

Decision 88 01 007 JAN 13 1988**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 Coast Shuttle, Inc. to extend its)
 existing passenger stage authority)
 (PSC-1335) to include "on call")
 service between certain portions)
 of Los Angeles (Santa Monica,)
 Venice, Century City, Rancho Park,)
 Palms, Mar Vista, Culver City,)
 Westchester, and Playa Del Rey)
 and the Los Angeles International)
 Airport (LAX).)

Application 87-03-001
 (Filed March 2, 1987)

Russell & Hancock, by John C. Russell,
 Attorney at Law, for applicant.
 Armour, St. John, Wilcox, Goodin & Schlotz, by
Thomas J. MacBride, Jr., for SuperShuttle of
 Los Angeles, Inc., and Donald R. Howery, by
K. D. Walpert, for Los Angeles Department of
 Transportation, protestants.

OPINION

Coast Shuttle, Inc. (Coast), a California corporation, seeks authority to extend its passenger stage operations to include on-call service between certain points in Los Angeles County, including some or all of the cities or communities of Santa Monica, Beverly Hills, Venice, Century City, Rancho Park, Palms, Mar Vista, Culver City, Westchester, Playa Del Rey, and the Los Angeles International Airport (LAX).

The application was protested by SuperShuttle of Los Angeles, Inc. (SuperShuttle) and by the Los Angeles Department of Transportation (LADOT). A duly noticed public hearing was held before Administrative Law Judge Orville I. Wright in Los Angeles on June 4 and 5, 1987, and, upon the filing of concurrent briefs, the matter was submitted on August 5, 1987.

Coast's Evidence.

Coast operates as both an on-call and scheduled carrier between LAX and Marina Del Rey, having acquired PSC-1335 in Decision 86-09-036. It also holds TCP 3832 P, authorizing it to engage in charter-party passenger transportation from its terminal in Marina Del Rey.

In support of its application to extend on-call service from its present Marina Del Rey service area to the substantially larger area described in Appendix A and referred to for convenience as the Santa Monica Bay Territory, applicant presented inbound trip reports to LAX showing that it had handled over 4,500 passenger trips during the period from October 1986 through March 1987 from the area in which it seeks on-call authority. This present service, according to applicant, is being conducted under its charter-party authority.

In addition to the many passengers now using applicant's charter-party service to and from LAX, the need for Coast's expanded service was testified to by the owner of Celebrity Airport Delivery (Celebrity).

Celebrity operates both a scheduled and an on-call service to LAX in the vicinity of Wilshire Boulevard, an area which, in part, overlaps the Santa Monica Bay Territory sought to be served by applicant.

Celebrity pointed out that applicant's expanded service area covers territory formerly served by West Los Angeles Fly Away, a shuttle service sponsored by the City of Los Angeles. As Fly Away was discontinued, Celebrity believes Coast has an opportunity to obtain some good business.

Further, Celebrity testified that it believed that airport passenger volume to the Santa Monica Bay Territory was expanding and that it directed its overflow customers to Coast.

Both Coast and Celebrity agreed that taxi service from LAX to Marina Del Rey was somewhat unsatisfactory because the trip

was short and, accordingly, not as financially beneficial as trips to downtown Los Angeles.

Coast presented an opinion poll which showed that many of its passengers found its service to be good, and presented letters attesting to its good service which were placed in the correspondence file.

Coast conducts its present on-call and charter-party service with 13 six-passenger vans, two of which are owned by the corporation and the others leased from relatives of the shareowners of the corporation. The age of the oldest vehicle is three years, and the fleet contains four vehicles of 1986 vintage or newer.

Coast transportation is available to the public 21 hours per day between 5:00 a.m. and 2:00 a.m.

Applicant's balance sheet dated April 30, 1987 shows cash in the amount of \$41,441.76, fixed assets of \$33,819.44, and total assets of \$146,950.85. Shareholders equity is shown on the balance sheet as \$88,872.63.

