

Decision 08-11-016 November 6, 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 Contra Costa County and Alameda County and to establish a Zone of Rate Freedom. PSC 9069.

Application 08-08-016
(Filed August 19, 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. D.08-08-022 recently authorized Applicant to conduct an additional PSC service between Palo Alto and points in San Mateo County and Monster Park (also known as Candlestick Park) in San Francisco. Applicant also holds a Class A charter-party carrier certificate that authorizes statewide charter and round-trip sightseeing services.

The application requests authority to further expand the PSC certificate to include scheduled service between points in Contra Costa County, on the one hand, and Berkeley, on the other hand. Applicant desires to transport passengers attending football games at the University of California at Berkeley. It states the service will benefit the environment by reducing the number of private vehicles operating over the streets and highways in the areas involved. A similar service was previously provided by the Central Contra Costa Transit Authority (CCCTA). CCCTA discontinued the service due to Federal Transit Administration (FTA) regulations that went into effect in May 2008 which require CCCTA to defer to any private transportation operator that wants to provide the same service.¹

Approximately 400 round-trip passengers per game day will be transported. Applicant will conduct the 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 regular round-trip fare will be \$20. A reduced fare of \$18 will apply to tickets purchased in advance. Applicant requests authority to establish a ZORF of \$10 above and below these fares. Applicant will compete with charter

¹ The Consumer Protection and Safety Division advises 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 game day service to the University of California at Berkeley falls within the new restricted category of transportation.

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 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 points. We therefore will grant the application. Because the football season has already commenced, 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 29, 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 on August 19, 2008, Applicant filed a motion to reduce the protest period from 30 days² to five days. Applicant requests to deviate from the standard protest period because the first football game takes place on August 30, 2008. Even with a five-day protest period, however, this matter could not have been on a Commission meeting agenda for our consideration before the first game. At this point, the issue is a moot. The motion therefore will be denied.

² 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.

In Resolution ALJ 176-3220 dated September 4, 2008, 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 176-3220.

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 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, and between Palo Alto and points in San Mateo County and Monster Park in San Francisco.
2. The application requests authority to transport passengers between points in Contra Costa County, on the one hand, and Berkeley, on the other hand.
3. CCCTA discontinued a service similar to the one proposed by Applicant due to FTA regulations that were implemented in May 2008.
4. Public convenience and necessity requires the proposed service.
5. Applicant requests authority to establish a ZORF of \$10 above and below the initial round trip fare of \$20 and advance purchase fare of \$18.
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 is moot.

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. The motion to reduce the 30-day protest period to five days should be denied.

6. 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 First Revised

Page 3 with Second 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. Applicant's motion to reduce the 30-day protest period to five days is denied.

6. The Application is otherwise granted as set forth above.

7. This proceeding is closed.

This decision is effective today.

Dated November 6, 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
3. Points in Contra Costa County
4. City of Berkeley

*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 1.

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.

North Route 2.

Commencing from any point in Contra Costa County, then over the most convenient streets and highways to Berkeley. Service on this route may be provided on an irregular basis dependent on the need for passenger transportation service to sporting events held at the University of California at Berkeley.

Issued by California Public Utilities Commission.

*Revised by Decision 08-11-016, Application 08-08-016.