

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution CE 9-90
Transportation Division

R E S O L U T I O N

RESOLUTION DENYING THE APPLICATION OF V V LA JOLLA TRANSPORTATION, INC., DBA MERCEDES TRANSPORTATION OF LA JOLLA, FOR AN EXEMPTION FROM THE REQUIREMENTS OF GENERAL ORDER 157, PART 5.03.

BACKGROUND

General Order (GO) 157 sets forth rules and regulations governing the operations of charter-party carriers of passengers. V V La Jolla Transportation, Inc., dba Mercedes Transportation of La Jolla, (Mercedes) has made application for an exemption from GO 157, Part 5.03.

GO 157, Part 5.03, states:

- "DRIVER STATUS. Every driver of a vehicle shall be the permit/certificate holder or under the complete supervision, direction and control of the operating carrier and shall be:
- "A. An employee of the permit/certificate holder; or
 - "B. An employee of a sub-carrier; or
 - "C. An independent owner-driver who holds Commission authority and is operating as a sub-carrier."

Mercedes does not hold operating authority from the Commission. The applicant's sole stockholder is Virgil J. Vance. Commission records show that Virgil J. Vance holds charter-party authority as an individual under TCP 4911-P.

Mercedes engages 34 independent drivers who are paid on a commission-only basis. The drivers are not employees nor do they hold charter-party authority from the Commission. The applicant states it has historically had a high turnover rate of drivers, the average stay being three months. Mercedes alleges that it would suffer economic hardship if it were to change the status of its drivers from independent contractors to employees or, in the alternative, make the drivers obtain charter-party permits.

The application does not state whether the drivers operate their own vehicles or vehicles belonging to Mercedes. Staff

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Investigation discloses that the vehicles are owned by Mercedes and leased to the independent contractor drivers.

Mercedes asserts that the La Jolla community is not adequately served by public transportation. Many of its customers are senior citizens who use the service for local trips, such as to the supermarket, cleaners, Post Office, and medical offices. Attached to its application are statements from 45 customers attesting to the need for Mercedes' service. Mercedes contends that if it fails to get the requested relief from GO 157, the increased costs incurred would jeopardize its survival and possibly eliminate a valuable transportation service for senior citizens and other residents of La Jolla.

DISCUSSION

On its present showing Applicant Mercedes has failed to show adequate reason for an exemption from GO 157, Part 5.03. This rule reflects our interpretation of applicable statutes and our desire to have carriers operating under the jurisdiction of the Commission to exercise a high degree of control over their drivers and vehicles. We can appreciate Mercedes' wish to keep its labor costs and the charges for its services as low as possible, but in this respect it is no different than other carriers. Applicant may file a formal application for the exemption if it wishes to present a factual showing at hearing in support of its application.

Virgil J. Vance is placed on notice that if he has incorporated his operations, V V La Jolla Transportation, Inc. should immediately apply for and obtain charter-party authority from the Commission. Operations without authority are unlawful.

FINDINGS

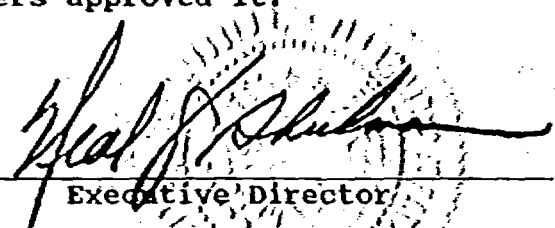
1. Applicant V V La Jolla Transportation, Inc. does not hold authority to operate from the Commission.
2. V V La Jolla Transportation, Inc. has not established in this showing that an exemption from GO 157, Part 5.03, is justified.

THEREFORE, IT IS ORDERED that:

The application of V V La Jolla Transportation, Inc. for an exemption from GO 157, Part 5.03, is denied.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on SEP 12 1990, 1990. The following Commissioners approved it:

G. MITCHELL WILK
President
FREDERICK R. DUDA
STANLEY W. HULETT
PATRICIA M. ECKERT
Commissioners


Executive Director

Commissioner John B. Ohanian, being necessarily absent, did not participate.