

Decision 95-11-060 November 21, 1995

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
In the Matter of the Application
of Denis V. DiGiovanna for the
transfer of Passenger Stage Authority
(PSC 5603), to William K. Schweitzer,
an individual.

Application 95-07-008
(Filed July 5, 1995)

ORIGINAL

O P I N I O N
Denis V. DiGiovanna, dba Fantasia Limousine (transferor),
and William K. Schweitzer, dba Fantasia Bay Area Limousine and
Sedan Service (transferee), request authority, pursuant to
provisions of Public Utilities (PU) Code, §§ 851 through 854, to
transfer control of passenger stage operating authority from
transferor to transferee. The application includes a request for
issuance of a Zone of Rate Freedom (ZORF) as authorized by PU Code
§ 454.2. The reason furnished for the transfer request is that
DiGiovanna intends to retire to another geographical area.
The transferor operates a passenger stage on-call airport
shuttle service in the greater San Francisco Bay Area, including
San Jose and environs (PSC 5603). His operating authority was
granted by this Commission in Decision (D:) 92-02-056 in
Application (A.) 91-09-053. The transferee is the owner of a
ground transportation service in San Mateo and Santa Clara Counties
operating under TCP 9633.
According to the application, the transferee has been
involved in the industry since 1982, when he entered the business
on a part-time basis, and has been the owner and manager of ground
transportation businesses in the San Francisco and San Jose areas
for the past eight years. He is a vice president of the Taxicab
and Paratransit Association of California (a trade organization)
and the application characterizes him as well-respected in the
industry, and his record as "spotless."

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According to the application, the assets subject to the transfer consist of the certificate of public convenience and necessity (CPCN) now held by the transferor. The transferee in his present business, operates a 55-vehicle taxicab fleet, a 12-car paratransit service under contract to the San Mateo and Santa Clara County Transit Districts, and a seven-vehicle limousine and sedan service fleet operated under TCP 9633. The transferee's vehicles for the service in question are identified as three seven-passenger limousines and five four-passenger sedans, all of which are fully automatic, full power, air conditioned luxury vehicles.

As part of the application, the transferor requests that the Commission grant a ZORF for the benefit of the transferee. The transferor notes that the existing tariffs were filed with the Commission in 1991 and that a ZORF will enable the service to compete more effectively in response to seasonal travel fluctuations. By letter dated October 25, 1995, a transferee requests a ZORF of \$5 below and \$20 above the fares listed in Exhibit F, attached to the application. Transferee will compete with other passenger stage carriers, taxicabs, limousines, and automobiles.

When implemented, the proposed ZORF may conflict with PU Code § 460. Applicant should be exempted from the long- and short-haul provisions of PU Code § 460. No protests have been filed in response to this application. Transfer of the operating authority in question will place the CPCN in the hands of an experienced operator whose financial statements reflect resources adequate to carry on the service without interruption. Arrangements have been made for maintenance of the vehicles which are to be used in the service.

Transfer of the transferor's operating authority to the transferee is in the public interest and the transfer should be approved effective immediately with the grant of a ZORF to the new owner.

Findings of Fact

1. Denia V. DiGiovanna, dba Fantasia Limousine (transferor), is an individual engaged in the operation of a passenger stage corporation (PSC-45603) pursuant to authority granted by this Commission.

2. William K. Schweitzer, dba Fantasia Bay Area Limousine and Sedan Service (transferee) is an individual engaged in the operation, inter alia, of a ground transportation service operating under authority granted by this Commission (TCP19633).

By this application, a transferor seeks authority to transfer his CPCN to transferee.

4. Notice of the filing of the application appeared in the Commission's Daily Calendar on August 2, 1995. No protest has been filed. A hearing is not necessary.

5. Transferee is ready, willing, and able to assume control of transferor's certificate and provide the same level of service now provided by the transferor.

6. Transferee requests authority for a ZORF between the service points listed in Exhibit F, attached to the application. The establishment of a ZORF of \$5 below and \$20 above fares listed in Exhibit F is fair and reasonable.

7. Applicant competes with passenger stage corporations, taxi cabs, limousines, buses, and automobiles in his operations.

8. The granting of an exemption to the long- and short-haul provisions of PU Code § 460 is appropriate in this case.

Conclusions of Law

1. The proposed transfer is in the public interest and should be authorized. A public hearing is not necessary.

2. 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.

3. The application for ZORF should be granted.

4. Before applicant changes fares under the ZORF authorized below, applicant should give this Commission 10 days notice.

5. The filing of ZORF fares should be accompanied by a tariff amendment showing between each service point the high and low ends of the ZORF and the then currently effective fare.

William K. Schweitzer, an individual engaged in the operation, inter alia, of a ground transportation service operating under authority granted by this Commission

IT IS ORDERED that: Denis V. DiGiolyanna, dba Fantasia Limousine (transferor), may sell the operative rights specified in the application to William K. Schweitzer, an individual (transferee) on or after August 3, 1992.

2. Transferee shall: File a written acceptance with the Safety and Enforcement Division of the certificate and a copy of the bill of sale or other transfer document within 30 days after the transfer.