A statement of income and expenses for the four months ending April 30, 1987 shows passenger revenues of \$273,800.85 and net profit after provision for income tax of \$18,940.66.

Coast's executives were educated in Addis Ababa University, Ethiopia, graduating in accounting. Following computer science training in Los Angeles, and a three year period during which they managed an Atlantic Richfield station, these owner-managers have been the persons responsible for the day-to-day operations, financial decisions and overall management and direction of applicant.

Protest of LADOT

LADOT contends that applicant has failed to show any need for the proposed on-call service, pointing out that SuperShuttle and other carriers already serve the expanded territory. Protestant also notes that applicant failed to develop any direct

evidence from members of the traveling public that they would use the proposed service.

Further, LADOT reminds us that when applicant was authorized by this Commission to acquire the assets of Marina Shuttle by D.86-09-036, September 17, 1986, it was promised that Coast would be managed by a person experienced in the transportation business and would be operated solely with driver employees. The record before us shows that the experienced manager was not hired by Coast, largely because of the high compensation demanded, and that it wasn't until 1987 that Coast shifted from independent drivers to employee drivers.

LADOT's brief sets forth a number of instances in Coast's president's testimony of inconsistent statements and lack of knowledge of Commission rules and regulations.

According to LADOT, the record in this case clearly shows that the applicant is not technically qualified or competent to operate an expanded van service.

Protest of SuperShuttle

SuperShuttle contends that the application should be denied because of lack of fitness of applicant and because it has not been demonstrated that public convenience and necessity requires the service expansion for which petition is made.

SuperShuttle's brief contains an analysis of the financial reports of applicant which shows that the large volume of business in the territory sought to be served by Coast as an on-call carrier may, in fact, be on-call business at present, and not charter-party transportation as alleged by applicant. This analysis, together with the uncertain testimony of applicant on the topic of charter-party service, persuades SuperShuttle that there is a lack of fitness on the part of Coast to perform extended service.

Further, SuperShuttle presented two witnesses, each of whom obtained transportation by Coast to points outside of

applicant's present on-call service area on terms arguably at variance with charter-party fare requirements set by the Commission.

With respect to the need for the service, SuperShuttle's sales manager testified that it makes approximately 150 trips a day into the expanded area sought by applicant. Too, SuperShuttle notes that Coast offered no public witnesses in support of its application.

Discussion

Coast has been operating a passenger stage or charter-party business with at least 10 vans in the Marina Del Rey and in the Santa Monica Bay Territory (Appendix A) under existing management since October 1986. Its gross revenues for the four months ending April 30, 1987 approximate \$273,000; during this period it has earned a small profit. Its evidence shows that it carried more than 4,500 passengers to LAX in its authorized charter-party business in the six month period ending March 31, 1987.

This record of performance demonstrates, in our opinion, that public convenience and necessity requires that Coast be permitted to transport its existing passenger volume from the expanded area it seeks as an on-call carrier as well as a charter-party carrier. As applicant testified, its service will be more economical if its vans are allowed to carry more than one customer or group of customers on each of its trips to and from LAX.

Protestants have proven two separate instances where applicant has violated its passenger stage authority or its charter-party authority, or both. However, applicant admits occasional transgressions by its drivers and other employees and has testified to measures it employs to ensure compliance with Commission directives.

While applicant found it financially infeasible to employ the experienced manager it stated it would hire when applying for

its initial authority, we believe that Coast's present owners are striving to make it a viable transportation service and to conform with Commission rules and regulations. We note with approval that applicant has apparently shifted from using independent drivers to using employee drivers.

We are aware that a full examination of the records of Coast may have disclosed that applicant is presently performing substantial on-call, rather than charter-party, service between the Santa Monica Bay Territory and LAX. This application, in that event, would simply legitimize that activity. We put that supposition aside, however, as applicant's credible overall testimony is to the contrary.

While SuperShuttle has shown that it makes 150 trips per day into the area sought to be served by applicant, there is insufficient evidence in the record to determine whether or not SuperShuttle is meeting the transportation requirements of the locality.

