals, accommodations, and equipment. The primary attraction of the service is features very different than just transportation over a route of points. As such, what applicant proposes does not fall under the definition of common carriage, where transportation, pure and simple, is a primary and distinguishing

feature. For the tours proposed applicant does not require operating authority from this Commission.

In order to allow applicant to commence the proposed service, the following order should be effective today.

Finding of Fact

The primary service that would be offered by applicant's proposed tours is furnishing guides, naturalists, meals, and accommodations; point-to-point transportation is secondary or ancillary.

Conclusion of Law

Transportation is ancillary to applicant's proposed service, and the tours proposed are not common carriage for which operating authority is required.

O R D E R

IT IS ORDERED that Application 60607 is dismissed.

This order is effective today.

Dated OCT 20 1981, at San Francisco, California.

JOHN E. BRYSON
President
EDWARD D. GRAVELLE
LEONARD M. GRIMES, JR.
VICTOR GALVO
PRISCILLA C. GREW
Commissioners

I certify that this decision was approved by the Public Commissioners today.
John E. Bryson