

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Mercedes-Benz Research and Development North America, Inc. for a Certificate of Public Convenience and Necessity to operate as an on-call Passenger Stage Corporation between various points in the Counties of San Mateo and Santa Clara; and to establish a Zone of Rate Freedom.

Application 13-02-003
(Filed February 7, 2013)

D E C I S I O N**Summary**

This decision grants the application of Mercedes-Benz Research and Development North America, Inc., a Delaware corporation, pursuant to Pub. Util. Code § 1031 et seq., for a certificate of public convenience and necessity to operate as a passenger stage corporation, as defined in Pub. Util. Code § 226, and to establish a Zone of Rate Freedom, pursuant to Pub. Util. Code § 454.2.

Discussion

Mercedes-Benz Research and Development North America, Inc., (Applicant), by its application and as supplemented by correspondence, requests authority to operate as an on-call Passenger Stage Corporation (PSC) to transport children to and from school and after-school activities from various points in the counties of San Mateo and Santa Clara. Applicant is a wholly-owned subsidiary of Daimler North America Corporation. Applicant is headquartered in Palo Alto, California, and conducts automotive research and development. Applicant will operate the service using Mercedes-Benz Sprinter Passenger vans with a

maximum seating capacity of 10. Transportation will be offered on an on-call basis, in which scheduling and routes will be determined based on the user requests. The proposed one-way fare is \$22, and applicant requests a Zone of Rate Freedom (ZORF) of up to \$15 above and below the proposed fare, with a minimum fare of zero dollars in the event of complimentary offerings.

Reservations made 48 hours in advance are required. Reservations made within 48 hours may be charged a maximum of \$44.

Applicant states that its proposed passenger stage service will help reduce traffic congestion in its service territory and fill a demand for school and after-school activity based transportation; it has provided over 127 years of mobility products to the world; and their current pilot program is focused on providing safe and reliable transportation to ease the stress of parents' schedules as well as providing an avenue for youths to access enrichment activities.

To meet the financial requirements for filing a PSC application, applicant has secured a line of credit issued by Daimler North America Finance Corporation in the amount of \$40,000,000.

Decision (D.) 97-07-063 in Rulemaking 95-08-002 adopted rules applicable to carriers primarily engaged in the transportation of unaccompanied children¹ under the age of 18 years in vehicles that accommodate not more than ten persons. These rules, contained in Appendix A of the decision, are applicable to the requested service of Applicant, and are in addition to any other requirements that apply to all PSCs.

¹ The term "unaccompanied children" as used in D.97-07-063 includes transportation of an affiliated adult accompanying a child during, or incidental to, the transportation at issue.

In accordance with the requirements of Appendix A of D.97-07-063, Applicant's Chief Executive Officer (CEO) and key personnel shall have their names entered into the TrustLine Registry² prior to issuance of the PSC certification. Under our rules, any future drivers or personnel coming into physical contact with infant and children passengers will also have to be registered with the TrustLine.

Notice of filing of the application appeared in the Commission's Daily Calendar on February 11, 2013. Applicant sent a notice of the application to the involved cities and counties, and public transit operators in the San Mateo and Santa Clara counties. Additionally, in compliance with Ordering Paragraphs Nos. 7 and 8 of D.97-07-063, Applicant filed a Certificate of Service on July 18, 2013. Applicant notified each public school superintendent and pediatric health director in the service territory of the application, and had a notice published on July 16 and 17, 2013, in the San Mateo Times and San Jose Post Record, California newspapers of general circulation.

In Resolution ALJ 176-3309, dated February 13, 2013, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protest has been received. Given this status, public hearing is not necessary, and it is not necessary to alter the preliminary determinations made in Resolution ALJ 176-3309.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code

² The TrustLine Registry is a screening program of caregivers administered by the state Department of Social Services and the nonprofit California Child Care Resource and Referral Network. Caregivers registered with the TrustLine have been fingerprinted and have cleared a criminal background check by the state Department of Justice.

and Rule 14.6(c)(2) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment is waived.

