

ORIGINAL

Decision No. 85055

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of AIR CREW TRANSIT, INC., a
corporation, for certificate of
public convenience and necessity
to operate passenger, baggage,
express, between Oxnard, Thousand
Oaks, West Lake to Los Angeles
International Airport and return.

Application No. 55294
(Filed November 6, 1974)

McSherry and Dickey, by George W. McSherry, Attorney
at Law, for Air Crew Transit, Inc., applicant.
Ivan McWhinney, Attorney at Law, for Airporttransit;
W. L. McCracken, Attorney at Law, for Greyhound
Lines, Inc.; and Frederick W. LaFrance, for
Employee Shuttle Service, Inc.; protestants.
Stephen T. Parry, for Southern California Rapid
Transit District, interested party.
John deBrauwere, for the Commission staff.

O P I N I O N

Applicant Air Crew Transit, Inc. (ACT), a corporation doing business as Great American Stageline, requests a certificate to operate as a passenger stage corporation between Oxnard, Thousand Oaks, and Westlake Village and the Los Angeles International Airport (LAX). By Decision No. 84003 dated January 21, 1975 we granted ACT interim authority to perform the requested service for a period of six months and extended the interim authority until final action is taken on the application by Decision No. 84739. The application was protested by Airporttransit and Employee's Shuttle Service. Greyhound Lines-West entered a limited protest. The application was heard in Los Angeles before Examiner Pilling on March 18 and 19, 1975 and upon the filing of written final arguments and receipt of transcript the matter was submitted on May 23, 1975.

In March of 1974 ACT obtained a charter-party carrier permit from the Commission and shortly thereafter started transporting passengers between the Thousand Oaks area and LAX. ACT solicited business by selling books of tickets to motels and travel agents who in turn sold the tickets on commission to their clients. ACT also sold books of tickets on consignment to various companies for use by their employees. Additionally, ACT sold individual ticket books to airline pilots and persons employed at LAX. ACT claims it was not performing a passenger stage service in the conduct of such operations. For the nine months ended December 31, 1974 (a period prior to the time when ACT had been granted interim passenger stage authority) ACT's income statement from combined operations showed a net loss of \$33,000 on a gross revenue of \$68,000. As of December 31, 1974 ACT had a deficit net worth of \$12,172. ACT explained its poor financial showing as being typical of an operation just starting up because start-up costs and initial debts incurred for the purchase of equipment distort the true profit potential of the company. The witness supporting ACT's financial statements could not stand cross-examination on many of the items set out in the statements. He was unaware of the amount, if any, of executive salaries which were paid during the 9-month period. The income statement showed that no executive salaries were paid during or assigned to the month of December 1974. He did not know ACT's operating cost per mile nor could he explain the rationale of including under direct operating cost the item of \$6,293 representing installment payments made toward the purchase of buses. Between April of 1974 and January of 1975 inclusive ACT carried approximately 14,340 passengers.

ACT proposes to conduct its proposed passenger stage operations in the same manner that it has been operating under its interim authority. ACT operates four 12-passenger 1974 Dodge Maxivans in its service. It operates five schedules a day Monday through Friday, from Oxnard to LAX with intermediate stops at Thousand Oaks

and Westlake and an additional five schedules a day, Monday through Friday, from Thousand Oaks and Westlake Village to LAX. In the reverse direction it operates ten schedules each weekday from LAX to Westlake Village and Thousand Oaks with each schedule except five terminating in Oxnard. Saturday and Sunday service is reduced to four schedules each way each day. ACT will charge a one-way fare of \$6 between Thousand Oaks (including Westlake Village) and LAX and a one-way fare of \$9 between Oxnard and LAX. It will offer special reduced rates to airline personnel, commuters, and persons buying tickets through travel agencies and consignment sales. Airline personnel will be charged \$45 for a book of 16 one-way tickets (approximately \$2.80 per ticket) and \$25 for a book of 8 one-way tickets (approximately \$3.12 per ticket) between Thousand Oaks and LAX versus the basic fare of \$6.00. The prime movers of ACT are also employed as airline pilots.

The manager of a bank testified that his bank had made two loans to ACT, that he knew the operators of ACT personally and believed them to be honest and hard working, and that his bank would favorably consider additional loans to ACT in the future.

