

Decision 09-08-013 August 20, 2009

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Arrive Alive, LLC doing business as Arrive Alive for a Certificate of Public Convenience and Necessity to operate as a Passenger Stage Corporation between the Cities of Isla Vista and Santa Barbara, California, separately, between the Cities of San Diego and Pacific Beach, California, and to establish a Zone of Rate Freedom pursuant to Section 454.2, Public Utilities Code.

Application 09-06-002  
(Filed June 1, 2009)

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

**Summary**

This decision grants the application of Arrive Alive, LLC (Applicant), a limited liability company, pursuant to 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 letter dated July 9, 2009, requests authority to operate as a scheduled PSC to transport passengers and their baggage between (1) San Diego State University (SDSU) and Pacific Beach (both of which are within the City of San Diego), (2) SDSU and Downtown San Diego,

(3) Pacific Beach and Downtown San Diego, and (4) the City of Santa Barbara and Isla Vista<sup>1</sup>.

Each route will operate Tuesday through Saturday nights and during special events to accommodate the transportation needs of university students. Applicant states that many Isla Vista residents frequent Downtown Santa Barbara as their entertainment center. Large numbers of these people do not own automobiles and are in need of inexpensive and convenient bus service. Even automobile owners seek a safe and legal form of transportation after 6:00 p.m. to travel to and from Isla Vista. The San Diego routes are designed to meet the needs of SDSU students, who frequent Pacific Beach and Downtown San Diego for entertainment. Applicant indicates there is a need for service over the proposed San Diego routes due to a current lack of evening and night time transportation. It states that all of the proposed services will help to relieve traffic congestion, alleviate parking problems, and reduce pollution.

Applicant maintains it has the knowledge and ability to conduct the proposed service. One of its owners has worked in the transportation industry since 1991 and has owned and operated bus services similar to the one involved in this application. The other two owners have Business/Economics degrees with an emphasis in Accounting, which they believe will facilitate the successful operation of the business. Service will be conducted using up to 10 transit-type buses. Attached to the application as Exhibit D is Applicant's financial statement

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<sup>1</sup> Isla Vista is an unincorporated community in Santa Barbara County. A significant number of its residents are students at the nearby University of California at Santa Barbara.

as of April 27, 2009, that discloses assets of \$466,800, liabilities of \$11,050, and net worth of \$455,750.

The proposed fares are \$10 one way and \$17 round trip. Applicant requests authority to establish a ZORF of \$6 above and below the one way fare and \$10 above and below the round trip fare. Applicant will compete with other PSCs, taxicabs, charter vehicles, and private automobiles in its service areas. This competitive environment should result in Applicant pricing its services at a reasonable level. Many other PSCs have been granted ZORFs. The requested ZORF is generally consistent with the ZORFs held by other PSCs.

Notice of filing of the application appeared in the Commission's Daily Calendar on June 5, 2009. Applicant served a notice of the application to the affected cities and counties, and the public transit operators in the service areas.

In Resolution ALJ 176-3236 dated June 18, 2009, 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 176-3236.

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.

### **Findings of Fact**

1. The application requests authority to operate as a scheduled PSC to transport passengers and their baggage between the San Diego points of Pacific

Beach, SDSU, and Downtown San Diego, and between Santa Barbara and Isla Vista.

2. Public convenience and necessity requires the proposed service.
3. Applicant requests authority to establish a ZORF of \$6 above and below the proposed one way fare of \$10 and \$10 above and below the proposed round trip fare of \$17.
4. Applicant will compete with other PSCs, charter limousines and sedans, taxicabs, and private automobiles in its operations. The ZORF is fair and reasonable.
5. No protest to the application has been filed.
6. A public hearing is not necessary.
7. 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.
3. 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.
4. Since the matter is uncontested, the decision should be effective on the date it is signed.

**O R D E R**

**IT IS ORDERED** that:

1. A certificate of public convenience and necessity (CPCN) is granted to Arrive Alive, LLC (Applicant), a limited liability company, authorizing it to operate as a passenger stage corporation (PSC), as defined in Pub. Util. Code § 226, to transport passengers and their baggage between the points and over the routes set forth in Appendix PSC-25165, 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 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 General Orders Series 101 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. Remit to the Commission the Transportation Reimbursement Fee required by Pub. Util. Code § 423 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 Vehicle Code § 1808.1.

3. Applicant is authorized under Pub. Util. Code § 454.2 to establish a zone of rate freedom (ZORF) of \$6 above and below the proposed one way fare of \$10 and \$10 above and below the proposed round trip fare of \$17.

4. Applicant shall file a ZORF tariff in accordance with the application on not less than ten 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 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, 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 30 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 vehicles 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-25165, granted herein, expires unless exercised within 120 days after the effective date of this decision.

10. The Application, as amended, is granted as set forth above.

11. This proceeding is closed.

This decision is effective today.

Dated August 20, 2009, at San Francisco, California.

MICHAEL R. PEEVEY

President

DIAN M. GRUENEICH

JOHN A. BOHN

RACHELLE B. CHONG

TIMOTHY ALAN SIMON

Commissioners

CERTIFICATE  
OF  
PUBLIC CONVENIENCE AND NECESSITY  
AS A PASSENGER STAGE CORPORATION  
PSC-25165

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Showing passenger stage operative rights, restrictions,  
limitations, exceptions, and privileges.

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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.

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

Arrive Alive, 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 passengers and their baggage on a scheduled basis 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. When a route description is given in one direction, it applies to operation in either direction unless otherwise indicated.
- B. Service shall be operated only at the points described in Section II. A description of all the stop points and the arrival and departure times from such points shall be indicated in the timetable filed with the Commission.
- C. 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.

SECTION II. SERVICE AREAS.

A. The following points within the City of San Diego:

Downtown San Diego  
San Diego State University  
Pacific Beach

B. City of Santa Barbara

C. Community of Isla Vista, Santa Barbara County

SECTION III. ROUTE DESCRIPTIONS.

Route 1

Commencing from Pacific Beach, then over the most convenient streets and highways to San Diego State University.

Route 2

Commencing from Pacific Beach, then over the most convenient streets and highways to Downtown San Diego.

Route 3

Commencing from San Diego State University, then over the most convenient streets and highways to Downtown San Diego.

Route 4

Commencing from Isla Vista, then over the most convenient streets and highways to Santa Barbara.