

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Silverado Stages, Inc. for authority to operate as a passenger stage corporation between points in San Luis Obispo and Santa Barbara Counties and the Los Angeles International Airport and the ports of San Pedro and Long Beach and to establish a Zone of Rate Freedom.

Application 04-07-033
(Filed July 15, 2004)

**ADMINISTRATIVE LAW JUDGE'S RULING
DIRECTING SILVERADO STAGES INC. TO
PRODUCE CERTAIN INFORMATION**

Summary

This ruling directs Silverado Stages Inc. (Silverado) to produce certain information in response to a data request from Santa Barbara Airbus (Airbus), a protestant to Silverado's Application (A.) 04-07-033 (Application), but provides that Silverado may file a motion requesting a protective order for confidential information. This ruling also provides that Airbus must demonstrate the relevance of that portion of the data request which is excluded by this ruling, if it believes the exempted information is necessary to Airbus's testimony.

Background

Silverado filed A.04-07-033 on July 15, 2004. The Application was timely protested by Central Coast Shuttle, Inc. and Airbus. A letter of objection to the Application was received from American Star Tours on August 24, 2004. At a prehearing conference on November 8, 2004, the assigned Administrative Law Judge (ALJ) noted the importance of responding to data requests from

protestants in a timely fashion, and if the requests involved confidential information, Silverado could file a motion to request protection of that information.

On January 11, 2005, the ALJ received a letter from Airbus requesting the timely production by Silverado of certain information not already provided. Airbus also requested a delay in the submissions and schedule for the proceeding, if the requested information is not timely provided. Attached to Airbus's January 11, 2005 letter is a data request from Airbus to Silverado, dated December 9, 2004, requesting the following:

1. 2002 - Corporate Tax Returns, Audited Financial Statements.
2. 2003 - Corporate Tax Returns, Audited Financial Statements.
3. 2004 - Most Current Complete Financials
4. List of lawsuits pending or settlements for the last five years.
5. List of actions pending or settlement with the State Labor Board.
6. Copies of the last three years California Highway Patrol (CHP) inspection reports.
7. Passenger volume projections on proposed service (detailed as to origination and destination of passengers along with fare yield).

Airbus requested that the data be provided by January 10, 2005, in order that Airbus can complete its testimony.¹

¹ Under the Assigned Commissioner's Scoping Memo, dated November 22, 2004, protesting parties' testimony is due February 7, 2005.

Also attached to Airbus's January 10, 2005 letter is a January 4, 2005 response by Silverado providing portions of the requested information. Silverado states that items (1) and (2) (see item list above) are irrelevant to the proceeding and contain confidential information, and that items (4) and (5) are irrelevant to the proceeding and are not being provided. In response to item (6) Silverado provided the most current CHP inspection report only. Silverado did provide responses to items (3) and (7).

Discussion

The production of information through the Commission's data request procedure is important, not just to protestants in the production of their testimony, but also to the Commission in weighing the financial, fitness, safety and other factors relevant to the authority requested by Silverado. At the same time, protestants are not given a "blank check" to request all information that might be available from the applicant, as this may unnecessarily delay the proceeding. Accordingly, the assigned ALJ must provide guidance to parties regarding data requests, and direct that certain data be provided in a timely fashion.

In this instance, I have reviewed each of the items requested and determined that some of the information requested may have relevance to the Application. Therefore, I am directing Silverado to provide information on the following items:

- A. Items (1) and (2) Silverado shall provide its financial statements for 2002 and 2003. If Silverado determines that this information is confidential, it may file a motion to protect the information under protective order. I will then issue a ruling providing a protective order agreement for any party that desires the information. I am not directing Silverado to provide Corporate Tax Returns at this time, as further discussed below.

B. Item (4) Silverado shall provide a list of actions pending or settlements with the State Labor Board.

C. Item (6) Silverado shall provide copies of previous CHP inspection reports.

If Airbus continues to believe that the information that has been exempted, including the 2002 and 2003 Corporate Tax Returns, and the list of lawsuits pending or settlements during the last five years, is relevant to production of its testimony, Airbus has the burden to explain why it needs this information, and why this information is relevant to production of its testimony.

Silverado is expected to produce the information detailed above in a timely fashion, including any motions for protection of confidential data. Failure to produce the information may unnecessarily delay the Application.

Therefore, **IT IS RULED** that:

1. Silverado Stages Inc. (Silverado) shall provide the information described above in a timely fashion.
2. Silverado may file a motion for protection of any confidential information.
3. Santa Barbara Airbus has the burden to demonstrate that any information exempted by this ruling is relevant to production of its testimony, and should be provided.

Dated January 18, 2005, at San Francisco, California.

/s/ BRUCE DEBERRY

Bruce DeBerry
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling Directing Silverado Stages Inc. to Produce Certain Information on all parties of record in this proceeding or their attorneys of record.

Dated January 18, 2005, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.