

**PUBLIC UTILITIES COMMISSION**505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298**FILED**

07/18/24

10:59 AM

A2307001

July 18, 2024

**Agenda ID #22766
Ratesetting**

TO PARTIES OF RECORD IN APPLICATION 23-07-001:

This is the proposed decision of Administrative Law Judge Minh LeQuang. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's August 22, 2024 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

The Commission may hold a Ratesetting Deliberative Meeting to consider this item in closed session in advance of the Business Meeting at which the item will be heard. In such event, notice of the Ratesetting Deliberative Meeting will appear in the Daily Calendar, which is posted on the Commission's website. If a Ratesetting Deliberative Meeting is scheduled, *ex parte* communications are prohibited pursuant to Rule 8.2(c)(4).

/s/ MICHELLE COOKE

Michelle Cooke

Chief Administrative Law Judge

MLC:smt

Attachment

Decision PROPOSED DECISION OF ALJ LeQUANG Mailed 7/18/2024)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of California Wine Tours, Inc. (PSC9679) to Abandon Scheduled Passenger Stage Corporation Service Between Points in Napa, Sonoma, Vallejo, the San Francisco International Airport, and the Oakland International Airport.

Application 23-07-001

PROPOSED DECISION AUTHORIZING CALIFORNIA WINE TOURS, INC.'S APPLICATION TO ABANDON SERVICES BETWEEN THE SAN FRANCISCO INTERNATIONAL AIRPORT AND POINTS IN THE CITIES OF NAPA AND VALLEJO AND THE OAKLAND INTERNATIONAL AIRPORT AND POINTS IN THE CITIES OF SONOMA, NAPA, AND VALLEJO

Summary

This decision grants California Wine Tours, Inc.'s, application for authority to abandon services between the San Francisco International Airport and points in the Cities of Napa and Vallejo and the Oakland International Airport and points in the Cities of Sonoma, Napa, and Vallejo.

This proceeding is closed.

1. Background

On August 21, 2003, California Wine Tour, Inc. (California Wine) was granted a Certificate of Public Convenience and Necessity (CPCN) and

authorized to operate as a Passenger Stage Corporation (PSC).¹ On July 8, 2004, California Wine's CPCN was amended to allow California Wine to begin transporting passengers and their baggage between the San Francisco International Airport and any point in the Cities of Napa and Vallejo (SFO Route); and the Oakland International Airport and any point in the Cities of Sonoma, Napa and Vallejo (OAK Route).²

By this application filed on July 7, 2023, California Wine seeks authority to abandon the SFO Route and OAK Route.³ No timely protests were filed. A prehearing conference was held on December 12, 2023, to address the issues of law and fact, determine the need for hearing and set the schedule for resolving the matter. The assigned Commissioner issued a scoping memo on January 18, 2024, identifying the issues to be determined and directing California Wine to file evidence in support of their application.⁴

The assigned Commissioner issued a scoping memo on January 18, 2024, identifying the issues to be determined as follows:

1. Has California Wine Tours, Inc., adequately satisfied Rule 3.4 of the Commission's Rules of Practice and Procedures?
2. Is California Wine operating the scheduled service between Napa, Sonoma, Vallejo, The San Francisco International Airport, and the Oakland International Airport at a financial loss?
3. Does the proposed discontinuation of service have a reasonably foreseeable effect on the environment?

¹ Decision (D.) 03-08-051

² D.04-07-017

³ Application at 2.

⁴ Scoping Memo at 2.

4. Does the proposed discontinuation of service have any impact on the achievement of the Commission's Environmental and Social Justice Action Plan?

In the Scoping Memo, California Wine was provided a deadline of January 26, 2024, to submit additional evidence in support of its application. California Wine did not submit any additional evidence and the matter was submitted on January 26, 2024.

2. Has California Wine Tours, Inc. Adequately Satisfied Rule 3.4 of the Commission's Rules of Practice and Procedures?

Rule 3.4 of the Commission's Rule of Practice and Procedures (Rule 3.4) requires applications for authority to abandon passenger stage service to include: a) a listing of points and routes; b) maps to scale; c) current and proposed timetables; d) current and proposed certificate authorities; e) traffic data; f) description of the fares and rates; g) calculation of annual interstate and intrastate revenue; h) calculation of route miles; i) calculations in the Uniform System of Accounts for Common and Contract Motor Carriers of Passengers; j) description of operating subsidies or financial assistance; and k) any additional evidence or argument relevant to the application.

