

Decision No. 84185

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
AIRPORTUS For certificate of public
convenience and necessity to operate
passenger and baggage service between
San Jose Municipal Airport and points
within Palo Alto, Mountain View,
Los Altos, and Sunnyvale.

Application No. 55121
(Filed August 19, 1974;
amended September 4, 1974
and November 21, 1974)

Donald G. Daiker, Attorney at Law, and
Dennis W. Miller, for Airportus, applicant.
William Davis Taylor, Attorney at Law, and
Floyd Grubbs, for Golden Sedan Service, Inc.,
protestant.
M. E. Gottlieb, for the Commission staff.

O P I N I O N

Applicant Airportus, a California corporation, requests a certificate to operate as a passenger stage corporation over various routes between the San Jose Municipal Airport, on the one hand, and, on the other, points in an area extending between that airport and the city of Palo Alto, and for authority to issue 3,333 shares of common stock. The application was protested by Golden Sedan Service, Inc. (Golden). A hearing was held before Examiner Pilling on October 15 and November 12, 1974 at San Francisco.

Applicant proposes to conduct a passenger stage operation serving persons traveling between the San Jose Municipal Airport and their homes, offices, or other points in a specified area in the northern part of Santa Clara County. Buses will be scheduled to leave the airport and Palo Alto hourly and their arrival and departure will be coordinated with the arrival and departure of airline schedules. Buses are proposed to be operated daily between 6:30 a.m. and 10:00 p.m. To obtain pickup service for traveling to the airport,

prospective passengers will be required to telephone applicant giving applicant their names, addresses, telephone numbers, and departure time of their flights. Applicant will then make the necessary arrangements with its drivers, by radio if necessary. Applicant estimates the maximum passenger travel time will be 60 minutes. For any pickup delay of more than 15 minutes from the assigned pickup time, applicant will notify the passenger by telephone of the delay. Applicant does not propose to guarantee immediate transportation nor to be responsible if a passenger misses a flight, but intends to make every attempt to make a new reservation for a passenger who suffers delay on the bus. Passengers leaving the airport may board the bus at the airport and will be dropped at a point designated by the passenger. The bus, after discharging its passengers at various points throughout the area, will proceed to Palo Alto and then start southward picking up passengers bound for the airport. Applicant states that transportation will be subject to limitations of seating capacity on any schedule and that it reserves the right to send passengers on the earliest possible schedule, and reserves the right to assign passengers to a particular bus when those passengers are destined to a certain area. Applicant intends to use 3 propane-fueled Dodge Maxivans each with an 11-passenger capacity. Buses will be radio equipped. Buses and radios will be leased. One of the buses will be used as a standby. In April 1973 applicant conducted a poll of outbound passengers at the San Jose Municipal Airport which resulted in a showing that 61 percent of the passengers polled said they would have preferred to travel to the airport by bus if the bus could have delivered them to the airport in an expedient fashion and at a reasonable cost (50¢). Applicant estimates that the north Santa Clara County market represents approximately 30 percent of the 2,000,000 airline passengers who use the airport yearly. Applicant expects to capture 30 percent, or 180,000, of these passengers. Applicant will charge fares between

\$1 and \$2.50 depending on the distance traveled, and at these fares applicant expects to net before taxes \$71,700 during the first year of operation.

Applicant expects to start operations with a paid in capital of \$25,000 generated through the sale of 2,500 shares of stock at a par value of \$10 per share. An additional 833 shares of stock will be issued as promotional stock to Dennis W. Miller who conceived and will manage the operation. The \$25,000 so invested will be used for organizing the operation, acquisition of facilities, and the maintenance of service. Applicant avers it has buyers for its stock. To date the applicant has conducted no business.

The application is supported by the Lockheed Missiles and Space Company which has plants at Sunnyvale and Palo Alto which generates on the average of 750 passenger round trips per month into and out of the San Jose Municipal Airport. A travel agency with offices at Mountain View, a manufacturing company at Santa Clara, and a volunteer travel committee which operates a booth at the airport also appeared in support of the application. Each of the public witnesses testified as to the lack of any scheduled bus operation between the subject airport and the northern part of Santa Clara County sought to be served by applicant and the need for such a service.

