

**ORIGINAL**Decision No. 83587

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter for the Application of  
RICHARD H. THOMPSON and RICHARD A.  
LIGHTHILL, dba WHIPPET CHARTER SERVICE,  
for the transfer of Certificate of  
Public Convenience and Necessity and the  
assets of said partnership to a corporation,  
WHIPPET CHARTER SERVICE, INC. in  
consideration of the issuance of stock  
and promissory note and for authority to  
said corporation to issue stock.

Application No. 55017  
(Filed July 8, 1974)

O P I N I O N

Richard H. Thompson and Richard A. Lighthill, dba Whippet Charter Service, have applied for authorization to transfer the partnership assets and operating authority to a corporation, with each former partner taking a half interest in the new entity by receiving capital stock and a demand promissory note.

It is alleged that Articles of Incorporation were filed with the Secretary of State of the State of California on September 28, 1973 and that the State Commissioner of Corporations authorized the issuance of stock on November 8, 1973 in consideration of the transfer of assets. It is further alleged that the assets were valued at \$19,814.67 on August 31, 1973 and that 590 shares of non-assessable stock with a par value of \$10 per share (\$5,900) will be issued to each of the former partners along with a demand promissory note for \$4,007.34.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest and concludes that it should be authorized. We further find with reasonable certainty that the project involved in this proceeding will not have a significant effect on the environment. A public hearing is not

necessary. The order which follows will provide for, in the event the transfer is completed, the revocation of the certificate presently held by Richard H. Thompson and Richard A. Lighthill and the issuance of a certificate in appendix form to Whippet Charter Service, Inc.

The proposed security issue is for proper purposes and the money, property, or labor to be procured or paid for by the issue of the security authorized by this decision is reasonably required for the purposes specified, which purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

In issuing this decision we place the issuer of the authorized stock and its shareholders on notice that we do not regard the number of shares outstanding, the total par value of the shares, nor the dividends paid, as measuring the return it should be allowed to earn on its investment in plant, and that this authorization is not to be construed as a finding of the value of the company's stock or property nor as indicative of amounts to be included in proceedings for the determination of just and reasonable rates.

Whippet Charter Service, Inc. is placed on notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. Aside from their purely permissive aspect, such rights extend to the holder a full or partial monopoly of a class of business. This monopoly feature may be modified or canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

#### O R D E R

IT IS ORDERED that:

1. On or before December 1, 1974, Richard H. Thompson and Richard A. Lighthill may sell and transfer the operative rights and property referred to in the application to Whippet Charter Service, Inc.

2. Within thirty days after the transfer the purchaser shall file with the Commission written acceptance of the certificate and a true copy of the bill of sale or other instrument of transfer.

3. Purchaser shall amend or reissue the tariffs and timetables on file with the Commission, naming rates and rules governing the common carrier operations transferred to show that it has adopted or established, as its own, the rates and rules. The tariff and timetable filings shall be made effective not earlier than ten days after the effective date of this order on not less than ten days' notice to the Commission and the public, and the effective date of the tariff and timetable filings shall be concurrent with the transfer. The tariff and timetable filings made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of tariffs and timetables set forth in the Commission's General Orders Nos. 79-Series and 98-Series. Failure to comply with the provisions of General Orders Nos. 79-Series and 98-Series may result in a cancellation of the operating authority granted by this decision.

4. On or before the end of the third month after the transfer, the purchaser shall cause to be filed with the Commission, in such form as the Commission may prescribe, an annual report, or reports, related to the operations of the seller for the period commencing with the first day of the current year to and including the effective date of the transfer.

5. In the event the transfer authorized in paragraph 1 is completed, effective concurrently with the effective date of the tariff filings required by paragraph 3, a certificate of public convenience and necessity is granted to Whippet Charter Service, Inc., a corporation, authorizing it to operate as a passenger stage corporation, as defined in Section 226 of the Public Utilities Code, between the points and over the routes set forth in Appendix A, attached hereto and made a part hereof.

6. The certificate of public convenience and necessity granted by Decision No. 79990 in Application No. 53115 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

7. Purchaser shall comply with the safety rules administered by the California Highway Patrol, the rules and regulations of the Commission's General Order No. 98-Series, and insurance requirements of the Commission's General Order No. 101-Series.

8. Purchaser shall maintain its accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of its operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

9. On or after the effective date of this order and on or before January 1, 1975, for the purposes specified in this proceeding transferee may issue not exceeding 1180 shares of its common stock having a par value of \$10 per share.

