

ORIGINAL

Decision 93807 DEC - 1 1981

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of FRANCISCAN LINES, INC., a)
California corporation, For)
permission to Abandon its)
Livermore Commute Run.)

Application 60731
(Filed July 14, 1981)

James A. Drucker, for Franciscan Lines, Inc.,
applicant.
Nancy E. McKinley, for herself, protestant.
R. E. Douglas, for the Commission staff.

O P I N I O N

Franciscan Lines, Inc. (Franciscan) operates as a passenger stage corporation between various points in Alameda and Contra Costa Counties, on the one hand, and Oakland and San Francisco, on the other hand. Franciscan also holds authority from this Commission to operate as a charter-party carrier. By this application Franciscan seeks authority to abandon the two passenger stage schedules it performs daily between Livermore, Pleasanton, and Dublin, on the one hand, and Oakland and San Francisco, on the other hand. However, since the filing of the application, Franciscan has eliminated one of those schedules.

The application was protested by Nancy E. McKinley (McKinley) and Carmella C. Orham. Accordingly, a duly noticed public hearing was held before Administrative Law Judge (ALJ) John Lemke in San Francisco on August 31, 1981. The matter was submitted upon the receipt of late-filed Exhibit 10, a rider count for the month of September 1981. Exhibit 10 was received October 1, 1981.

Background

Franciscan was issued a certificate of public convenience and necessity by Decision (D.) 80980, dated January 23, 1973 in Application (A.) 53303, to operate a passenger stage service over the route it seeks to abandon. The authority was restated by D.84370 dated January 29, 1975 in A.55390.

Franciscan filed A.59679 on May 20, 1980 seeking permission to raise its fares on its Livermore and Danville commuter runs. It wished to increase its Livermore commuter fare by 70% and the Danville fare by 30%. That application was also protested, in part, by McKinley.

By D.92209 dated September 3, 1980 in A.59679, Franciscan was authorized to increase its passenger stage fares on an interim basis by 15%. D.92961 dated April 21, 1981, in the same proceeding, further authorized Franciscan to increase its one-ride Livermore commuter fares from \$2.50 to \$3.25. The new fares became effective May 31, 1981. The principal reason for the increase was the dwindling patronage experienced because of an 18-hour-a-day publicly subsidized, paralleling service via AC Transit (AC) and Bay Area Rapid Transit (BART). In granting the increases, the Commission in D.92961 stated that it expected Franciscan to take immediate and aggressive steps to increase the number of passengers it transports. The decision further stated that if three months after the effective date of that order Franciscan could show that it was unable, by aggressive solicitation, to build its business to at least a 90% load factor on both buses, the Commission would entertain a request to eliminate one of its Livermore-San Francisco schedules. The decision also urged patrons to help promote Franciscan's service.

The Evidence

James Drucker (Drucker), president of Franciscan, offered several exhibits containing information in support of the proposed abandonment. He also testified as follows:

1. Franciscan operates 31 buses at the present time, primarily in its charter bus service.
2. Although its operations are principally intrastate in nature, Franciscan does have some interstate activity.
3. Franciscan employs approximately 100 people.
4. Service from Livermore to San Francisco commenced in 1973 with only a very few passengers initially; it reached its peak in 1974, with five buses transporting about 260 people daily.
5. BART began Hayward-to-San Francisco service in 1974. Shortly thereafter AC began a shuttle service between Livermore and the Hayward BART station, paralleling Franciscan's Livermore route, and causing a great decline in Franciscan's Livermore business.
6. The advent of vanpools has caused further attrition in Franciscan's business.
7. Franciscan has recently reduced its service between Livermore and San Francisco from two daily runs to a single schedule.

Exhibit 1 is a commuter schedule offered by Drucker showing the present single-run Livermore service. This schedule departs Livermore at 6:15 a.m. and reaches its first Oakland stop at 7:30 a.m. It arrives at the Transbay Transit Terminal in San Francisco at 7:50 a.m. It is due at Van Ness and Hayes Streets, its last San Francisco stop, at 8:04 a.m. This bus and driver are free to perform charter service during the middle of the day. In the afternoon the bus departs Van Ness and Hayes Streets at 4:33 p.m. and reaches Livermore at 6:12 p.m.

Exhibit 2 offered by Drucker is a rider count for the Livermore runs performed during the months of May, June, July, and August 1981. The results of this count are shown in Table 1.

