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Decision 99-07-013 July 8, 1999

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

MARK K. SNEED and JOSE LUIS
AYALA-ARICGE, a partnership doing business
as EL CORRE CAMINOS (PSC-8659),

Complainant,

vs.

LAURA P. ACEVEDO and JOSE F. ACEVEDO, a
partnership doing business as EXECUTIVE
LINES (PSC-11128),

Defendant.

Case 98-12-011
(Filed December 10, 1998)

ORDER GRANTING CEASE AND DESIST ORDER

Summary

Commission approves a Cease and Desist Order against Defendant, as agreed to by the parties.

Discussion

Both El Corre Caminos (Complainant) and Executive Lines (Defendant) hold passenger stage certificates to operate over specific routes and to designated places in Southern California.¹ Complainant alleges that Defendant has been operating beyond its certified area, and that this unlawful operation is harmful to

¹ We note that the certificate held by Complainant was transferred from Mark K. Sneed and Jose Luis Ayala-Aroche to Jose Luis Ayala-Aroche pursuant to Decision 99-03-042.

Complainant. Complainant asks that we issue a Cease and Desist Order against this improper operation of Defendant. Defendant initially denied improper activity. There have been no petitions for intervention. A telephonic prehearing conference was held on March 1, 1999, between the representatives of the parties and Administrative Law Judge Sheldon Rosenthal. Following the issuance of a Scoping Memo and Ruling of Assigned Commissioner Josiah L. Neeper, dated March 10, 1999, the parties entered into negotiations to resolve the matter without evidentiary hearings. These efforts resulted in a joint agreement dated May 17, 1999, and a motion dated May 19, 1999. We commend the parties on reaching this settlement without the expense of an evidentiary hearing.

Under the terms of the joint agreement, the parties agree that each holds a certificate of public convenience and necessity from this Commission to operate as a passenger stage corporation. Both agree that Defendant has conducted operations beyond the terms of its certificate, as alleged in the complaint. Both agree to an ex parte order of this Commission requiring Defendant to cease and desist from violating Pub. Util. Code Section 1031. Both further agree that neither will file a protest in any application to the Commission by the other party within five years of the date of the final order in this proceeding. We agree that the terms of the settlement agreement dated May 17, 1999, are reasonable, we further agree that the motion for a Cease and Desist Order dated May 19, 1999, should be granted.

Both parties ask that we waive the public review and comment period prescribed in Pub. Util. Code Section 311(g)(1). We grant the request, as we are authorized to do under Pub. Util. Code Section 311(g)(2).

Findings of Fact

1. The Commission makes the following finding as suggested by Complainant and Defendant:

- a. Complainant operates as a passenger stage corporation between, inter alia, San Ysidro and Fontana, pursuant to certificate of public convenience and necessity (CPCN) PSC-8659, issued in Decision (D.) 94-07-042.
- b. Defendant operates as a passenger stage corporation pursuant to CPCN PSC-11128, issued in D.97-09-004.
- c. Defendant's CPCN is specifically restricted to transportation of passengers and their baggage between San Ysidro on the one hand and Anaheim and El Monte on the other hand, thereby excluding all other places.
- d. Defendant has transported passengers between points other than between San Ysidro on the one hand and Anaheim and El Monte on the other hand, including between San Ysidro and Fontana.

2. In addition, Complainant and Defendant have agreed not to file a protest in any application to the Commission filed by the other party within five years of the date of the final order in this proceeding.

Conclusions of Law

1. The Commission makes the following conclusions of law, as suggested by Complainant and Defendant:

- a. Defendant has violated the Commission's order in D.97-09-004.
- b. Defendant has violated Section 1031 of the Public Utilities Code.
- c. Defendant should be ordered to cease and desist from exceeding the scope of its CPCN.

2. The agreement not to protest any application before this Commission is a private agreement between the two parties. There is no reason for us to enter an order to that effect in this proceeding. Should an issue arise concerning this

mutual agreement, the parties should seek resolution before the appropriate authority.

3. This order should be effective immediately, consistent with the intent of the parties in entering into a settlement and waiving the public review and comment period.

O R D E R

IT IS ORDERED that an order is hereby issued against Laura P. and Jose F. Acevedo, doing business as Executive Lines, requiring that they cease and desist from operating beyond the scope of their certificate of public convenience and necessity.

This order is effective today.

This matter is closed.

Dated July 8, 1999, at San Francisco, California.

RICHARD A. BILAS
President
HENRY M. DUQUE
JOSIAH L. NEEPER
JOEL Z. HYATT
CARL W. WOOD
Commissioners