

Decision 04-02-053 February 26, 2004

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Sarah E. Wiles and Brett R. Koehler of The Happy Sunshine Bus, LLC for authority to operate as an on-call passenger stage corporation for children within the areas of Los Angeles County between locations as requested by the child's parent(s) or guardian(s), and to establish a Zone of Rate Freedom.

Application 03-08-023
(Filed August 25, 2003)

O P I N I O N

Summary

This decision grants the application of The Happy Sunshine Bus, LLC (Applicant), a limited liability company, pursuant to Public Utilities (Pub. Util.) Code § 1031 et seq., for a certificate of public convenience and necessity to operate as a passenger stage corporation (PSC), as defined in Pub. Util. Code § 226, and to establish a Zone of Rate Freedom (ZORF), pursuant to Pub. Util. Code § 454.2.

Discussion

The application, as amended by letters of October 14 and November 3, 2003, requests authority to operate as a PSC specializing in the transportation of children between points in Los Angeles County, and to establish a ZORF.

Applicant's primary service area will be Pasadena and surrounding cities. Applicant states there is a need in the area for a safe, reliable, cost-effective way for children to be transported to such activities as day-care, athletics, music and dance lessons, and doctor's appointments. Attached to the application is an

unaudited balance sheet as of August 26, 2003, that discloses assets and net worth of \$100,000.

The proposed one-way fare will be \$12 per child. A monthly discount fare of \$800 will apply for 40 round trips per month. Applicant requests authority to establish a ZORF of 40% above and below any of the proposed fares. The minimum fare is \$10. While public transit and taxicabs are available in the service area, the principal competition for this type of service is the private automobile. If Applicant prices its service too high, parents will likely transport their children themselves or seek other arrangements, such as carpooling. This should serve to keep Applicant's fares at a reasonable level under the ZORF.

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, except carriers utilizing valid youth bus vehicles, as defined in Vehicle Code § 680, whose seating capacity is sixteen passengers or less, and operate as a common carrier. 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 applicable to all PSCs.

Applicant intends to operate the service initially with one van. Applicant's managing member, Brett R. Koehler, will be the only driver. In accordance with the requirements of Appendix A of D.97-07-063, Koehler has caused his name to

¹ 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.

be entered into the TrustLine Registry.² 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. Records of the Department of Motor Vehicles show that Koehler holds a valid commercial driver's license.

Notice of filing of the application appeared in the Commission's Daily Calendar on August 27, 2003. Applicant notified the affected transit operators and involved counties. Applicant also notified each public pediatric health director and superintendent of each public school district in the proposed service area, and had a notice published in the *Pasadena Weekly*, a California newspaper of general circulation, in compliance with Ordering Paragraphs 7 and 8 of D.97-07-063.

In Resolution ALJ 176-3118 dated September 4, 2003, 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 176-3118.

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.

Assignment of Proceeding

Richard Clark is the assigned Examiner in this proceeding.

² The TrustLine Registry is 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.

Findings of Fact

1. The amended application requests authority to operate as an on-call PSC, primarily to transport children, between points and places in Los Angeles County.
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 Ordering Paragraphs 7 and 8 of D.97-07-063.
5. Applicant's managing member, who initially will be the only driver, is registered in the TrustLine Registry.
6. Applicant requests authority to establish a ZORF of 40% above and below any of the proposed fares. The minimum fare is \$10.
7. Applicant will compete with taxicabs, public transit, and private automobiles in its service area. The ZORF is fair and reasonable.
8. No protest to the application has been filed.
9. A public hearing is not necessary.
10. 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 letters of October 14 and November 3, 2003, should be granted.
2. Applicant should be required to comply with the rules and regulations as contained in Appendix A of D.97-07-063, in addition to any other requirements applicable to all PSCs.
3. The request for a ZORF should be granted.

4. Before Applicant changes any fares under the ZORF authorized below, Applicant should give this Commission at least 10 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.

5. Since the matter is uncontested, the decision should be effective on the date it is signed.

6. 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 (CPCN) is granted to The Happy Sunshine Bus, LLC (Applicant), a limited liability company, authorizing it to operate as a passenger stage corporation (PSC), as defined in Public Utilities (Pub. Util.) Code § 226, primarily 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 route set forth in Appendix PSC-16999 (CHILD-16999), 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. File tariffs on or after the effective date of this order. They shall become effective ten days or more after the effective date of this order, provided that the Commission and the public are given not less than ten days' notice.
 - 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 § 423 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.
 - j. Comply with the "Adopted Rules for Infant and Children Common Carriers" contained in Appendix A of Decision 97-07-063.
3. Applicant is authorized under Pub. Util. Code § 454.2 to establish a ZORF of 40% above and below any of the proposed fares. The minimum fare is \$10.
 4. Applicant shall file a ZORF tariff in accordance with the application on not less than 10 days' notice to the Commission and to the public. The ZORF shall expire unless exercised within 120 days after the effective date of this order.
 5. Applicant may make changes within the ZORF by filing amended tariffs on not less than 10 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, Applicant shall post notices explaining fare changes in its terminals and 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 at least thirty days.

7. Applicant is authorized to begin operations on the date that the Consumer Protection and Safety 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 vehicle for service.

8. 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.

9. The CPCN to operate as PSC-16999 (CHILD-16999), granted herein, expires unless exercised within 120 days after the effective date of this order.

10. The Application, as amended by letters of October 14 and November 3, 2003, is granted as set forth above.

11. This proceeding is closed.

This order is effective today.

Dated February 26, 2004, at San Francisco, California.

MICHAEL R. PEEVEY
President
CARL W. WOOD
LORETTA M. LYNCH
GEOFFREY F. BROWN
SUSAN P. KENNEDY
Commissioners

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
AS A PASSENGER STAGE CORPORATION
PSC-16999
(CHILD-16999*)

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 04-02-053, dated February 26, 2004, of the
Public Utilities Commission of the State of California in Application 03-08-023.

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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.

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

The Happy Sunshine Bus, 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 unaccompanied children who are under 18 years of age and their baggage, provided that children under four years of age shall be accompanied by a parent, guardian, parent or guardian approved by a family member, or an adult supervisor approved by the parent or guardian; and adults affiliated with children passengers when the transportation is incidental to the transportation of a child. Adults may also be carried to directly pick up a child to be transported, or directly return from accompanying a child. The service shall be provided on an "on-call" door-to-door basis, between points and places as described in Section II 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.

♦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.

SECTION I. GENERAL AUTHORIZATIONS, RESTRICTIONS,
LIMITATIONS, AND SPECIFICATIONS (concluded).

- B. The term "on-call", as used, refers to service which is authorized to be rendered dependent on the demands of a passenger's parents, guardian or non-carrier affiliated adult supervisor designated by the parent or guardian arranging for a child passenger's transportation and for the transportation of an adult, if any, accompanying a child passenger. 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.
- C. No passengers shall be transported except those having a point of origin or destination as described in Section II.
- D. This certificate does not authorize the holder to conduct any operation on the property of any airport unless such operation is authorized by the airport authority involved.

♦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.

SECTION II. SERVICE AREA.

Points and places in Los Angeles County.

SECTION III. ROUTE DESCRIPTION.

Commencing from any point in described in Section II, then over the most convenient streets, expressways, and highways to any other point described 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.