

ORIGINAL

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own)
motion into the operations and)
practices of Itat Corporation.)
Respondent.)

FILED
PUBLIC UTILITIES COMMISSION
MARCH 22, 1991
SAN FRANCISCO OFFICE
I.91-03-045

ORDER INSTITUTING INVESTIGATION

Itat Corporation (Respondent Carrier) (Itat) whose mailing address is 3028A Scott Blvd. Santa Clara, California 95054, is engaged in the business of transporting passengers over the public highways of this state for compensation. Itat formerly held a charter-party carrier permit under TCP 1359P and a passenger stage certificate under PSC 1359. These operating authorities were revoked effective August 9, 1990 for failure to maintain adequate liability insurance on file with the Commission. On January 10, 1991 Itat filed an application for a new Class B charter party carrier certificate. Its vehicle fleet consists of seven passenger vehicles.

A staff investigation disclosed that Respondent Itat had apparently continued to conduct operations as a charter-party carrier of passengers after the revocation of its certificate on August 9, 1990 for failure to maintain evidence of liability insurance on file with the Commission. This caused the staff on December 5, 1990 to issue a citation forfeiture with a fine of \$ 5,500 to

Respondent pursuant to Public Utilities (PU) Code Section 5413.5. Under this section the Commission may impose a fine of up to \$ 5,000 per violation plus reasonable investigative expenses against unlicensed charter-party carriers. The Commission has authorized the Transportation Division staff to assess these fines under the informal citation forfeiture program. Under this procedure the carrier may either agree to the citation and pay the fine, or deny the citation, in which case the matter is referred to the Commission for a formal hearing. Respondent Itat denied the citation.

On November 20, 1990 Respondent Itat filed an application for a new Class B charter-party carrier certificate. The application was denied on December 12, 1990 at the recommendation of the California Highway Patrol (CHP). The CHP made its recommendation pursuant to PU Code Section 5378.6 after assigning Respondent Itat an unsatisfactory terminal safety rating. The CHP's safety inspection has disclosed imminently hazardous tire and exhaust system defects, resulting in four vehicles being placed out of service, and other violations of CHP regulations and the Vehicle Code.

The second staff investigation disclosed that Respondent Itat had apparently continued to conduct operations after the issuance of the citation forfeiture on December 5, 1990 and the denial of its application for a certificate on December 12, 1990. The investigation also showed that Respondent Itat has apparently failed to observe waybill documentation requirements in accordance with Part 3.01 of General Order 157.

On January 10, 1991 Respondent Itat filed another application for a Class B charter-party carrier certificate. PU Code Sections 5374 and 5375 require applicants for such authority to establish reasonable fitness and financial responsibility. By letter dated February 6, 1991, signed by Transportation Division Director William R. Schulte, Respondent Itat was advised that the staff could not approve its application because, in the opinion of the staff, it did not possess requisite fitness and financial responsibility. The staff gave the following as reasons for not approving the application:

- (1) A citation forfeiture with a fine of \$ 2,000 was issued to Itat Corporation on August 24, 1989 when investigation disclosed that the carrier had conducted operations after the suspension and expiration of its authority and after an application for new authority was denied for failure to meet insurance requirements. The carrier paid the \$ 2,000.00 fine.
- (2) After the staff issued the citation forfeiture on August 24, 1989, Itat Corporation continued to violate Utilities Code Section 5371. Itat had

continued to conduct operations without authority, resulting in the issuance of another citation on December 14, 1989 with a fine of \$ 2,045.63. The fine was paid.

- (3) Itat Corporation continued to conduct operations after the revocation of its authority on August 9, 1990, which resulted in the issuance of a \$ 5,500 citation forfeiture on December 5, 1990. The citation was denied.
- (4) After an application for a certificate was denied on December 12, 1990 at the recommendation of the CHP, Itat Corporation continued to conduct charter-party operations.

The staff letter advised Respondent Itat that to be issued a new certificate it would have to establish reasonable fitness and financial responsibility to the Commission's satisfaction through a formal application.

Good cause appearing; therefore,

IT IS ORDERED that an investigation on the Commission's own motion is hereby instituted into the operations and practices of respondent Itat Corporation for the purpose of determining:

1. Whether respondent Itat has violated Sections 702 and 5381 of the Public Utilities Code by failing to issue and maintain waybills containing all of the information required by Rules 3.01 and 6.01 of General Order 157.
2. Whether respondent Itat has violated Sections 702 and 1040 of the Public Utilities Code by conducting operations after its passenger stage certificate was revoked on August 9, 1990 for failure to maintain evidence of liability insurance on file with the Commission as required by General Order 101-E.
3. Whether respondent Itat Corporation has violated Sections 5379 and 5381 of the Public Utilities Code by conducting operations as a charter party carrier of passengers after its Class B certificate was revoked on August 9, 1990 for failure to maintain evidence of liability insurance on file with the Commission as required by General Order 115-E.
4. Whether respondent Itat Corporation has violated Section 5371 of the Public Utilities Code by conducting

operations as a charter party carrier of passengers without a certificate or permit issued by the Commission authorizing such operations.

5. Whether a fine should be imposed pursuant to Sections 1033.5, 5413.5 and 5415 of the Public utilities Code.

6. Whether respondent Itat Corporation should be ordered to cease and desist from any and all unlawful operations and practices.

7. Whether any other orders that may be appropriate should be entered in the lawful exercise of the Commission's jurisdiction.

A public hearing in this matter shall be held before an Administrative Law Judge of the Commission at a time and place to be determined, at which time and place all interested parties may appear and be heard.

In the event Respondent Itat files a formal application for a charter-party certificate, it would be appropriate to consolidate the application with this investigatory proceeding.

The Executive Director is directed to cause a certified copy of this order to be served personally forthwith on respondent Itat Corporation.

This order is effective today.

Dated March 22, 1991, at San Francisco, California.

PATRICIA M. ECKERT
PRESIDENT
G. MITCHELL WILK
JOHN B. OHANIAN
NORMAN D. SHUMWAY
Commissioners

Commissioner Daniel Wm. Fessler, being necessarily absent, did not participate.

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY

Neal J. Shulman
4 NEAL J. SHULMAN, Executive Director