

Decision 99-10-017 October 7, 1999

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of Pacifico Transportation, a California limited liability company, for authority to operate as a passenger stage service throughout San Diego County, City of San Ysidro and Orange County, City of Huntington Park.

Application 99-03-058  
(Filed March 29, 1999)

**O P I N I O N****Summary**

This decision grants the application of Pacifico Transportation LLC (Applicant), a limited liability company, pursuant to Pub. Util. Code § 1031 et seq., for a certificate of public convenience and necessity to operate as passenger stage corporation (PSC), as defined in Pub. Util. Code § 226.

**Discussion**

Applicant requests authority to operate a scheduled PSC to transport passengers and their baggage between the community of San Ysidro located in the City of San Diego, on the one hand, and Huntington Park and East Los Angeles, on the other hand. The scheduled service will be provided daily, on an hourly basis, commencing at 5:00 a.m. and ending at 7:00 p.m. Applicant will service the proposed operation with its current fleet of 15 buses, each with seating capacity of 52 passengers. The proposed adult one-way fare is \$13. Applicant submitted a list of company members who have made capital contributions totaling \$100,000.

The application initially was unclear about whether the proposed service would commence in Tijuana, Mexico (which would constitute foreign commerce not subject to the Commission's jurisdiction) or in San Ysidro. By letter of July 20, 1999, Applicant clarified that its operation will include intrastate service commencing in San Ysidro.

The Commission's Rail Safety and Carriers Division (RSCD or staff) notes that about the time this application was filed, Applicant also submitted an application with staff for a charter-party carrier permit. The vehicles Applicant proposed to operate under the charter-party permit are the same vehicles Applicant proposes to operate under a PSC certificate. As part of the permit application approval process, the California Highway Patrol (CHP) conducted an inspection of Applicant's vehicles and terminal. The inspection disclosed numerous safety violations of the Vehicle Code and Title 13 of the California Code of Regulations. The CHP recommended denial of the charter-party permit application in accordance with Vehicle Code § 34505.1. As a consequence, staff denied the application on July 14, 1999, pursuant to provisions of Pub. Util. Code § 5378.6 and the authority delegated to staff by Commission Resolution TL-18336.

In the circumstances, we give Applicant special notice of our expectations regarding compliance with motor carrier safety regulations and the consequences of a carrier's failure to comply. This decision, like all our decisions granting PSC authority, provides that operations under the certificate may not commence until, among other things, the CHP has approved the use of Applicant's vehicles for service. Our decisions also direct new PSC carriers to comply with various regulations, including safety rules of the CHP. Applicant should give careful attention to these requirements. Should Applicant obtain the initial CHP approval necessary to commence operations under the certificate, we

will expect it thereafter to continue to comply with all applicable safety rules and regulations. Failure to do so will be cause for us to suspend or revoke Applicant's certificate.

Notice of filing of the application appeared in the Commission's Daily Calendar on April 2, 1999. The Applicant notified the affected cities.

In Resolution ALJ 176-3014 dated April 22, 1999, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. Given this status, public hearing is not necessary, and it is not necessary to alter the preliminary determinations made in Resolution ALJ 176-3014.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code § 311 (g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

### **Findings of Fact**

1. Applicant requests authority, as amended by letter of July 20, 1999, to operate a scheduled PSC to transport passengers and their baggage between San Ysidro, on the one hand, and Huntington Park and East Los Angeles, on the other hand.
2. Applicant applied for a charter-party permit. The application was denied on July 14, 1999, after CHP inspection of Applicant's terminal and vehicles disclosed numerous safety violations.
3. Public convenience and necessity requires the proposed service.
4. No protests to the application have been filed.
5. A public hearing is not necessary.
6. 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. Public convenience and necessity has been demonstrated and the application, as amended by letter of July 20, 1999, should be granted.
2. Applicant is required to comply with the Vehicle Code and regulations contained in Title 13 of the California Code of Regulations relative to motor carrier safety. Failure to maintain vehicles in a safe operating condition is good cause to suspend, revoke or deny PSC operating authority.
3. Since the matter is uncontested, the decision should be effective on the date it is signed.

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.

### **O R D E R**

#### **IT IS ORDERED that:**

1. A certificate of public convenience and necessity is granted to Pacifico Transportation LLC (Applicant), a limited liability company, authorizing it to operate as a passenger stage corporation, as defined in Pub. Util. Code § 226, to transport persons and their baggage, between the points and over the routes set forth in Appendix PSC-12362, subject to the conditions contained in the following paragraphs.
2. Applicant shall:
  - a. File a written acceptance of this certificate 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 the 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 101, 104, and 158, and the California Highway Patrol (CHP) safety rules.
- e. Comply with the controlled substance and alcohol testing certification program pursuant to Pub. Util. Code § 1032.1 and General Order Series 158.
- f. Maintain accounting records in conformity with the Uniform System of Accounts.
- g. Remit to the Commission the Transportation Reimbursement Fee required by Pub. Util. Code § 403 when notified by mail to do so.
- h. Comply with Pub. Util. Code §§ 460.7 and 1043, relating to the Workers' Compensation laws of this state.
- i. Enroll all drivers in the pull notice system as required by Section 1808.1 of the Vehicle Code.

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

4. Applicant is authorized to begin operations on the date that the Rail Safety and Carriers Division mails a notice to Applicant that its evidence of insurance and other documents required by Ordering Paragraph 2 have been filed with the Commission and that the CHP has approved the use of Applicant's vehicles for service.

5. The certificate of public convenience and necessity to operate as a passenger stage corporation (PSC-12362), granted herein, expires, unless exercised within 120 days after the effective date of this order. A failure of Applicant to secure the CHP approval required by Ordering Paragraph 4 within 120 days will itself be cause for the certificate to expire without further order of the Commission.

6. Applicant is placed on notice that failure to comply with motor carrier safety rules contained in the Vehicle Code and Title 13 of the California Code of Regulations is good cause for the Commission to suspend or revoke a passenger stage corporation certificate.

7. The Application, as amended by letter of July 20, 1999, is granted as set forth above.

8. This proceeding is closed.

This order is effective today.

Dated October 7, 1999, at Los Angeles, California.

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

A.99-03-058 ALJ/KLK/hkr

Appendix PSC-12362

Pacifico Transportation LLC.  
(a limited liability company)

Original Title Page

CERTIFICATE  
OF  
PUBLIC CONVENIENCE AND NECESSITY  
AS A PASSENGER STAGE CORPORATION  
PSC-12362

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Showing passenger stage operative rights, restrictions,  
limitations, exceptions, and privileges

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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.

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Issued under authority of Decision 99-10-017, dated October 7, 1999, of the Public  
Utilities Commission of the State of California in Application 99-03-058.

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

Pacifico Transportation LLC, a limited liability company, by the certificate of public convenience and necessity granted by the decision noted in the foot of the margin, is authorized to transport passengers and their baggage on a scheduled service between points and places as described in Section II, and over and along the route described in Section II, 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 a route description is given in one direction, it applies to operation in either direction unless otherwise indicated.
- b. Scheduled service will be operated only at the designated service areas as described in Section II. A description of all the stop points and the arrival and departure times from such points shall be indicated in the timetable.
- c. No passengers shall be transported except those having a point of origin or destination 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.

Issued by California Public Utilities Commission.

Decision 99-10-017, Application 99-03-058.

SECTION III. ROUTE DESCRIPTION.

Commencing from the community of San Ysidro, located in the City of San Diego, then over the most convenient streets, expressways, and highways to Huntington Park and East Los Angeles.