

Decision 93854

DEC 15 1981

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of AMERICAN CAMPING TOURS, INC., a California Corporation, to modify and extend existing routes of a motor vehicle camping tour service from San Francisco.

Application 60359
(Filed March 13, 1981)

INTERIM OPINION

American Camping Tours, Inc. (PSC-1038) requests a certificate of public convenience and necessity to modify and extend existing routes of its passenger stage tour service.

Applicant offers two types of passenger service. The deluxe tours use customized motor homes and include driver, guide, meals, camping, and park entrance fees. Tours may also be provided in 15-passenger vans for a lower fare. Service is provided on an on-call basis with a minimum of four passengers per tour.

By Resolution PE-390 (RRD-140) dated January 5, 1981 the Commission granted applicant permission to change certain 3-day tours into 2-day tours. Applicant seeks to restore the 3-day tours.

Applicant states that there is a demand for pickups and dropoffs at certain points within Berkeley and seeks authority to serve these points. In addition, applicant seeks authority to pick up at the Los Angeles International Airport in addition to the San Francisco International Airport so that tours can be operated in either direction.

Applicant seeks authority to operate nine new multi-day tours and three new 1-day tours. Applicant states that the new multi-day tours would provide marketing advantages in Japan. The new 1-day tours are designed to provide a quick look at the Bay Area. To applicant's knowledge, no other passenger stage corporation is operating these tours.

Decision (D.) 88887, dated May 31, 1978 in Application (A.) 57843, granted applicant its original passenger stage authority and D.89968 and 91463 in A.58353 and 58983 extended this authority. The service provided by these decisions includes overnight stops in public campgrounds, food, camping equipment, driver, and bilingual guide. The instant application will entail similar packages of services.

Applicant's balance sheet lists assets of \$8,800.

The application was listed on the Commission's Daily Calendar of March 18, 1981. No protests have been received.

Applicant proposes to charge fares for the new service ranging from \$35 for the 1-day tours to \$695 for the 10-day tour.

Discussion

In our review of the existing and the proposed multi-day tours, we find that the primary activity of applicant would be providing guided camping trips and nature orientation with transportation being incidental. The situation is akin to that addressed in A.60123, D.93066, Pacific Mountain Adventures, issued May 19, 1981. Here, as in that matter, the service applicant proposes is not strictly transportation. It will transport patrons, on an on-call basis (with a minimum of 4) in conjunction with camping in national and state camping facilities or campgrounds. The camping activity will be overseen and organized by the tour guides, and applicant will furnish all camping equipment. The tour-camping excursions are of 2- to 10-day duration.

The service applicant proposes for these multi-day tours is principally that of outfitting and provisioning camping excursions, with emphasis on natural and local history information by its guides. The transportation is ancillary to this primary service. Since the

principal undertaking is organized camping trips, with incidental transportation between itinerary points, applicant does not for this service hold itself out to the public as a passenger stage corporation. Transportation is incidental to a package of other services. Accordingly, for the multi-day tours proposed and the previous authorities granted (which are all multi-day tours), a passenger stage certificate is not required.

Our application of the primary business test here is akin to other holdings on what constitutes public utility service. For example, in D.89323, Case 10127 et al., issued September 6, 1978, we found that hotels and hospitals are not telephone utilities, although they provide telephone terminal equipment facilities, for a charge, that intertie with the telephones' network. Their provision of communications services are incidental to their main endeavors. The primary business test involves determining whether transportation is ancillary to another activity or an integral part of the overall endeavor. (W. E. Burke (1972) 74 CPUC 267, 274.) Here, moving patrons between points for camping and natural history orientation, etc., is only ancillary to the overall specialized service the applicant offers.

The proposed three 1-day tours do not involve camping excursions. They are sightseeing-tour service operating over a loop returning to the point of departure after viewing or visting points of interest. This is not passenger stage corporation service as we have concluded in D.93726 dated November 13, 1981. However, the portion of that decision completely eliminating our regulation over sightseeing-tour carriers will not become effective until after judicial review. We announced in D.93726 that during this transitional period we would grant pending applications ex parte with temporary operating authority upon a showing that applicant had adequate public liability insurance. Accordingly, we will grant temporary authority to applicant to conduct its proposed three 1-day tours.

Findings of Fact

1. Applicant will, for compensation, take patrons on multi-day guided camping, nature, and historical interest orientation trips. Applicant will also, for compensation, take patrons on 1-day sightseeing trips.

2. Applicant's operation will be seasonal, and on an on-call basis, subject to a minimum number of patrons.

3. Applicant's primary business endeavor will be to offer multi-day guided camping trips and nature orientation, ancillary to that applicant will transport patrons between itinerary points.

4. Applicant's 1-day tours are sightseeing-tour service over a loop.

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

Conclusions of Law

1. Applicant's proposed multi-day transportation service is incidental and ancillary to the primary business undertaking of conducting guided camping and nature orientation outings, and is not public utility common carriage. This portion of the application should be dismissed because the requested operating authority is not necessary.

2. Applicant should surrender its certificates of public convenience and necessity issued under D.88887, 89968, and 91463 and Resolution PE-390 for cancellation since they are not necessary.

3. Temporary operating authority should be granted for the requested 1-day sightseeing-tour service routes.

INTERIM ORDER

IT IS ORDERED that:

1. The portion of the request in Application 60359 for multi-day trips is dismissed.
2. The certificates of public convenience and necessity authorized by Decisions 88887, 89968, and 91463 and Resolution PE-390 shall be surrendered for cancellation within 30 days from the effective date of this order.
3. American Camping Tours, Inc. is granted a temporary certificate of public convenience and necessity to operate the three 1-day tours proposed in the application until further order of the Commission and is assigned Passenger Stage Corporation (PSC) No. 1038. A permanent certificate prepared by this Commission may be issued by a final order.
4. Applicant shall:
 - a. File a written acceptance of this authority 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.

This order becomes effective 30 days from today.

Dated DEC 15 1988, at San Francisco, California.

JOHN E. BRYSON
 President
 RICHARD D. GRAVELLE
 LEONARD M. GROMES, JR.
 VICTOR CALVO
 PRISCILLA C. CREW
 Commissioners

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

Joseph E. Bedovitz
 Joseph E. Bedovitz, Executive Director