TABLE I

Franciscan's Livermore-San Francisco
Average Daily Commute Customer Count

	Schedule A		Schedule B*	
	A.M.	P.M.	A.M.	P.M.
May	35.3	26.0	16.9	17.0
June	27.0	21.3	11.9	12.8
July	23.4	18.5	9.4	9.0
August	19.6	13.8	5.6	6.5

*As indicated above, Franciscan has eliminated the Schedule B service effective August 24, 1981.

Only one or two riders leave the bus in Oakland.

Exhibit 3 is a results of operations for the years 1975 through 1980 indicating that in connection with the Livermore service, Franciscan has sustained a net loss for each of the years shown. According to this exhibit, Franciscan incurred a loss of nearly \$48,000 for the year 1980. Exhibit 4 is a listing by Franciscan of the ads placed in the various newspapers that serve the Livermore Valley. The purpose of this exhibit is to show that Franciscan has attempted to comply with the Commission's wishes set forth in D.92961 concerning the active solicitation of new business. Exhibit 5 is a showing by Franciscan of its break-even point if a one-bus operation were to be conducted during 1982. Drucker has used Commission staff figures prepared in November 1980, in A.59679, and adjusted by 20% for increased costs between 1980 and 1982. The exhibit shows that the annual cost of operating one bus in Livermore during 1982 would be \$62,670. The revenue necessary to be reasonably

profitable would be that based upon a round-trip load factor in excess of 40 riders. Franciscan's present fare for 20 round-trip rides is \$130. (40 x \$130 x 12 months = \$62,400.)

Exhibit 6 is a schedule for Franciscan's Livermore Valley commuter service. It differs from Exhibit 1 in that it also shows the schedule for the second bus which operated between Livermore and San Francisco. The second bus began its run approximately five minutes after the first schedule.

In summing up, Drucker stressed that it is difficult for Franciscan to compete with the cheaper combined AC/BART operation. Drucker admitted on cross-examination that the passenger count shown in Exhibit 2 may not be reflective of year-round operations because during the summer months business decreases by about 10 or 15%.

Franciscan's annual report for 1980 shows passenger revenues of about \$2.9 million. According to an income statement included in the application, over 95% of Franciscan's revenue is from charter operations. For the period April 1, 1980 to March 31, 1981, Franciscan's net (after taxes) earnings from its total bus operations amounted to approximately \$90,000. In summary, Franciscan's total bus business shows a profit, but the evidence shows that its Livermore-to-San Francisco commuter service has been operating at a considerable loss.

Protestants

On cross-examination by McKinley, Drucker was asked whether Franciscan had ever applied to the Metropolitan Transportation Commission for a subsidy. He stated that Franciscan had a meeting with that agency which was unproductive. McKinley introduced three exhibits (7, 8, and 9) through Drucker. Exhibit 9 is a notice from Franciscan to its Livermore commuters, dated August 11, 1981, that it intended to delete the second schedule from service effective August 24, 1981. The notice was not received until several days before the discontinuance.

McKinley testified that the Franciscan commuter service is a necessary one, being the only direct service from Livermore to San Francisco. She stated that the AC/BART operation, although cheaper, is slower and unreliable. She suggested that Franciscan might try some attractive advertising, highlighting its direct service. She also suggested that Franciscan might reduce its fares for two or three months in an effort to increase its business from Livermore.

The correspondence section of the formal file contains requests from approximately 40 people that the proposed discontinuance not be authorized. Five people attended the hearing and three testified in opposition to the application.

Vanpooling

Information furnished the ALJ, and received as Exhibit 11, by Rides for Bay Area Commuters, Inc., an organization funded by Caltrans and the Metropolitan Transportation Commission, shows the following:

1. New 15-capacity vans are available for use in home-to-work operations;
2. The per capita cost to commuters riding round-trip between Livermore and San Francisco would be about \$66.80 per month, or approximately one-half the current Franciscan charge of \$130 for 20 round-trip rides;
3. Fares include lease, insurance, maintenance, and fuel costs;
4. Seats in older vans already on the road may cost less.