Protestant Golden operates as a passenger stage corporation under a certificate authorizing service between Santa Clara County, San Carlos, and Menlo Park, on the one hand, and on the other, the San Jose Municipal Airport and the San Francisco International Airport. It operates 9-passenger Cadillacs and Broughams - 14 in number - driven by liveried chauffeurs. All its vehicles are radio dispatched. Golden's average load factor is 4.3 persons per trip and it charges \$9 per passenger though its published minimum rates are between \$6 and \$8 per passenger. It employs 19 persons, including 12 full-time drivers and 2 mechanics. The preponderance of its

business is into and out of the San Francisco International Airport. It transports employees and visitors to businesses, including those of Lockheed for which it transports up to 10 or 12 employees a day. Golden's limousines are stationed 7 minutes from the San Jose Municipal Airport. It averages between 50 and 55 trips per day, 15 percent of which are to or from the San Jose Municipal Airport. Golden does not operate a scheduled service. To obtain service from Golden, including service from the airport, passengers must telephone Golden and arrange for its service. Golden gives door-to-door service. Golden objects to the granting of the application because it fears that a new door-to-door service will draw away passengers from Golden's operation to Golden's detriment. Golden contends there are not a sufficient number of passengers available to support two door-to-door services and that a new service will merely dilute the number of available passengers. Golden also contends that the poll taken by applicant deserves little credence because a 50¢ fare, not the higher fare applicant intends to charge, was used as a basis of soliciting responses from the persons polled. Golden also contends that its service was not shown to be unsatisfactory and hence under Section 1032 of the Public Utilities Code the Commission may not authorize a new service in its territory. Golden also points out that the Santa Clara County Transit District, which did not protest the application, is shortly to institute a dial-a-ride bus service.

Findings

1. Applicant's proposed operations are those of a passenger stage corporation.
2. Applicant's service will be coordinated with airline arrivals and departures and will leave Palo Alto and the San Jose Municipal Airport on an hourly basis.
3. There is currently no scheduled bus service between the San Jose Municipal Airport and points in the area sought to be served by applicant.

4. At the outset of the operation applicant's one spare bus will be adequate to take care of overflow passengers.

5. Applicant is fit, willing, and able to conduct the proposed operation.

6. Golden's service is an on-call service tailored to fit the convenience and pocketbooks of only a small percentage of the public who travel by air.

7. Golden does not station equipment at the airport and does not offer scheduled service to or from the airport except by prearrangement. Golden does not provide, or offer to provide, the service proposed by applicant.

8. While some of Golden's potential passengers may gravitate to applicant's scheduled service the public should not be denied the availability of a scheduled service in deference to an on-call service where, as here, public convenience and necessity has been shown to require a scheduled service.

9. 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.

10. Public convenience and necessity require the granting of the application.

11. The project involved in the application will not have a significant effect on the environment.

Conclusions

1. A certificate of public convenience and necessity to operate as a passenger stage corporation as set out in the ensuing order should be issued to applicant.

2. Authority to issue and sell stock as requested in the application should be granted.

Applicant 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. A certificate of public convenience and necessity is granted to Airportus, 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 of this decision.

2. In providing service pursuant to the authority granted by this order, applicant shall comply with the following service regulations. Failure so to do may result in a cancellation of the authority.

- (a) Within thirty days after the effective date of this order, applicant shall file a written acceptance of the certificate granted. Applicant is placed on notice that if it accepts the certificate it will be required, among other things, to comply with the safety rules administered by the California Highway Patrol, the rules and other regulations of the Commission's General Order No. 98-Series, and the insurance requirements of the Commission's General Order No. 101-Series.
- (b) Within one hundred twenty days after the effective date of this order, applicant shall establish the authorized service and file tariffs and timetables, in triplicate, in the Commission's office.

