

Decision 05-02-041 February 24, 2005

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Gregory Louis and Family to Family Transportation Service for authority to operate as an On-Call Passenger Stage Corporation between points in Contra Costa, San Francisco, Alameda, Marin, Solano and Sacramento Counties and to establish a Zone of Rate Freedom.

Application 04-10-022
(Filed October 18, 2004)

O P I N I O N

Summary

This decision grants the application of Gregory Louis (Applicant), an individual, 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 December 15, 2004, requests authority to transport passengers as a PSC. Applicant proposes to provide two distinct services. One is a scheduled weekday service between Antioch, Pittsburg, and Concord, and facilities of the Municipal Railway (Muni) in San Francisco. This service is designed to provide operational and maintenance employees of Muni with a convenient method of commuting to their jobs in San Francisco. Applicant will provide an early morning (3:15 a.m.) shuttle for

employees who work an early shift. He maintains that the service will help the environment by reducing the number of commuter vehicles on the highways.

Applicant also proposes to offer an on-call service on weekends and legal holidays between points in Alameda and Contra Costa Counties and three state correctional institutions: San Quentin State Prison, California State Prison Solano, and Folsom State Prison. This service will make it easier for family members to visit inmates, which Applicant believes will support the institutions' rehabilitation efforts.

Applicant states that he has the operational and mechanical knowledge and ability to provide the requested services. Initially he will use one van. The operation is projected to expand to three vans within eight months. Attached to the application as Exhibit C is an unaudited balance sheet as of October 1, 2004, that discloses assets of \$29,500 (including cash of \$8,000), liabilities of \$10,000, and net worth of \$19,500.

The proposed fare for service to the correctional institutions is \$75 roundtrip. Muni employees using the commuter service will be charged \$300 per month. Applicant requests authority to establish a ZORF of \$10 above and below any proposed fare of \$75 and under and \$20 above and below any proposed fare over \$76. Applicant will compete with public transit, taxicabs, limousines, and private automobiles in his service area. This highly competitive environment should result in Applicant pricing his 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 October 22, 2004. Applicant served a notice to the cities, counties, and public transit operators in the service area, and the three involved correctional institutions.

In Resolution ALJ 176-3141 dated October 28, 2004, 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 176-3141.

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. Applicant requests authority to operate as a PSC to transport passengers (1) on a scheduled basis between points in Antioch, Pittsburg, and Concord, on the one hand, and Muni facilities in San Francisco, on the other hand, and (2) on an on-call basis between points in Alameda and Contra Costa Counties, on the one hand, and San Quentin State Prison, California State Prison Solano, and Folsom State Prison, on the other hand.

2. Applicant requests authority to establish a ZORF of \$10 above and below any proposed fare of \$75 and under and \$20 above and below any proposed fare over \$75, shown in Exhibit B of the application. Applicant will compete with public transit, taxicabs, limousines, and private automobiles in his operations. The ZORF is fair and reasonable.

3. Public convenience and necessity requires the proposed service.
4. No protest to the application has been filed.
5. A public hearing is not necessary.

6. 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, 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 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. Since 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 (CPCN) is granted to Gregory Louis, an individual, authorizing him to operate as a passenger stage corporation (PSC), as defined in Pub. Util. Code § 226, to transport persons and their baggage between the points and over the routes set forth in Appendix PSC-18208, 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 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 Section 1808.1 of the Vehicle Code.

3. Applicant is authorized under Pub. Util. Code § 454.2 to establish a zone of rate freedom (ZORF) of \$10 above and below any proposed fare of \$75 and under and \$20 above and below any proposed fare over \$75, shown in Exhibit B of the application.

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. Applicant is authorized to begin operations on the date that the Consumer Protection and Safety Division mails a notice to Applicant that his 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.

7. 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.

8. The CPCN to operate as PSC-18208, granted herein, expires unless exercised within 120 days after the effective date of this order.

9. The Application is granted as set forth above.

10. This proceeding is closed.

This order is effective today.

Dated February 24, 2005, at San Francisco, California.

MICHAEL R. PEEVEY
President
GEOFFREY F. BROWN
SUSAN P. KENNEDY
DIAN M. GRUENEICH
Commissioners

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
AS A PASSENGER STAGE CORPORATION
PSC-18208

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.

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

Gregory Louis, an individual, 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 and on-call 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. 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.
- C. No passengers shall be transported except those having a point of origin or destination as described in Section IIC or IID.
- 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.

SECTION II. SERVICE AREA.

- A. All points in the Cities of Antioch, Pittsburg, and Concord.
- B. All points in the Counties of Alameda and Contra Costa.
- C. Facilities of the San Francisco Municipal Railway in the City of San Francisco.
- D. San Quentin State Prison, California State Prison Solano, and Folsom State Prison.

SECTION III. ROUTE DESCRIPTION.

Scheduled Service

Commencing from any point described in Section IIA, then over the most convenient streets and highways to any point described in Section IIC.

On-Call Service

Commencing from any point described in Section IIB, then over the most convenient streets and highways to any point described in Section IID.