Safety Considerations

In order to be authorized to commence operations as a PSC, the applicant must comply with the following requirements in order to protect public safety: Proof of insurance pursuant to General Order Series 101, compliance with the controlled substance and alcohol testing program pursuant to Pub. Util. Code §1032.1 and General Order Series 158, and enrollment in the pull notice system as required by Section 1808.1 of the Vehicle Code.

Assignment of Proceeding

Emory J. Hagan III is the assigned Examiner in this proceeding.

Findings of Fact

1. Applicant requests authority to operate as an on-call PSC to transport children between various points in the counties of San Mateo and Santa Clara.
2. Public convenience and necessity requires the proposed service.
3. The rules and regulations for the transportation of children contained in Appendix A of D.97-07-063 are applicable to the service involved in this application.
4. Applicant has complied with the notice requirements prescribed in Ordering Paragraphs Nos. 7 and 8 of D.97-07-063.
5. Applicant requests authority to establish a ZORF of \$15 above and below the proposed fare of \$22, with a minimum fare of zero dollars in the event of complimentary offerings. Reservations made within 48 hours may be charged a maximum of \$44.
6. No protest to the application has been filed.
7. A public hearing is not necessary.

8. 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 should be granted.
2. The request for a ZORF should be granted because the ZORF is fair and reasonable.
3. Before Applicant changes any fares under the ZORF authorized below, Applicant should give this Commission at least ten days' notice. The tariff should show the high and low ends of the ZORF and the then currently effective fare between each pair of service points.
4. Because the matter is uncontested, the decision should be effective on the date it is signed.
5. 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 Mercedes-Benz Research and Development North America, Inc., a Delaware corporation, authorizing it to operate as a Passenger Stage Corporation (PSC), as defined in Pub. Util. Code § 226, to transport unaccompanied children under the age of 18 years and affiliated adults who are being transported in accordance with the rules and regulations contained in Appendix A of Decision 97-07-063, and their

baggage, between the points and over the routes set forth in Appendix PSC-31236, subject to the conditions contained in the following paragraphs.

2. Mercedes-Benz Research and Development North America, Inc., shall:

- a. File a written acceptance of this certificate within 30 days after this decision is effective.
- b. Establish the authorized service and file tariffs and timetables within 120 days after this decision is effective.
- c. File tariffs on or after the effective date of this decision. They shall become effective ten days or more after the effective date of this decision, provided that the Commission and the public are given not less than ten days' notice.
- d. Comply with Commission's General Orders Series 101 and 158, and the California Highway Patrol safety rules.
- e. Comply with the Commission's controlled substance and alcohol testing certification program pursuant to Pub. Util. Code § 1032.1 and General Order Series 158.
- f. Remit to the Commission the Transportation Reimbursement Fee required by Pub. Util. Code § 423 when notified by mail to do so. Failure to comply with this filing will result in suspension and/or revocation of authority.
- 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 Vehicle Code § 1808.1.
- i. Comply with the "Adopted Rules for Infant and Children Common Carriers' contained in Appendix A of Decision 97-07-063.

3. Mercedes-Benz Research and Development North America, Inc., is authorized under Pub. Util. Code § 454.2 to establish a Zone of Rate Freedom of \$15 above and below the proposed fare of \$22, as indicated in the application and by supplemental correspondence.

4. Mercedes-Benz Research and Development North America, Inc., shall file a Zone of Rate Freedom (ZORF) tariff with the Commission and the public in accordance with the application at least ten days before the effective date of the tariff. The ZORF shall expire unless exercised within 120 days after the effective date of this decision.

5. Mercedes-Benz Research and Development North America, Inc., may make changes within the Zone of Rate Freedom by filing amended tariffs on not less than ten days' notice to the Commission and to the public. The tariff shall include the authorized maximum and minimum fares and the fare to be charged between each pair of service points.