The Commission reviewed California Wine's application that included five exhibits. California Wine submitted sufficient evidence, including information, maps, and other documents, to satisfy subsection (a) through (j) of Rule 3.4. Therefore, the Commission concludes that California Wine's application has adequately satisfied Rule 3.4.

3. Is California Wine Operating the Scheduled Service between Napa, Sonoma, Vallejo, the San Francisco International Airport, and the Oakland International Airport at a Financial Loss?

California Wine contends that it has been operating the SFO Route and the OAK Route at a financial loss since 2019, due to a combination of factors such as: 1) lower ridership due to the COVID-19 pandemic; 2) increased competition from Transportation Network Companies (TNC) like Uber and Lyft; and 3) rising business expenses and new emissions standards.

3.1. Decrease Ridership and COVID-19

California Wine stated that in 2019, before COVID-19, it transported an average of 2,206 passengers per month on the SFO Route and an average of 1,165 passengers per month on the OAK Route.⁵ According to California Wine, the ridership on these routes was already declining in 2019, and the pandemic worsened the situation in 2020.⁶ California Wine stopped operating these routes as they were not profitable.⁷ California Wine argued that its ridership has never recovered to the pre-pandemic levels.⁸ Based on the above evidence, it is determined that California Wine has experienced a downward trend in ridership since 2019.

⁵ Application at 7.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

3.2. Transportation Network Companies like Uber and Lyft

California Wine contends that it is unable to provide competitive fares against TNCs (Transportation Network Companies) like Uber and Lyft.⁹ California Wine's fares are regulated by a Zone of Rate Freedom that ranges from \$45.00 to \$95.00.¹⁰ California Wine stated that in 2020, its regular one-way fare for adults varied from \$40.00 to \$60.00 for airport service from the airport to the hotel.¹¹ California Wine asserts that it could raise its prices, but that it would not be attractive for a pair of travelers (the most frequent passenger group) to choose their airport service over a TNC, which was more affordable and flexible, allowing the travelers to follow their own itinerary instead of the more costly and rigid service of California Wine.¹² Based on the above evidence, it is determined that California Wine operates its airport service for the SFO Route and the OAK Route at a competitive disadvantage against TNC like Uber and Lyft.

3.3. Business Expenses and New Emissions Standards

California Wine has struggled financially since 2019, when it reported a net loss of \$1,630,903 after accounting for its expenses of \$1.35 million. California Wine attributed its poor performance to the high costs of labor and fuel for the SFO Route and the OAK Route. Moreover, California Wine faces a major challenge in complying with the new emissions standards that require it to replace its entire fleet of 12 vehicles with newer models that cost \$600,000 each.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² Application at 8.

This would amount to a total investment of \$7.2 million, which the company cannot afford given its current situation. Based on the above evidence, it is determined that California Wine has operated at a financial loss since 2019 and would not be able to meet the new emission standards without jeopardizing its own viability.

After careful review of the evidence, the Commission agrees that California Wine is operating the SFO Route and OAK Route at a financial loss.

4. Does the Proposed Discontinuation of Service Have a Reasonably Foreseeable Effect on the Environment?

The California Environmental Quality Act (CEQA) generally requires environmental review of proposed discretionary projects. A “project” is defined as (1) an action that presents a potential for a direct or reasonably foreseeable indirect physical change in the environment and (2) involves the issuance by a public agency of a lease, permit, license, certificate, or other entitlement for use.¹³ A discretionary project is one that requires the exercise of judgement or deliberation by a public agency in determining whether the project will be approved.¹⁴ This application is not a project and therefore not subject to environmental review under CEQA because it does not present a potential for a physical change in the environment.

¹³ Public Resolution Code Section 21065

¹⁴ CEQA Guidelines Section 15357

5. Does the Proposed Discontinuation of Service have any Impact on the Achievement of the Commission's Environmental and Social Justice Action Plan?