Amend or reissue transferor's tariffs and timetables, state in them when the service will start, make them effective 10 or more days after this order is effective, and allow at least 10 days' notice to the Commission.

c. Comply with General Orders Series 101, 104, and 158, and the California Highway Patrol safety rules.

d. Maintain accounting records in conformity with the Uniform System of Accounts.

e. Remit to the Commission the transportation reimbursement fees required by Public Utilities (PU) Code § 403 when notified by mail to do so.

f. Transferee shall comply with PU Code §§ 460.7 and 1043, relating to the workers' compensation laws of this state.

If the sale is completed, on the effective date of the tariff a certificate of public convenience and necessity (CPCN) is granted to transferee, authorizing him to operate as a passenger stage corporation, as defined in PU Code § 226, between the points and over the routes set forth in Appendix PSC-9633, to transport persons and their baggage.

Transferee is authorized under PU Code § 454.2 to establish Zone of Rate Freedom (ZORF) fares between \$5 below and \$20 above his present authorized fares.

5. Transferee shall file a ZORF tariff in accordance with the application on not less than 10 days' notice to the Commission and to the public and subject to Commission approval. The ZORF shall expire unless exercised within 60 days after the effective date of this order.

6. Transferee may make changes within the ZORF by filing amended tariffs on not less than 10 days' notice to the Commission and to the public. The tariff shall include between each service points the authorized maximum and minimum fares and the fare to be charged.

7. Transferee is exempted from the long- and short-haul provisions of PU Code § 460 in setting the authorized ZORF fares.

8. In addition to posting and filing tariffs, transferee shall post notices explaining fare changes in his terminals and passenger-carrying vehicles. Such notices shall be posted at least 5 days before the effective date of the fare changes and shall remain posted for at least 30 days.

9. The CPCN granted by Decision (D.) 92-02-056 is revoked on the effective date of the tariffs filed by the transferor.

10. Before beginning service to any airport, transferee shall notify the airport's governing body. Transferee shall not operate into or on airport property unless such operations are also authorized by the airport's governing body.

11. Transferee is authorized to begin operations on the date that the Executive Director mails a notice to transferee that their evidence of insurance is on file with the Commission and that the California Highway Patrol has approved the use of transferee's vehicles for service and over the routes set forth in Appendix B to this order.

This order is effective today.

Dated November 21, 1995 at San Francisco, California.

establish None of Rate Freedom (NORF) fares between \$2 below and \$20 above his present authorized fares.

2. Transferee shall file a NORF tariff in accordance with the application on not less than 10 days' notice to the Commission and to **DANIEL W. FESSLER**, President of the NORF.

shall be effective within 60 days after the effective date.

DANIEL W. FESSLER, President
P. GREGORY CONLON
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER

3. Transferee shall take changes within the NORF by filing a tariff with the Commission less than 10 days' notice to the Commission and to the public. The tariff shall include between each service point the authorized maximum and minimum fares and the fare to be charged.

4. Transferee is exempted from the long- and short-haul provisions of PU Code § 460 in setting the authorized NORF fares.

8. In addition to posting and filing tariffs, transferee shall post notices explaining fare changes in his terminals and passenger-carrying vehicles. Such notices shall be posted at least 7 days before the effective date of the fare changes and shall remain posted for at least 30 days.

9. The CPD granted by Decision (D.) 92-02-026 is revoked on the effective date of the tariffs filed by the transferee.

10. Before beginning service to any airport, transferee shall notify the airport's governing body. Transferee shall not operate into or on airport property unless such operations are also authorized by the airport's governing body.

Appendix PSC-9633

William K. Schweitzer
(an individual)

Original Title Page

CERTIFICATE

OF

PUBLIC CONVENIENCE AND NECESSITY

AS A PASSENGER STAGE CORPORATION

PSC-9633

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.

Supersedes authority heretofore granted to
Denis V. DiGiovanna, an individual
by D.92-02-056.

Issued under authority of Decision 95-11-060,
dated November 21, 1995, of the Public Utilities Commission of
the State of California in Application 95-07-008.

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Issued by California Public Utilities Commission.

Decision 95-11-060, Application 95-07-008.

**SECTION I. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS,
AND SPECIFICATIONS.**

This certificate supersedes all passenger stage operative authority granted to Denis V. DiGiovanna, an individual.

William K. Schweitzer, an individual, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to transport passengers and their baggage on an "on-call" basis, between points and places, as described in Section IIA, on the one hand, and the airports, as described in Section IIB, on the other hand, subject, however, to the authority of this Commission to change or modify this authority at any time and subject to the following provisions:

- a. When route description is given in one direction, it applies to operation in either direction unless otherwise indicated.
- b. The term "on-call", as used, refers to service which is authorized to be rendered dependent on the demands of passengers. The tariffs and timetables shall show the conditions under which each authorized on-call service will be rendered.
- c. No passengers shall be transported except those having a point of origin or destination at either of the airports, as described in Section IIB.
- d. This certificate does not authorize the holder to conduct any operation on the property of or into any airport unless such operation is authorized by the airport authority involved.

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SECTION II. SERVICE AREA.

- A. Points and places in the counties of Santa Clara, San Mateo, Alameda, and Contra Costa

- B. San Francisco International Airport
Oakland International Airport
San Jose International Airport

SECTION III. ROUTE DESCRIPTION.

Commencing from any point or place as described in Section IIA, then over the most convenient streets, expressways, and highways to any of the airports as described in Section IIB.

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