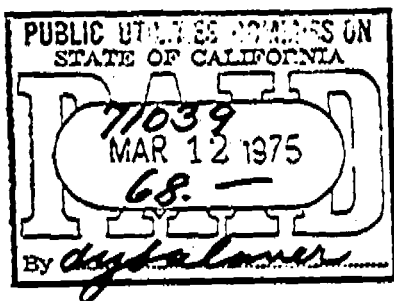
- (c) The tariff and timetable filings shall be made effective not earlier than ten days after the effective date of this order on not less than ten days' notice to the Commission and the public, and the effective date of the tariff and timetable filings shall be concurrent with the establishment of the authorized service.
- (d) The tariff and timetable filings made pursuant to this order shall comply 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.
- (e) Applicant 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.

3. On or after the effective date of this order and on or before June 1, 1975, for the purposes specified in this proceeding, applicant may issue not exceeding 3,333 shares of its common stock having a par value of \$10 per share.

4. 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.

The authority granted by this order to issue an evidence of indebtedness (and to execute and deliver an encumbering document) will become effective when the issuer has paid the fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$68. In other respects the effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 11th day of MARCH, 1975.



Vernon L. Sturgeon
President
William J. Squires Jr.
[Signature]
Lennard Ross
Commissioners

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Appendix A

AIRPORTUS
(a corporation)

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CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY

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

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.

Issued under authority of Decision No. **84185**
dated **MAR 11 1975** of the Public Utilities Commission
of the State of California, in Application No. 55121.

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

Airportus, a corporation, by the Certificate of Public Convenience and Necessity granted by the decision noted in the margin, is authorized to transport passengers and their baggage between San Jose Municipal Airport, on the one hand, and the hereinafter described service area (generally including portions of Palo Alto, Los Altos, Mountain View, Sunnyvale and Santa Clara), on the other hand; subject, however, to the authority of this Commission to change or modify said authority at any time and subject to the following provisions:

- (a) Only passengers destined to or originating at San Jose Municipal Airport shall be transported.
- (b) Carrier will maintain a reservation service at San Jose Municipal Airport.
- (c) Service will be provided daily, including holidays, and shall operate on a regularly scheduled basis in coordination with flight arrivals and departures at the airport.
- (d) Service will be performed:
 - (1) From the airport to any destination within the service area, as requested by a passenger.
 - (2) To the airport from any point of origin within the service area, as requested by a passenger. Passenger is to telephone carrier and specify name, point of origin and desired time of arrival at the airport.
- (e) Carrier will immediately notify passengers of any delay of more than 15 minutes from assigned pickup time.
- (f) Service shall be rendered via a direct route from the point of origin to the point of destination of a passenger, except that when more than one passenger is to be transported in a single vehicle, service shall be rendered by the most direct routings possible, taking into consideration the various points of origin and destination of the several passengers.

Issued by California Public Utilities Commission.

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Appendix A

AIRPORTUS
(a corporation)

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SECTION II. SERVICE AREA - (Including portions of Palo Alto, Mountain View, Los Altos, Sunnyvale and Santa Clara, and adjacent areas)

All that area enclosed by a path beginning at the interchange of Guadalupe Parkway with State Freeway 17 in San Jose, then via State Freeway 17, Coleman Avenue, De La Cruz Blvd., El Camino Real, Fremont Avenue, Foothill Expressway (including a bus stop at Lincoln Avenue and University Avenue in Los Altos), Arastradero Road, Deer Creek Road, Page Mill Road, Peter Coutts Road, Stanford Avenue, El Camino Real, Quarry Road, Stanford Hospital, Willow Road, Stanford Shopping Center, San Francisquito Creek, University Avenue, Bayshore Freeway, Embarcadero Road, Embarcadero Way, a straight line in a southeastern direction to meet Guadalupe River at its closest point to Calle Del Mundo, Guadalupe River, Bayshore Freeway and Guadalupe Parkway to its intersection with State Freeway 17, being the point of beginning.

Issued by California Public Utilities Commission.

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