Late-filed Exhibit 10 shows that the average rider counts for September have not improved over any of the previous four months. The average counts for the single-schedule service during the period September 1 through September 25 were 20 for the morning, and 14 for the evening runs. Weekly average breakdowns for this period are shown in Table II:

TABLE II

Franciscan's Weekly September
Single-Schedule Commuter Counts

	<u>A.M.</u>	<u>P.M.</u>
Sept. 1-4	20.5	14.8
Sept. 8-11	20.5	13.5
Sept. 14-18	19.0	15.2
Sept. 21-25	20.4	13.0

Discussion

It is apparent that the competing AC/BART service, plus the impact of the fare increases implemented by Franciscan effective May 31, 1981, have combined to cause a further serious reduction in Franciscan's passenger stage business between Livermore and San Francisco. The recent decline has been from an average daily count of about 52 riders for both morning schedules maintained during May 1981 to 20 for the single-morning schedule operated during September. The afternoon count for the same period has declined from 43 for the May double schedule to 14 for the single schedule operated during September. This has caused further erosion of Franciscan's revenues from its Livermore run, notwithstanding the recent fare increase. In light of the availability of the cheaper AC/BART service, as well as the vanpool opportunity discussed above, there appears to be little to argue for a continued service which has demonstrated a marked inability to compete with a heavily subsidized public transit system.

A comparison of Franciscan's present fares with those payable via competing commuter services between Livermore and San Francisco is shown in Table III:

TABLE III

	<u>Single One-Way Ride Fare</u>	<u>Monthly Cost</u>
Franciscan	\$3.25	\$130.00
AC/BART	*1.95/1.45	68.00
Vanpool	-	66.80

*The AC/BART one-way fares are assessed as follows: \$.75 (AC) to Hayward BART station; \$1.20 (BART) Hayward to S.F.; \$1.20 (BART) S.F. to Hayward; and \$.25 (AC) Hayward to Livermore, with a transfer from BART.

The record demonstrates that the enhanced degree of competition encountered by Franciscan has been more recently accompanied by the common problem experienced by so many bus lines. This problem is characterized by the following familiar syndrome: declining patronage, resulting in a need for rate increase, thereby causing a further decline in patronage.

We do not take lightly the concerns of Franciscan's Livermore customers who do not wish to see the service discontinued and have taken the time to lodge their protests and attend the hearing. However, we do not believe it is reasonable to expect Franciscan, in light of the circumstances discussed, to be able to operate this service at a profit in the foreseeable future. Nor do we believe Franciscan's charter and other passenger stage customers should be required to subsidize an unprofitable operation in the magnitude of that experienced in the Livermore service.

Franciscan has maintained an on-time, dependable service for its patrons. It has not contributed to a worsening situation by using second-class buses on its Livermore route in an effort to discourage patronage. Rather, it has continued to use first-class, modern, air-conditioned equipment. We do not believe Franciscan's good efforts should be rewarded by our requiring the continuance

of its unprofitable operation. That would be particularly inappropriate when the conditions which have so heavily contributed to its declining business are beyond its control. If we were to disallow the abandonment of the Livermore commuter run in these circumstances, we would have to entertain another request for a fare increase for that service. The remedy in this case is not another fare increase. It is to allow the discontinuance as proposed. Finally, since there are other means of commuter transport for Franciscan passengers, not having this service will be more inconvenience than hardship.

Findings of Fact

1. Franciscan holds authority under the provisions of D.84370, dated January 29, 1975 in A.55390, to operate a passenger stage service between Livermore, Pleasanton, and Dublin, on the one hand, and Oakland and San Francisco, on the other hand. Franciscan holds additional passenger stage operating authority, and it has been issued a certificate to operate as a charter-party carrier.

2. The predominant portion of Franciscan's intrastate revenue is derived from its charter-party services.

3. Almost all the passengers originating in Livermore have ridden to San Francisco, with only one or two using Franciscan's service to Oakland during the months of May, June, July, and August of 1981.

4. Although Franciscan's total bus operations are performed at a profit, it has continually lost money during the past several years on its Livermore to San Francisco schedules.

5. Franciscan would need to transport over 40 passengers daily in each direction between Livermore and San Francisco in order to operate that commuter service at a profit under its present fares. Franciscan is currently transporting an average of 20 passengers in this service on its morning schedule, and 14 in the evening.

6. A rate increase for service performed between Livermore and San Francisco will most likely reduce patronage even further.

7. The combined AC/BART subsidized service paralleling Franciscan's service between Livermore and San Francisco is considerably cheaper than Franciscan's, and has contributed to a serious reduction in Franciscan's business between those points.

8. Vanpooling offers another viable opportunity for commuters between Livermore and San Francisco, and could be utilized at fares approximately one-half of Franciscan's monthly charge.

9. Franciscan has not discouraged present or potential patrons of its Livermore-San Francisco commuter service, but has continued to provide adequate, dependable service in clean, air-conditioned equipment during the period it has performed the service at a financial loss. Franciscan has advertised its service in compliance with D.92961 in A.59679.

10. Conditions beyond Franciscan's control have caused its commuter business between Livermore and San Francisco to deteriorate to the point where it would be unreasonable to expect it to be operated at a profit in the foreseeable future.

