

Decision \_\_\_\_\_

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

Application of AMC Bus, Inc., dba Limousines, for authority to operate as a scheduled passenger stage corporation between points in the Counties of San Diego, Riverside, Orange, Los Angeles, San Bernardino, Kern, Tulare, Fresno, Madera, Merced, Stanislaus, San Joaquin, Sacramento, Santa Barbara, San Luis Obispo, Monterey, San Benito, and Santa Clara and to establish a Zone of Rate Freedom (ZORF) fare structure.

Application 24-02-006  
(Filed February 21, 2024)

**EXECUTIVE DIRECTOR'S ORDER**

**Summary**

This decision dismisses the application of AMC Bus, Inc., a California Corporation, doing business as "Limousines," pursuant to California Public Utilities Code § 1031 et seq., for a Certificate of Public Convenience and Necessity to operate as a Passenger Stage Corporation as defined in California Public Utilities Code § 226 due to lack of jurisdiction routes. This application was filed pursuant to the procedures adopted in Decision 15-05-029.

This proceeding is closed.

## **1. Factual and Procedural Background**

AMC Bus, Inc., a California Corporation, doing business as (dba) “Limousines” (Applicant) currently holds a Transportation Charter-Party Carrier (TCP) “A” Certificate (TCP 40182-A).

Notice of filing of the application appeared in the Public Utilities Commission’s (Commission) Daily Calendar on February 28, 2024. Applicant served a copy of the application on the Commission’s Consumer Protection and Enforcement Division (CPED).

Applicant is requesting that the Commission grant Applicant a Certificate of Public Convenience and Necessity (CPCN) to operate as a Passenger Stage Corporation (PSC). Applicant proposes to operate fixed-route, point-to-point passenger transportation between points in the Counties of San Diego, Riverside, Orange, Los Angeles, San Bernardino, Kern, Tulare, Fresno, Madera, Merced, Stanislaus, San Joaquin, Sacramento, Santa Barbara, San Luis Obispo, Monterey, San Benito, and Santa Clara and to establish a Zone of Rate Freedom (ZORF).

Applicant states that they hold federal authority that allows it to transport passengers along its interstate routes which includes, under this authority, the ability to transport passengers on an intrastate basis along the interstate routes. Applicant further states:

Nevertheless, on multiple occasions, Applicant has been closely scrutinized by state law enforcement that is unfamiliar with federal law regarding whether Applicant holds the necessary operating authority to provide intrastate service in California. Therefore, Applicant is applying for passenger stage corporation authority solely to avoid a situation where law enforcement may incorrectly believe Applicant is required to hold

passenger stage corporation authority to provide intrastate service in California.<sup>1</sup>

Because the maps included in the Application did not identify the exact stops along the routes, Commission staff requested a list of stops along the proposed routes. On July 5, 2024, Applicant provided the proposed routes and stops along the routes [**Attachment 1**].

On April 12, 2024, Applicant filed a Motion for Leave to file confidential information – their financial data contained in Exhibit E of the Application – under seal. On May 13, 2024, Administrative Law Judge Robert M. Mason III issued a Ruling granting the Motion.

## **2. Jurisdiction**

The Commission regulates PSCs pursuant to California Public Utilities (Pub. Util.) Code § 1031 et seq., and applications for a certificate to operate are governed by Rule 3.3 of the Commission’s Rules of Practice and Procedure (Rules).

## **3. Issues Before the Commission**

The issues to be determined or otherwise considered are:

1. Whether Applicant’s proposed service falls under the Commission’s jurisdiction over intrastate passenger transportation and if so;
2. Whether Applicant’s request for a CPCN meets all Commission requirements to operate as a PSC within the state of California;
3. Whether Applicant’s proposed service complies with the California Environmental Quality Act (CEQA); and
4. Whether Applicant’s proposed service impacts environmental and social justice communities, including the extent to which Applicant’s operation

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<sup>1</sup> A.24-02-006 at page 3.

in California impacts achievement of any of the nine goals of the Commission's Environmental and Social Justice (ESJ) Action Plan.