We accordingly find that there is an established need for the on-call service described in the application, that applicant has the ability and financial resources to perform the proposed expanded service, and that there is insufficient evidence in the record from which to determine whether SuperShuttle is performing on-call service in the Santa Monica Bay Territory to our satisfaction.

Comments

Pursuant to the Commission's Rules of Practice and Procedure, the proposed decision of the assigned administrative law judge for this proceeding was filed with the Commission and distributed to the parties on November 25, 1987.

Comments were filed by SuperShuttle on December 16, 1987, followed, on December 18, 1987, by a Motion to Accept Late-Filed Comments. On December 23, 1987, Coast filed a reply to SuperShuttle's comments.

Good cause appearing, SuperShuttle's comments and the response of Coast are accepted. However, our review of these comments does not persuade us that any change in the proposed decision is appropriate.

Findings of Fact

1. Applicant's requested extension of its on-call service area to include the Santa Monica Bay Territory is not adverse to the public interest.
2. Coast has the ability and financial resources to perform the proposed expanded service.
3. There is insufficient evidence in the record from which to determine whether SuperShuttle is performing on-call service in the Santa Monica Bay Territory to the satisfaction of the Commission such that there is no need for additional service.
4. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Conclusions of Law

1. The application should be granted as set forth in the following order.
2. As applicant wishes to inaugurate its expanded on-call service at an early date, this order should be effective on the date it is signed.

ORDER

IT IS ORDERED that:

1. The certificate of public convenience and necessity issued by the Commission in D.86-09-036 is amended as set forth in the attached revised pages to Appendix PSC-1335.
2. Applicant shall:
 - a. File a written acceptance of this certificate within 30 days after this order is effective.

- b. Established the authorized service and file tariffs and timetables within 120 days after this order is effective.
- c. State in its tariffs and timetables when service will start; allow at least 10 days' notice to the Commission; and make timetables and tariffs effective 10 or more days after this order is effective.
- d. Comply with General Orders Series 79, 98, 101, and 104, and the California Highway patrol safety rules.
- e. Maintain accounting records in conformity with the Uniform System of Accounts.
- f. Remit to the Commission the Transportation Reimbursement Fee required by PU Code Section 403 when notified by mail to do so.

3. Prior to initiating service to any airport, applicant shall notify the airport authority involved. This certificate does not authorize the holder to conduct any operations on the property of or into any airport unless such operation is authorized by both this Commission and the airport authority involved.

4. Applicant is authorized to begin operations on the date that the Executive Director mails a notice to applicant that it has

evidence of insurance on file with the Commission and that the California Highway Patrol has approved the use of applicant's vehicles for service.

5. The application is granted as set forth above.
This order is effective today.

Dated January 13, 1988, at San Francisco, California.

DONALD VIAL
FREDERICK R. DUDA
G. MITCHELL WILK
JOHN B. OHANIAN
Commissioners

Commissioner Stanley W. Hulett,
being necessarily absent, did
not participate.

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.


Victor Weiss, Executive Director

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

Coast Shuttle, Inc. by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized as a passenger stage corporation to provide both scheduled and on-call services to transport passengers and baggage between certain points in Los Angeles County* and Los Angeles International Airport (LAX), 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) Both scheduled and on-call services are on a seven-day per week basis.
- (d) No service shall be provided to or between intermediate points. Only passengers originating at or destined to Los Angeles International Airport (LAX) will be transported.
- (e) The term "on-call" as used refers to service which is authorized to be rendered dependent on the demands of passengers. The tariffs and timetables shall show the conditions under which each authorized on-call service will be rendered.
- (f) All transportation of passengers shall originate at and shall be destined to the service points specified in Section 2.

Issued by California Public Utilities Commission.

*Revised by Decision 88 01 007, Application 87-03-001.

SECTION 2. AUTHORIZED POINTS OF ORIGIN/DESTINATION.