Nine public witnesses gave testimony in support of the application. A film producer for the Seventh-Day Adventist Church testified that he personally used ACT's airport service 6 times since November 1974, and that many of the 25 people on his staff are required to travel by air and that they use ACT's service between Thousand Oaks to LAX. Numerous other persons testified as to the need for such service to them personally and the manager of a travel agency in Thousand Oaks testified she personally handles 79 accounts for ACT and that she routes 100 to 200 of her customers a week in ACT's service to LAX. The vice president of the Conejo Valley Chamber of Commerce testified that the proposed service would be beneficial to commercial travelers who visit or work at businesses such as IBM, Control Data, Burroughs, Northrop, and Lorenze Housewares, which are employers in his area.

Protestant Greyhound Lines-West withdrew its protest when applicants agreed to a restriction being placed in any operating authority issuing out of the proceeding which prohibits local service to or from points intermediate to the points named in the application. Since the hearing on this case the Commission is in receipt of a letter from protestant Employee Shuttle Service, Inc., signed by David A. Nemrow, president of Employee Shuttle Service, Inc., dated May 20, 1975 which states among other things:

"This letter is to inform the commission that Employee Shuttle Service, Inc. is no longer operating as a passenger stage corporation as of April, 1975. Passenger service as set forth in Application #54769/Decision #83279 has now ceased. The equipment has been returned to the leasing company; all creditors have been informed of the financial condition of Employee Shuttle Service, Inc.--which is broke."

In view of the fact Employee Shuttle Service, Inc. has ceased operation no purpose would be served in considering its protest.

Protestant Airporttransit is operating a passenger stage service between LAX on the one hand and on the other Ventura, Oxnard, Camarillo, Woodland Hills, and Thousand Oaks under its certificate issued in Decision No. 78126. It started operating this route in 1969 with 3 round trips a day, but sometime during 1970 or 1971, because of the paucity of traffic, it reduced the number of round trips per day to one, which is its current level of service. During the month of February 1975 it operated 28 round trips with a 33-passenger bus which offered a total of 1,848 available seats for the month. It handled 90 passengers during that month and thus operated at 4.87 percent of capacity. The witness for Airporttransit testified that his company has had no request to increase the number of schedules on the run, has not solicited business at Ventura, Oxnard, Camarillo, Woodland Hills or Thousand Oaks in the last two years, and that the

run is unprofitable. The financial witness for Airporttransit testified that his company had a net operating loss for the year 1974 of \$14,808 from combined operations, exclusive of interest income of \$54,643 received from its parent company Yellow Cab. He testified that his company lost \$582 in January 1975, and that any further loss of traffic by that run, which carries the least number of passengers of any of its runs, would have an adverse financial impact on his company. Airporttransit contends the applicant's prior illegal operations should not be condoned by the Commission and should not be used as a basis for proof of public need. It also contends that applicant is in such poor financial condition that its continued operation is questionable. Finally, Airporttransit contends that applicant presented no justification for its spread of fares ranging from a high of \$6 per trip to a low of \$2 per trip based on the class of traveler.

Findings

1. ACT proposes to operate as a passenger stage corporation between LAX on the one hand and on the other Oxnard, Thousand Oaks, and Westlake Village.
2. ACT possesses the necessary equipment to conduct the proposed operations.
3. The equipment ACT will use consists of four 12-passenger buses which are of the appropriate passenger carrying capacity for the operation.
4. ACT has the willingness and ability to conduct the proposed operations.
5. ACT proposes to operate 10 round-trip schedules a day as contrasted to the one round trip per day operated by Airporttransit.

6. Airporttransit LAX—Ventura service—limited to one round trip per day—is too infrequent and therefore unsatisfactory to realize the traffic potential, as shown by applicant to exist, associated with the great number of flights per hour which serve LAX throughout the day.

7. Airporttransit has done very little in the last two years in attempting to generate increased business for its LAX-Ventura service and the paucity of traffic carried by Airporttransit is not indicative of the public need for additional service.

8. Employee Shuttle Service, Inc. has ceased operations.

9. Public convenience and necessity require applicant's proposed passenger stage operation. Any prior unauthorized operations by applicant do not negate the public need for applicant's service.