#### **4. Discussion**

Applicant proposes to operate as a fixed-route PSC operating on two routes: the "Sacramento Route" and the "San Jose Route." Both routes begin with three stops in Mexico (Tijuana, Tijuana International Airport ("Aeropuerto"), and Terminal Tijuana Línea de Autobuses (Tijuana Línea)) before crossing the California-Mexico border at San Ysidro – a community within the City of San Diego. After San Ysidro, the routes stop at the Cross Border Xpress (also known as "CBX" – a terminal of Tijuana International Airport in San Diego, California) and then continue to either Sacramento, California or San Jose, California.

Notice of filing of the application appeared in the Commission's Daily Calendar on February 28, 2024. Applicant served copies of the application on the airports and government agencies in the areas to be served.

Pub. Util. Code § 226, which defines "passenger stage corporation," states in subsection g:

"Passenger stage corporation" does not include intrastate passenger transportation service conducted pursuant to federal operating authority to the extent that regulation of these intrastate operations by the commission is preempted by the federal Bus Regulatory Reform Act of 1982 (P.L. 97-261), as amended.<sup>2,3</sup>

Title 49 of the United States Code § 13902 (b)(3) states:

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<sup>2</sup> <https://uscode.house.gov/statutes/pl/97/261.pdf>, Pg. 3

<sup>3</sup> [https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=PUC&sectionNum=226](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PUC&sectionNum=226).

Intrastate transportation by interstate carriers. A motor carrier of passengers that is registered by the Secretary under subsection (a) is authorized to provide regular-route transportation entirely in one State as a motor carrier of passengers if such intrastate transportation is to be provided on a route over which the carrier provides interstate transportation of passengers.<sup>4</sup>

While not included in the application, a search of the Federal Motor Carrier Safety Administration's public license and insurance database shows that AMC Bus, Inc., dba Limousines (DOT 3296258), holds active operating authority (MC 125115) as a Motor Passenger Common Carrier and Passenger Regular Route - Common operating authority.<sup>5</sup>

Applicant argues that under the *Funbus* test, where the courts have developed a three-prong test for exclusive federal jurisdiction, the Commission is preempted from regulating intrastate transportation along the company's interstate routes.<sup>6</sup>

Commission staff find that the application, as submitted with the proposed stops in Attachment 1, meets the *Funbus* test: the transportation is exempt from Commission jurisdiction. Therefore, due to the lack of Commission jurisdiction, the application should be dismissed.

In light of federal preemption, issuing Applicant a CPCN to operate as a PSC in order "*...to avoid a situation where law enforcement may incorrectly believe Applicant is required to hold passenger stage corporation...*" is inappropriate because

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<sup>4</sup> <https://uscode.house.gov/view.xhtml?req=granuleid:USC-1999-title49-section13902&num=0&edition=1999>

<sup>5</sup> <https://safer.fmcsa.dot.gov/>

<sup>6</sup> *Funbus Systems, Inc.*, ICC Nos. MC-C-10917, MC-C-10917, 1988 WL 225255 (ICC Aug. 11, 1988) ("*Funbus II*"). The *Funbus* test was originally announced in *Funbus Systems, Inc.*, ICC Nos. MC-C-10917, MC-153325 (Sub-No. 2), MC-C-10943, 1987 WL 100200 (ICC Dec. 30, 1987) ("*Funbus I*").

enforcing the requirements of the CPCN, including the regulation of rates and the requirement to file tariffs, is incompatible with the Commission's lack of jurisdiction.

If the Applicant modifies its service offerings in the future in a manner that involves conducting intrastate transportation that is not on a route over which the carrier provides interstate transportation of passengers, the Applicant should refile an application with the proposed intrastate routes.

Because Applicant's proposed services are exempt from Commission jurisdiction, the questions of whether Applicant's request for a CPCN meets all Commission requirements to operate as a PSC within the state of California; whether Applicant's proposed service complies with CEQA; and whether Applicant's proposed service impacts environmental and social justice communities and achieves any of the Commission's ESJ Action Plan goals are moot.