A. Scheduled Service

1. Los Angeles International Airport (LAX)
2. Fog Horn, 4140 Via Marina, Marina del Rey
3. Marina Hotel, 13534 Bali Way, Marina del Rey
4. Captain's Wharf, 13960 Marquesas Way, Marina del Rey
5. Marina City Hotel, 4333 Admiralty Way, Marina del Rey

*B. On-Call Service

Between Los Angeles International Airport and all points within the following described territory:

Beginning at a point where the Pacific Ocean meets the city limit of Santa Monica, along said city limit easterly then southerly to its intersection with Wilshire Blvd., then easterly along Wilshire Blvd., to its intersection with La Cienega Blvd. then southerly along La Cienega Blvd. to its intersection with San Diego Freeway (I-405), then southerly along I-405 to its intersection with Century Blvd., then westerly along Century Blvd. to its intersection with State Highway 1 (Sepulveda Blvd.), then northerly and westerly along State Highway 1 (Sepulveda Blvd. and Lincoln Blvd.) to its intersection with 94th St., then westerly along 94th St. to its intersection with 93rd Pl. to its intersection with La Tijera Blvd., then westerly along La Tijera Blvd. to its intersection with Hastings Ave., then northerly along Hastings Ave. to its intersection with 92nd St., then westerly along 92nd St. to its intersection with Fallmouth Ave., then northerly along Fallmouth Ave. to its intersection with Manitoba St., then westerly along Manitoba St. to its intersection with Pershing Dr., then southerly along Pershing Dr. to its intersection with Sandpiper St., then westerly along Sandpiper St. and its prolongation to the Pacific Ocean, then northerly along the Pacific Ocean coastline to the point of beginning.

The above described territory generally includes the following cities and communities:

Beverly Hills (partial)	Ladera Heights	Rancho Park
Century City	Mar Vista	Santa Monica
Culver City	Marina del Rey	Venice
Fox Hills	Palms	West Los Angeles
Inglewood (partial)	Playa del Rey	Westchester

Issued by California Public Utilities Commission.

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*Added by Decision _____, Application 87-03-001.

its initial authority, we believe that Coast's present owners are striving to make it a viable transportation service and to conform with Commission rules and regulations. We note with approval that applicant has apparently shifted from using independent drivers to using employee drivers.

We are aware that a full examination of the records of Coast may have disclosed that applicant is presently performing substantial on-call, rather than charter-party service between the Santa Monica Bay Territory and LAX. This application, in that event, would simply legitimize that activity. We put that supposition aside, however, as applicant's credible overall testimony is to the contrary.

While SuperShuttle has shown that it makes 150 trips per day into the area sought to be served by applicant, there is insufficient evidence in the record to determine whether or not SuperShuttle is meeting the transportation requirements of the locality.

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2. Coast has the ability and financial resources to perform the proposed expanded service.

3. There is insufficient evidence in the record from which to determine whether SuperShuttle is performing on-call service in the Santa Monica Bay Territory to the satisfaction of the Commission such that there is no need for additional service.

4. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

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4. Applicant is authorized to begin operations on the date that the Executive Director mails a notice to applicant that it has evidence of insurance on file with the Commission and that the California Highway Patrol has approved the use of applicant's vehicles for service.

- 5. The application is granted as set forth above. This order is effective today.

Dated _____, at San Francisco, California.

- b. Established the authorized service and file tariffs and timetables within 120 days after this order is effective.
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4. Applicant is authorized to begin operations on the date that the Executive Director mails a notice to applicant that it has

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evidence of insurance on file with the Commission and that the California Highway Patrol has approved the use of applicant's vehicles for service.

5. The application is granted as set forth above.

This order is effective today.

Dated JAN 13 1988, at San Francisco, California.

DONALD VIAL
FREDERICK R. DUDA
G. MITCHELL WILK
JOHN B. OHANIAN
Commissioners

Commissioner Stanley W. Hulett
being necessarily absent, did
not participate.