10. The authority granted by this order to issue stock will become effective when the issuer has paid the fee prescribed by Section 1904.1 of the Public Utilities Code, which fee is \$50.

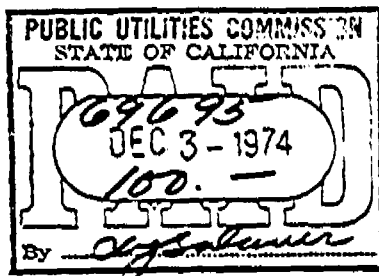
11. On or after the effective date of this order and on or before January 1, 1975, for the purposes specified in this proceeding, transferee may issue two promissory notes for \$4,007.34, a total of \$8,014.68, and may execute and deliver an encumbering document, which documents shall be in substantially the same form as those attached to the application.

12. The issuer of the securities authorized by this order shall file with the Commission a report, or reports, as required by General Order No. 24-Series.

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13. The authority granted by this order to issue an evidence of indebtedness will become effective when the issuer has paid the fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$50. In other respects the effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 16th  
day of OCTOBER, 1974.



Vernon L. Stutz  
President  
William J. Quora  
[Signature]  
[Signature]  
Commissioners

Commissioner J. P. Vukasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

CERTIFICATE  
OF  
PUBLIC CONVENIENCE AND NECESSITY

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Showing passenger stage operative rights, restrictions, limitations, exceptions, and privileges applicable thereto.

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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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Issued under authority of Decision No. 83587, dated  
OCT 16 1974, of the Public Utilities Commission of the State of  
California on Application No. 55017.

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SECTION 1. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS, AND SPECIFICATIONS.

Whippet Charter Service, Inc., by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to transport passengers and their baggage on passenger-carrying vehicles between the United Airlines Maintenance Base at or near the San Francisco International Airport and certain service areas, over and along the routes hereinafter described, subject, however, to the authority of this Commission to change or modify said routes at any time and subject to the following provisions:

- (a) Motor vehicles may be turned at termini and intermediate points, in either direction, at intersections of streets or by operating around a block contiguous to such intersections, in accordance with local traffic regulations.
- (b) When route descriptions are given in one direction, they apply to operations in either direction unless otherwise indicated.
- (c) Passengers shall be transported only between the service areas set forth herein, on the one hand, and the United Airlines Maintenance Base, on the other hand.
- (d) Service shall be operated only at times necessary to meet employee shift changes.
- (e) In the event of a strike, shutdown, or other closing of said airlines maintenance base, the service shall not be operated.

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Decision No. 83587, Application No. 55017.



## SECTION 2. DESCRIPTION OF SERVICE AREA.

A. Hayward Service Area

The City of Hayward and the area within a radius of three air miles of its corporate city limits.

B. Union City Service Area

The City of Union City and the area within a radius of three air miles of its corporate city limits.

C. Newark Service Area

The City of Newark and the area within a radius of three air miles of its corporate city limits.

D. Fremont Service Area

The City of Fremont and the area within a radius of three air miles of its corporate city limits, excluding any portion in Santa Clara County.

E. Milpitas Service Area

The northwesterly corner of South Park Victoria Drive and Landess Avenue intersection and the northwesterly corner of Landess Avenue and South Main Street (may also be known as Old Oakland Highway) in the City of Milpitas.

## SECTION 3. ROUTE DESCRIPTION.

- Route I. Commencing at any point within the Union City service area, thence to the Fremont service area, thence to the Newark service area, thence via Union City service area to the Hayward service area, thence to the United Airlines Maintenance Base at or near the San Francisco International Airport, via any and all appropriate routes, and return via the same routing.
- Route II. Commencing at the intersection of Dyer Street and Industrial Parkway SW in the City of Union City; thence continuing along Dyer Street to Alvarado-Niles Road; thence along Alvarado-Niles Road to State Highway No. 17 (also known as Nimitz Freeway) to State Highway No. 237 (also known as Alviso-Milpitas Road and/or West Calaveras Boulevard); thence via State Highway No. 237, West Calaveras Boulevard, East Calaveras Boulevard to South Park Victoria Drive; thence along South Park Victoria Drive to Landess Avenue; thence along Landess Avenue and Trimble Road to U. S. Highway No. 101 (also known as Bayshore Freeway); thence along U. S. Highway No. 101 (also known as Bayshore Freeway) and the most direct and appropriate route to the United Airlines Maintenance Base at or near the San Francisco International Airport.

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