In Resolution ALJ 176-3542, dated March 7, 2024, the Commission preliminarily categorized this application as ratesetting. No protest has been received. Given this status, a public hearing is not necessary, and it is not necessary to alter the preliminary determinations made in Resolution ALJ 176-3542.

## **5. Submission Date**

This matter was submitted on February 21, 2024.

## **6. Comments on Proposed Decision**

The proposed decision 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 \_\_\_\_\_.

## **7. Assignment of Proceeding**

Terra Curtis is the assigned Examiner in this proceeding.

### **Findings of Fact**

1. AMC Bus, Inc., a California Corporation, currently holds a Transportation Charter-Party Carrier "A" Certificate (TCP 40182-A).
2. Applicant requests to transport passengers and their baggage between points in the Counties of San Diego, Riverside, Orange, Los Angeles, San Bernardino, Kern, Tulare, Fresno, Madera, Merced, Stanislaus, San Joaquin, Sacramento, Santa Barbara, San Luis Obispo, Monterey, San Benito, and Santa Clara.
3. Applicant proposes two routes that each begin with stops in Tijuana, Mexico.
4. Applicant asserts that the federal government possesses exclusive jurisdiction over interstate passenger transportation.
5. Applicant has an operating authority with the Federal Motor Carrier Safety Administration.
6. The *Funbus* test is used to determine if intrastate transportation along an interstate route falls under federal jurisdiction.
7. Applicant should file a new application if it adds or modifies routes that cause them to become subject to Commission jurisdiction.
8. No protest to the application has been filed.

### **Conclusions of Law**

1. Applicant's proposed operations, shown in Attachment 1, are not PSC service as defined in Pub. Util. Code § 226(g).

2. Applicant's proposed operations, shown in Attachment 1, fall under federal jurisdiction pursuant to Title 49 of the United States Code § 13902(b)(3).
3. Applicant's proposed operations, shown in Attachment 1, meets the *Funbus* test demonstrating exclusive federal jurisdiction over Applicant's proposed operations.
4. Application should be dismissed due to lack of Commission jurisdiction.
5. A public hearing is not necessary.
6. A California Environmental Quality Act review is not required due to the lack of Commission jurisdiction.
7. The lack of Commission jurisdiction renders inapplicable the goals of the Commission's ESJ Action Plan.
8. Because the matter is uncontested, the decision should be effective on the date it is signed.
9. A.24-02-006 should be closed.

## **O R D E R**

### **IT IS ORDERED** that:

1. The application pursuant to California Public Utilities Code § 1031 et seq., for a Certificate of Public Convenience and Necessity to operate as a Passenger Stage Corporation is dismissed.
2. Applicant shall file a new Application if it adds or modifies routes that cause them to fall under the jurisdiction of the California Public Utilities Commission.
3. The Application is dismissed.



4. Application 24-02-006 is closed.

This order is effective today.

Dated \_\_\_\_\_, 2024, at San Francisco, California.

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Rachel Peterson  
Executive Director

ATTACHMENT 1

<b>Sacramento Route</b>	<b>San Jose Route</b>
Tijuana	Tijuana Central
Tijuana Aeropuerto	Tijuana Aeropuerto
Tijuana Linea	Tijuana linea
San Ysidro	San Ysidro La Pera
CBX	CBX
Santana	Anaheim
Anaheim	Huntington Park
Los Angeles	Los Angeles
Pacoima/San Fernando	Pacoima (limo) sn. Fer.
Bakersfield 1821 18th	Lamont (limo) chevron
Delano	Bakersfield 1821 18th
Delano Juanita	Delano
Tipton	Delano Juanita
Tulare	Tipton
Goshen	Tulare (limo)
Selma	Goshen(limo)
Fresno	Dinuba
Madera	Selma
Merced	Fresno
Atwater	Los Banos
Turlock	Gilroy
Modesto	San Jose
Manteca	
Stockton	
Sacramento	