

Decision 08-08-022 August 21, 2008

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

In the Matter of the Application of Silverado Stages, Inc. to expand their PUC authority to operate as a passenger stage corporation to include points in San Francisco County, San Mateo County and Santa Clara County and to establish a Zone of Rate Freedom (PSC 9069).

Application 08-08-001  
(Filed August 4, 2008)

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

**Summary**

This decision grants the application of Silverado Stages, Inc. (Applicant), a corporation, pursuant to Pub. Util. Code § 1031 et seq., to extend its 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**

Applicant is authorized to operate as a PSC to transport passengers and their baggage on a scheduled basis between points in San Luis Obispo and Santa Barbara Counties, Los Angeles International Airport, and the Ports of Los Angeles and Long Beach. The PSC certificate was granted by Decision (D.) 05-12-005. Applicant also holds a Class A charter-party carrier certificate that authorizes statewide charter and round-trip sightseeing services.

The application requests authority to expand the PSC certificate to include scheduled service between points in San Mateo County and Palo Alto (Santa Clara County), on the one hand, and Monster Park (also known as Candlestick

Park) in San Francisco, on the other hand. Service will be provided on dates that the 49ers football team plays at Monster Park (about 10 games per year).

Applicant advises that essentially the same service has been operated for the past 20 years by the San Mateo County Transit District (SamTrans). Under Federal Transit Administration (FTA) regulations that went into effect in May 2008, SamTrans must defer to any private transportation operator that wants to provide the service and immediately discontinue its own service.<sup>1</sup>

Approximately 1,750 round-trip passengers per game day will be transported. Applicant will provide service using part of its existing fleet of 67 buses that it operates from three terminals located in Sacramento, San Luis Obispo, and Santa Barbara. The Consumer Protection and Safety Division has confirmed with the California Highway Patrol that Applicant's vehicles and terminals are currently assigned a satisfactory safety rating.

The round-trip fare between any point and Monster Park will be \$20. Applicant requests authority to establish a ZORF of \$10 above and below this fare. Applicant will compete with charter limousines and sedans, taxicabs, and private automobiles. Public transit is also available, although passengers may need to transfer between systems. This competitive environment should result

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<sup>1</sup> The Consumer Protection and Safety Division informs that the FTA has longstanding restrictions against public transit agencies competing with private operators in providing charter service. The FTA recently extended these restrictions to include fixed route service for events or functions that occur on an irregular basis or for a limited duration and for which the public transit agency charges a premium fare that is greater than the usual or customary fixed route fare. The 49ers game day service to Monster Park that SamTrans has provided to the public for many years falls within the new restricted category of transportation. Any public transit agency that violates the FTA regulations places its federal operating subsidies at risk

in Applicant pricing its service at a reasonable level. The requested ZORF is not out of line with the ZORFs held by other PSCs

Applicant is an established carrier that has already met the insurance, safety, and other requirements necessary to operate as a PSC. There is a public need for passenger transportation service between the involved pickup points and Monster Park. We therefore will grant the application. Since time is critical to meet the needs of 49ers fans, we will authorize Applicant to make its initial tariff and timetable filings on one day's notice to the Commission and the public.

Notice of filing of the application appeared in the Commission's Daily Calendar on August 6, 2008. Applicant served a copy of the application to the public transit agencies in the service area and a notice of the application to the involved cities, counties, and transportation planning agency.

Concurrent with the filing of the application, Applicant filed a motion to reduce the protest period from 30 days<sup>2</sup> to five days. Applicant advises that the short period between the application date and the first 49ers game does not allow for the standard protest period. A ruling by Chief Administrative Law Judge (ALJ) Angela K. Minkin dated August 5, 2008, granted Applicant's motion. The ruling also preliminarily determined that this application is a ratesetting case and that no hearings are necessary.

No protest to the application has been received. Given this status, public hearing is not necessary, and we affirm the preliminary determinations made in the Chief ALJ's August 5, 2008, ruling.

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<sup>2</sup> Rule 2.6 of the Rules of Practice and Procedure provides that unless otherwise ordered by the Commission, a protest must be filed within 30 days of the date the notice of filing of the application first appears in the Daily Calendar.

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 is currently authorized by D.05-12-005 to operate as a PSC to transport passengers and their baggage between points in San Luis Obispo and Santa Barbara Counties, Los Angeles International Airport, and the Ports of Los Angeles and Long Beach.
2. The application requests authority to transport passengers between Palo Alto and points in San Mateo County, on the one hand, and Monster Park in San Francisco, on the other hand.
3. Under recently implemented FTA regulations, SamTrans must discontinue its transportation service to Monster Park to allow Applicant to operate the service.
4. Public convenience and necessity requires the proposed service.
5. Applicant requests authority to establish a ZORF of \$10 above and below the initial fare of \$20.
6. Applicant will compete with taxicabs, charter limousines and sedans, public transit, and private automobiles in its operations. The ZORF is fair and reasonable.
7. Applicant's request to reduce the standard 30-day protest period to five days was granted by Chief ALJ Angela K. Minkin's ruling dated August 5, 2008.
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 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 the Commission and the public at least ten days' notice.
4. Applicant should be authorized to make its initial tariff and timetable filings for the new service on one day's notice to the Commission and the public.
5. 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. The certificate of public convenience and necessity (CPCN) granted to Silverado Stages, Inc. (Applicant), a corporation, authorizing it to operate as a passenger stage corporation (PSC), as defined in Pub. Util. Code § 226, to transport passengers and their baggage is revised by replacing Original Page 3 with First Revised Page 3, 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 one day or more after the effective date of this decision, provided that the Commission and the public are given not less than one day's notice.

3. Applicant is authorized to begin operating the expanded service on the date that the Consumer Protection and Safety Division (CPSD) mails a notice to Applicant that the documents required by Ordering Paragraph 2 have been filed with the Commission. Before mailing the notice, CPSD shall review Applicant's licensing file to ensure that Applicant is in compliance with all of the other requirements for conducting a PSC service.

4. The revised CPCN to operate as PSC-9069, granted herein, expires unless exercised within 120 days after the effective date of this decision.

5. The Application is granted as set forth above.

6. This proceeding is closed.

This decision is effective today.

Dated August 21, 2008, at San Francisco, California.

MICHAEL R. PEEVEY  
President  
DIAN M. GRUENEICH  
JOHN A. BOHN  
RACHELLE B. CHONG  
TIMOTHY ALAN SIMON  
Commissioners

\*SECTION II. SERVICE AREAS.

A. South

1. San Luis Obispo County Airport
2. City of Pismo Beach
3. Santa Maria Airport
4. City of Buellton
5. Santa Barbara Airport
6. Santa Barbara Amtrak Station
7. Los Angeles International Airport
8. San Pedro Harbor
9. Long Beach Harbor

B. North

1. Palo Alto and points in San Mateo County
2. Monster Park (also known as Candlestick Park), San Francisco

\*SECTION III. ROUTE DESCRIPTIONS.

South Route

Commencing from San Luis Obispo County Airport, then over the most convenient streets and highways to the other points named in Section IIA.

North Route

Commencing from Palo Alto or a point in San Mateo County, then over the most convenient streets and highways to Monster Park in San Francisco. Service on this route may be provided on an irregular basis dependent on the need for passenger transportation service to Monster Park.