10. Airporttransit presented no plans for changing or upgrading its service to meet the public need shown by applicant to exist. Airporttransit is not providing service along the requested route to the satisfaction of the Commission.

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

Conclusion

Public convenience and necessity require that a certificate should be issued to Air Crew Transit, Inc. to operate as a passenger stage corporation as set out in the ensuing order.

Air Crew Transit, 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. A certificate of public convenience and necessity is granted to Air Crew Transit, 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 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.

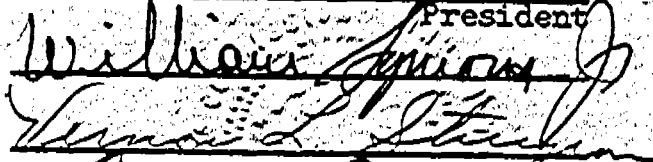
- (e) Applicant shall maintain its accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of its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

3. The interim authority granted by Decision No. 84003 dated January 21, 1975, and extended until final action of the Commission on Application No. 55294, is revoked concurrent with the effective date of the tariff and timetable filings required by Ordering Paragraph 2(b).

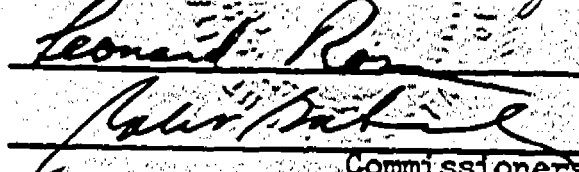
The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 28th
day of OCTOBER, 1975.



President


Leonard R. [unclear]



Commissioners

VVB/kw

Appendix A

AIR CREW TRANSIT, INC.

Original Page 1

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. 85055, dated OCT 28 1975,
of the Public Utilities Commission of the State of California, in Application
No. 55294.

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

Air Crew Transit, Inc. a corporation, by this Certificate of Public Convenience and Necessity granted by the decision noted in the margin, is authorized to transport passengers, baggage and express between Oxnard, Thousand Oaks, and the Westlake community, on the one hand, and Los Angeles International Airport main passenger terminal and hangar line area, on the other hand, 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 operation in either direction unless otherwise indicated.
- (c) Only passengers destined to or originating at the Los Angeles International Airport main passenger terminal and hangar line area shall be transported, who also have destination or origin of trip westerly of the intersection of Westlake Boulevard and Townsgate Road.
- (d) Regular route service shall be conducted daily.
- (e) Service over Route 1 may be provided on an "on-call" basis.
- (f) The term "on-call" as used herein refers to service which is authorized to be rendered dependent upon the demands of passengers. Tariff and timetable shall show the condition under which each authorized "on-call" service will be rendered.
- (g) The transportation of baggage and express shall be on passenger-carrying vehicles and shall be incidental to the transportation of passengers and limited to a weight of not more than one hundred (100) pounds per shipment.

Issued by California Public Utilities Commission.

Decision No. 85055, Application No. 55294.

SECTION 2. ROUTE DESCRIPTIONS.

Route 1 - Oxnard

Commencing at Vineyard and Esplanade in Oxnard to Route 101 (Ventura Freeway) thence on Route 101 (Ventura Freeway) to Thousand Oaks at Moorpark Road.

Route 2 - Thousand Oaks, Westlake to Los Angeles International Airport

Commencing at Dupars Restaurant and Howard Johnson Motor Lodge in Thousand Oaks at Thousand Oaks Boulevard and Conejo Boulevard, thence on Thousand Oaks Boulevard, Moorpark Road, Route 101 (Ventura Freeway) to Westlake Boulevard and Townsgate Road in Westlake, thence return to Route 101 (Ventura Freeway), and via the most direct and appropriate freeways and streets to the Los Angeles International Airport main passenger terminal and the hangar line located at or near World Way West.

Route 2(a) - Alternate to Part of Route 2

Commencing from Westlake, at Westlake Boulevard and Townsgate Road, thence on Route 101 (Ventura Freeway) Las Virgenes Road, Pacific Coast Highway and over the most appropriate and direct streets and freeways to Los Angeles International Airport main passenger terminal and the hangar line located at or near World Way West.