The Commission's Environmental and Social Justice Action Plan recognizes the disproportionate impacts of environmental hazards in communities of color and identifies ways the CPUC can use its regulatory authority to address funding and resources for these communities to mitigate the outcomes of past inequities and barriers. This application is for the abandonment of specific routes and does not have any impact on the Commission's Social Justice Action Plan. The public has TNC, taxis, and other service carriers that can provide the same services at a lower fare.

6. Summary of Public Comment

Rule 1.18 allows any member of the public to submit written comment in any Commission proceeding using the "Public Comment" tab of the online Docket Card for that proceeding on the Commission's website. Rule 1.18(b) requires that relevant written comment submitted in a proceeding be summarized in the final decision issued in that proceeding.

In this matter, there are no relevant public comments on the Docket Card.

7. Conclusion

California Wine successfully demonstrated that it had complied with Rule 3.14 of the Commission's Rules of Practice and Procedure; provided evidence that it operated the SFO Route and OAK Route at a financial loss; and that the abandonment of the SFO Route and OAK Route had no effect on CEQA and the Commission's Social Justice Action Plan.

8. Procedural Matters

This decision affirms all rulings made by the Administrative Law Judge (ALJ) and assigned Commissioner in this proceeding. All motions not ruled on are deemed denied.

9. Comments on Proposed Decision

The proposed decision of ALJ Minh LeQuang in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on _____, and reply comments were filed on _____, by _____.

10. Assignment of Proceeding

John Reynolds is the assigned Commissioner and Minh LeQuang is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. California Wine Tour, Inc. is authorized to operate a Passenger Stage Corporation (PSC) pursuant to D.03-08-051 and D.04-07-017.
2. The application requests authority to abandon PSC service between the San Francisco International Airport and points in the Cities of Napa and Vallejo (SFO Route) and the Oakland International Airport and points in the Cities of Sonoma, Napa, and Vallejo (OAK Route).
3. California Wine Tour, Inc.'s application has adequately satisfied Rule 3.4 of the Commission's Rules of Practice and Procedure.
4. California Wine Tour, Inc.'s SFO Route and OAK Route has experienced a downward trend in ridership since 2019.
5. California Wine Tour, Inc. operates its airport service for the SFO Route and the OAK Route at a competitive disadvantage against Transportation Network Companies like Uber and Lyft.

6. California Wine Tour, Inc. has operated at a financial loss since 2019 and would not be able to meet the new emission standards without jeopardizing its own viability.

7. California Wine Tours, Inc.'s application is not a project and therefore not subject to environmental review under the California Environmental Quality Act.

8. California Wine Tours, Inc.'s application is for the abandonment of specific routes and does not have any impact on the Commission's Social Justice Action Plan.

9. No protest to the application has been filed.

Conclusions of Law

1. Public convenience and necessity no longer require California Wine Tour, Inc.'s service between the San Francisco International Airport and points in the Cities of Napa and Vallejo (SFO Route) and the Oakland International Airport and points in the Cities of Sonoma, Napa, and Vallejo (OAK Route).

2. The abandonment of the SFO Route and OAK Route are not projects and therefore not subject to environmental review under the California Environmental Quality Act.

3. The abandonment of the SFO Route and the OAK Route do not have any impact on the Commission's Social Justice Action Plan.

4. The SFO Route and OAK Route should be deleted from California Wine Tours, Inc.'s certificate.

5. California Wine Tour, Inc. should be granted authority to abandon the San Francisco International Airport Route and Oakland International Airport Route services. Application 23-07-001 is closed

O R D E R

IT IS ORDERED that:

1. California Wine Tours, Inc. is granted authority to abandon scheduled passenger service between the San Francisco International Airport and points in the Cities of Napa and Vallejo and the Oakland International Airport and points in the Cities of Sonoma, Napa, and Vallejo.

2. Upon California Wine Tours, Inc. filing an acceptance of this amendment to its certificate to the Consumer Protection and Enforcement Division within 30 days after this order is effective, PSC9679 shall be amended to delete all references to the scheduled service between the San Francisco International Airport and points in the Cities of Napa and Vallejo and the Oakland International Airport and points in the Cities of Sonoma, Napa, and Vallejo.

3. The written acceptance must include a revised, complete, and accurate tariff sheet reflecting the changes authorized in this decision within 10 calendar days from the date of this decision.

4. Application 23-07-001 is closed.

This order is effective today.

Dated _____, at San Francisco, California.