Conclusions of Law

1. Public convenience and necessity no longer require Franciscan's passenger stage service between Livermore and San Francisco.

2. The application should be granted.

O R D E R

IT IS ORDERED that:

1. After this order becomes effective and on not less than 10 days' notice to the Commission and the public, Franciscan Lines, Inc. may discontinue its passenger stage service between Livermore and San Francisco.

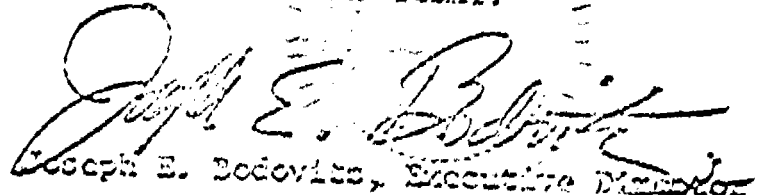
2. Tariffs and timetables now on file (covering the discontinued service) will be canceled and new tariff and timetable filings shall be made to be effective on the date the service is discontinued.

3. Appendix A of Decision 84370 is amended by replacing Original Page 2, Original Page 3, Original Page 4 and Original Page 5 with First Revised Page 2, First Revised Page 3, First Revised Page 4 and First Revised Page 5 (attached).

This order becomes effective 30 days from today.
Dated DEC 1 1961, at San Francisco, California.

JOHN E. DRYSON
President
RICHARD D. GRAVELLE
LEONARD M. GRIMES, JR.
VICTOR CALVO
PRISCILLA C. GREW
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.


Joseph E. Bodovitz, Executive Director

C/rfb/nb

Appendix A
(D.8-370)

FRANCISCAN LINES, INC.
(PSC 890)

First Revised Page 2
Cancels
Original Page 2

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<u>Route</u>	<u>Route Name</u>
1	Deleted.
2	Darville, Alamo-San Francisco

Issued by California Public Utilities Commission.

Revised by Decision 93807, Application 60731.

Appendix A
(S.24370)

FRANCISCAN LINES, INC.
(PSC 890)

First Revised Page 3
Cancels
Original Page 3

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

This certificate supersedes all operative authority previously granted to Franciscan Lines, Inc.

Franciscan Lines, Inc., by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to transport passengers between Danville and Alamo, on the one hand, and San Francisco, on the other hand, along the routes described, subject, however, to the authority of this Commission to change or modify the routes at any time subject to the following provisions:

- a. Motor vehicles may be turned at termini and intermediate points, in either direction, at intersections of streets or by operating around a block contiguous to such intersections, in accordance with local traffic regulations.
- b. When route descriptions are given in one direction they apply to operation in either direction or in the case of one-way streets on an adjacent one-way street in the opposite direction unless otherwise indicated.
- c. All services shall be limited to the transportation of passengers using 20-ride tickets only.
- d. Deleted.
- e. On Route 2 applicant shall pick up or discharge passengers only at specified bus stops in Alamo and Danville, and in San Francisco only at the Transbay Transit Terminal.

Issued by California Public Utilities Commission.

Revised by Decision 93807, Application 60731.

Appendix A
(S.84370)

FRANCISCAN LINES, INC.
(PSC 890)

First Revised Page 4
Cancels
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SECTION 1. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS,
AND SPECIFICATIONS. (Continued)

f. Deleted.

g. Authority to conduct operations on Route 2 shall be contingent on the following: Applicant agrees not to oppose any application by the San Francisco Bay Area Rapid Transit District for federal funds under the Federal Mass Transportation Act of 1954, as amended, the use of which funds may directly or indirectly affect applicant's business under the operating authority granted by this certificate. Failure to comply with this restriction may result in cancellation of Route 2, Danville, Alameda-San Francisco upon motion of the Bay Area Rapid Transit District.

Issued by California Public Utilities Commission.

Revised by Decision 93807, Application 60731.

T/rfn

Appendix A
(D.84370)

FRANCISCAN LINES, INC.
(PSC 990)

First Revised Page 5
Cancels
Original Page 5

SECTION 2. ROUTE DESCRIPTIONS.

Route No. 1 - Deleted.

Route No. 2 - Danville, Alamo-San Francisco

Commencing at the intersection of Greenbrook Drive and San Ramon Valley Boulevard, Danville, Contra Costa County, over the most appropriate streets in Danville and Alamo, continuing over the most appropriate streets and freeways to the Transbay Transit Terminal in San Francisco.

Issued by California Public Utilities Commission.

Revised by Decision 93807, Application 60371.