

Decision 09-02-012 February 20, 2009

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of The Wine Line, LLC for Authority to Operate as a Scheduled Passenger Stage Corporation between points in Paso Robles and San Luis Obispo County.

Application 08-10-006
(Filed October 10, 2008)

D E C I S I O N

Summary

This decision grants the application of The Wine Line, 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 December 30, 2008, requests authority to operate a "hop on, hop off" PSC service for passengers visiting any of 21 wineries located along or near State Highway 46 in San Luis Obispo County. Passengers will be able to board and off-board Applicant's vehicles at ten scheduled stops along the route. Service will be provided on the 15-mile loop at 40 minute intervals using ten-passenger vans. In conjunction with the scheduled service, Applicant will offer on-call pick up and drop off service at various San Luis Obispo County locations for an additional charge.

Applicant states there is a great public need and demand for the proposed service. It will benefit communities in the vicinity of the wineries by offering a

safe method of transportation for tourists and locals alike to sample wine and avoid driving while intoxicated. Applicant indicates the only alternatives to private vehicles currently available are limousine services, which are expensive, and group tours, which offer no flexibility in scheduling, pace, or winery selection.

Applicant states it has the knowledge, experience, and ability to conduct the proposed service. Its owner has operated small businesses or been self-employed for 18 years. His experience has been primarily in tour management and merchandising operations for musical acts. This has evolved over time to include wholesale distribution, online sales, screenprinting, and operating a retail outlet. Applicant's financial statement shows an initial capital investment of approximately \$94,000. The owner will contribute additional funds as needed to commence and continue operations.

The proposed fare is \$39.95 for passengers who are picked up in Paso Robles or Atascadero. An additional charge for pick up and drop off at other points will apply as follows: Cambria/Harmony/Shandon - \$30; San Simeon/San Luis Obispo - \$35; Cayucos/Morro Bay - \$40; and Avila Beach/Shell Beach/Pismo Beach - \$45. (Two or more passengers traveling together pay a single pick up/drop off charge.) Applicant requests authority to establish a ZORF of \$20 above and below the proposed fares. It will compete with limousine and sedan services, sightseeing tour services, and private automobiles in its service area. This level of competition 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 October 17, 2008. Applicant served a notice of the application to San

Luis Obispo County, the involved cities, and the public transit operator in the area.

In Resolution ALJ 176-3224 dated November 6, 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 176-3224.

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 between wineries located along or near State Highway 46 in San Luis Obispo County.
2. In conjunction with the scheduled service, Applicant requests authority to provide on-call pick up and drop off service at various locations in San Luis Obispo County.
3. Public convenience and necessity requires the proposed service.
4. Applicant requests authority to establish a ZORF of \$20 above and below the proposed fares.
5. Applicant will compete with limousine and sedan services, sightseeing tour services, and private automobiles in its operations. The ZORF is fair and reasonable.
6. No protest to the application has been filed.

7. A public hearing is not necessary.

8. 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 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.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity (CPCN) is granted to The Wine Line, 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-24606, 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 \$20 above and below the proposed fares described in 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 decision.

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-24606, 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 February 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-24606

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.

The Wine Line, 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 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. Scheduled service shall be operated only at the points described in Sections IIA and IIB. 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. 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 provide 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.
- 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. City of Paso Robles
- B. Points along or within one mile of State Highway 46 between its intersection with U.S. Highway 101 and its intersection with State Highway 1.
- C. Points in the following cities and communities in San Luis Obispo County: Atascadero; Cambria/Harmony/Shandon; San Simeon/San Luis Obispo; Cayucos/Morro Bay; and Avila Beach/Shell Beach/Pismo Beach.

SECTION III. ROUTE DESCRIPTION.

Scheduled Service

Commencing from Paso Robles, then west over State Highway 46 to its intersection with State Highway 1.

On-Call Service

In conjunction with scheduled service, passengers may be picked up and dropped off on an on-call basis at any of the points described in Section IIC.