

Decision 99-10-056 October 21, 1999

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Peerless Limousine Service by and through Richard M. Kipperman, Bankruptcy Trustee, to transfer the certificate of public convenience and necessity of Peerless Limousine Service to El Camino Livery California corporation. This request is made pursuant to Section 851 et seq. of the California Public Utilities Code.

Application 99-07-030
(Filed July 19, 1999)

OPINION

Summary

Transfer of PSC-1466 (Peerless Limousine Service) to El Camino Livery granted.

Discussion

Richard M. Kipperman, Chapter 7 Bankruptcy Trustee for Peerless Limousine Service (Transferor) wishes to transfer a certificate of public convenience and necessity (PSC-1466) to El Camino Livery (Transferee). Peerless Limousine Service (Peerless) entered Chapter 11 bankruptcy. This was converted to Chapter 7 on September 22, 1998. Transferor proposes to transfer only the operating authority of Peerless. This authority permits Peerless to carry passengers and baggage between certain points in the County of San Diego on the one hand and San Diego International Airport on the other hand.

Transferee presently hold a Class A Charter Party authority (TCP 4994-A) from this Commission. Its officers and personnel have been engaged in this operation for over 15 years. It represents that it will staff the transferred

operations with experienced personnel. The income statement for Transferee for 1998 indicates that the net profit of Transferee was \$41,816.68 and the total equity was \$54,208.27. Transferee has deposited \$5,000 with Transferor for the certificate.

This application appeared on the Commission's Daily Calendar on July 22, 1999. There have been no protests.

In Resolution ALJ-176-3021, dated August 5, 1999, the Commission preliminarily categorized the application as ratesetting and preliminarily determined that a hearing was not necessary. The Commission's Rail Safety and Carriers Division recommends that the application be granted. Given these developments, a public hearing is not necessary and it is not necessary to disturb the preliminary determination made in Resolution ALJ-176-3021.

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. Peerless was issued a passenger stage certificate (PSC-1466) to operate between certain points in the City and County of San Diego on the one hand and San Diego International Airport on the other hand.
2. Transferor is the Chapter 7 trustee in bankruptcy for Peerless.
3. Transferor wishes to sell and Transferee wishes to purchase PSC-1466.
4. Transferee currently holds TCP-4994-A, a Class A charter party carrier authority.
5. Transferee has deposited \$5,000 with Transferor for the purchase of PSC-1466.

6. Transferee will operate PSC-1466 with experienced transportation personnel.

7. Transferee's operations were profitable in 1998.

Conclusions of Law

1. The applicant has the necessary financial resources, equipment, and experience to provide the service proposed.

2. PSC-1466 should be transferred to Transferee.

3. Since the matter is non-controversial, the order should be made effective the date it is signed.

O R D E R

IT IS ORDERED that:

1. Within 120 days from the effective date of this decision, Richard M. Kipperman, Chapter 7 Bankruptcy Trustee for James K. Burnham and Brian L. Burnham (Transferor), a general partnership, doing business as Peerless Limousine Service, may transfer the operative rights specified in the application to El Camino Livery (Transferee), a California corporation, subject to the conditions contained in the following paragraphs.

2. Transferee shall:

- a. File a written acceptance of the transfer certificate and the extended certificate within 30 days after this order is effective.
- b. Amend or reissue transferors' 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 (CHP) safety rules.

- d. Comply with the controlled substance and alcohol testing certification program pursuant to Pub. Util. Code § 1032.1 and General Order Series 158.
- e. Maintain accounting records in conformity with the Uniform System of Accounts.
- f. Remit to the Commission the Transportation Reimbursement Fee required by Pub. Util. Code § 403 when notified by mail to do so.
- g. Comply with Pub. Util. Code §§ 460.7 and 1043, relating to the Workers' Compensation laws of this state.
- h. Enroll all drivers in the pull notice system as required by Section 1808.1 of the Vehicle Code.