6. In addition to posting and filing tariffs, Mercedes-Benz Research and Development North America, Inc., shall post notices explaining fare changes in its schools and school facilities and its passenger-carrying vehicles. Such notices shall be posted at least ten days before the effective date of the fare changes and shall remain posted for a at least thirty days.

7. Mercedes-Benz Research and Development North America, Inc., (Applicant), is authorized to begin operations on the date that the Safety and Enforcement Division mails a notice to Applicant that its evidence of insurance and other documents required by Ordering Paragraph No. 2 have been filed with the Commission and that the California Highway Patrol has approved the use of Applicant's vehicles for service.

8. The Certificate of Public Convenience and Necessity to operate as Passenger State Corporation PSC-31236, granted herein, expires unless exercised within 120 days after the effective date of this decision.

9. The Application is granted as set forth above.

10. This proceeding is closed.

This decision is effective today.

A.13-02-003 SED/EJH/rff

Dated _____, at Carmel-by-the-Sea, California.

SED/rff

Appendix PSC-31236
(CHILD-31236[♦])

Mercedes-Benz
Research and Development
North America, Inc.
(a Delaware corporation)

Original Title Page

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
AS A PASSENGER STAGE CORPORATION
PSC-31236

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.

[♦]Each vehicle shall contain this identifying symbol on its front and rear bumpers,
visible at a minimum of 100 feet in accordance with the rules contained in Appendix A
of Decision 97-07-063.

Issued under authority of Decision _____, dated _____, 2013, of the Public
Utilities Commission of the State of California in Application 13-02-003.

SED/rff

Appendix PSC-31236
(CHILD-31236♦)

Mercedes-Benz
Research and Development
North America, Inc.
(a Delaware corporation)

Original Title Page

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♦Each vehicle shall contain this identifying symbol on its front and rear bumpers, visible at a minimum of 100 feet in accordance with the rules contained in Appendix A of Decision 97-07-063.

Issued by California Public Utilities Commission.
Decision _____, Application 13-02-003.

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

Mercedes-Benz Research and Development North America, Inc., a Delaware corporation, by the certificate of public convenience and necessity granted by the decision noted in the foot of the margin, is authorized to operate as an on-call, door-to-door passenger stage corporation specializing in the transportation of children between the points described in Section II, over the routes 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. Unaccompanied children under 18 years of age and their baggage may be transported, provided that children under four years of age shall be accompanied by a parent, guardian, parent or guardian approved family member, or an adult supervisor. If the adult supervisor is affiliated with the carrier, that person shall have been approved in writing by the parent or guardian
- B. Adults affiliated with children passengers may be transported when the transportation is incidental to the transportation of a child. This includes adults being carried directly to pick up a child to be transported, or directly to return from accompanying a child.

[♦]Each vehicle shall contain this identifying symbol on its front and rear bumpers, visible at a minimum of 100 feet in accordance with the rules contained in Appendix A of Decision 97-07-063.

- C. When a route description is given in one direction, it applies to operation in either direction unless otherwise indicated.
- D. The term "on-call," as used, refers to service which is authorized to be rendered dependent on the demands of passengers. The tariffs shall show the conditions under which each authorized on-call service will be provided, and shall include the description of the boundary of each fare zone, except when a single fare is charged to all points within a single incorporated city.
- E. Service shall be provided only at the points named in Section II.

[♦]Each vehicle shall contain this identifying symbol on its front and rear bumpers, visible at a minimum of 100 feet in accordance with the rules contained in Appendix A of Decision 97-07-063.

SED/rff

Appendix PSC-31236
(CHILD-31236♦)

Mercedes-Benz
Research and Development
North America, Inc.
(a Delaware corporation)

Original Title Page

SECTION II. SERVICE AREA.

Various points in the Counties of San Mateo and Santa Clara

SECTION III. ROUTE DESCRIPTION.

From any point in Section II, then over the most convenient streets and highways to any other point in Section II.

♦Each vehicle shall contain this identifying symbol on its front and rear bumpers, visible at a minimum of 100 feet in accordance with the rules contained in Appendix A of Decision 97-07-063.