3. If the transfer is completed, a certificate of public convenience and necessity is granted to Transferee, authorizing it to operate as a passenger stage corporation, as defined in Pub. Util. Code § 226, between the points and over the routes set forth in Appendix PSC-4994, to transport persons and their baggage. The certificate is effective on the effective date of the tariffs.

4. The certificate of public convenience and necessity granted to Transferor by Decision 88-08-007 is revoked on the effective date of the tariffs filed by the Transferee.

5. 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.

6. Transferee is authorized to begin operations on the date that the Rail Safety and Carriers Division mails a notice to the Transferee 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 Transferee's vehicles for service.

7. The certificate of public convenience and necessity to operate as a passenger stage corporation (PSC-4994), granted herein to the Transferee, expires, unless exercised within 120 days after the effective date of this order.

8. The application is granted as set forth above.

9. This proceeding is closed.

This order is effective today.

Dated October 21, 1999, at San Francisco, California.

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

RSCD/mm

Appendix PSC-4994

El Camino Livery
(a corporation)

Original Title Page

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
AS A PASSENGER STAGE CORPORATION
PSC-4994

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 the authority heretofore granted
to James K. Burnham and Brian L. Burnham, a partnership, by D.88-04-027.

Issued under authority of Decision 99-10-056, dated October 21, 1999, of the
Public Utilities Commission of the State of California in Application 99-07-030.

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Issued by California Public Utilities Commission.

Decision 99-10-056, Application 99-07-030.

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

This certificate supersedes all passenger stage operative authorities granted to James K. Burnham and Brian L. Burnham, a partnership.

El Camino Livery, a corporation, 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 between points and places as described in Section IIA, and the airport described in Section IIB, over and along the route described in Section III, 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. 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 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 AREAS.

A. San Diego County Service Area

Includes all points within the geographical limits of the following described boundary:

Beginning at the intersection of Alta Road and the International Border with Mexico, then north on Alta Road and the western shore of the Otay Reservoir, northwest on Proctor Valley Rd, west on San Miguel Road, north on Bonita Road, Sweetwater River, and along the northwestern shore of Sweetwater Reservoir, northeast along the Sweetwater River, north on Sloane Canyon Road, Harbison Canyon Road, and Arnold Way, northwest on Alpine Boulevard, north on Lunbar Lane and the western boundary of the Cleveland National Forest, west on San Diego River, north on State Highway (State) 67, north on Archie Moore Road and Highland Valley Road, northeast along Bandy Canyon Road, northwest on State 78, north along the eastern boundary of San Diego Wild Animal Park and its projection to the northern boundary of the City of San Diego (City), west along the northern boundary of the City, north on Cloverdale Road, northwest on Mountain View Drive, east and north along the boundary of the City of Escondido, north on San Diego County Highway S6, north on Lilac Road, west on West Lilac Road and Circle R Drive, south on Champagne Boulevard, west on Gopher Canyon Road, southwest along San Luis Rey River, north along the eastern city limit of Oceanside, southwest along the Camp Pendleton Marine Corps Base-Oceanside boundary, south along Interstate Highway 5, southwest on Oceanside Boulevard to the Pacific Ocean.

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SECTION II. SERVICE AREAS (concluded).

The above service area generally includes the following cities/communities:

Cardiff-By-The Sea	La Jolla	Poway
Carlsbad	Lakeside	Rancho Bernardo
Chula Vista	La Mesa	Rancho Santa Fe
Clairemont	Lemon Grove	San Carlos
Coronado	Linda Vista	San Diego
Coronado Cays	Miramar	San Marcos
Del Mar	Mira Mesa	Santee
El Cajon	Mission Beach	San Ysidro
Encinitas	National City	Scripps Miramar Ranch
Escondido	North Park	Solana Beach
Hillcrest	Ocean Beach	Spring Valley
Imperial Beach	Oceanside	Tierrasanta
La Costa	Otay	Vista

B. San Diego International Airport.

SECTION III. ROUTE DESCRIPTION.

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

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