

ORIGINAL

Decision SS 02 048 FEB 24 1988

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of JOHN WANG for)
certificate of public convenience)
and necessity to operate passenger)
express service between San Gabriel)
Valley and LAX.)

Application 87-05-040
(Filed May 26, 1987)

Michael Y. Lo, Attorney at Law, for
applicant.
K. D. Walport, for City of Los Angeles
Department of Transportation,
protestant.

INTERIM OPINION

Applicant, John Wang, requests authority, under Public Utilities (PU) Code Section 1031, to establish and operate a passenger stage bus service for the transportation of passengers and baggage between points within the cities of San Marino, South Pasadena, Arcadia, Temple City, San Gabriel, Rosemead, El Monte, South El Monte, Alhambra, and Monterey Park, all located in the San Gabriel Valley, on the one hand, and the Los Angeles International Airport (LAX), on the other hand.

Notice of filing of the application appeared in the Commission's Daily Transportation Calendar on June 1, 1987. In addition, notice of the filing was served by applicant upon all governmental agencies within whose boundaries passengers will be boarding and alighting. Protest to the application was filed by the City of Los Angeles Department of Transportation (City).

Applicant proposes a 24-hour, door-to-door on-call service on a seven-day per week basis with a required three-hour advance reservation. Calls for service within three hours may be served depending on availability of seats. Applicant proposes to utilize one 7-passenger Toyota van and one 8-passenger Dodge van in the proposed service. One way fares will range from \$25 per person from the cities of Monterey Park and Alhambra; \$28 per person from San Gabriel, Rosemead, San Marino, and South Pasadena; and \$30 per person from Arcadia, Temple City, and El Monte. Each additional person in a party will be charged an additional \$6.

In the application, applicant alleges justification exists for the granting of a certificate of public convenience and necessity based upon the following:

1. The population of the San Gabriel Valley has grown substantially in recent years due to the arrival of new immigrants, especially Asians.
2. At present, there is no express passenger stage to and from LAX in this area.
3. Applicant's drivers are bilingual, which is convenient for visitors or new arrivals who are not familiar with the English language.
4. Visitors from Taiwan, Hong Kong, China, and Singapore come to the San Gabriel Valley because of the large settlement of people here from Taiwan.
5. At present, people living in the San Gabriel Valley find it difficult to get to and from LAX. Taxicabs are too expensive and buses are too slow and inconvenient for passengers with luggage. Airport shuttle buses operate out of downtown Los Angeles hotels. Thus, there is a great need for passenger express stage service from the San Gabriel Valley.

Financial information accompanying the application indicates that applicant has assets of \$68,000 and liabilities of \$56,000.

Following notice, a public hearing was held in Los Angeles on August 28, 1987 before Administrative Law Judge William A. Turkish, and the matter was submitted for decision following close of argument.

Testimony was received from five witnesses on behalf of applicant. One witness testified for City.

The testimony of Jimmy Liao, the front desk clerk of a Best Western Motel located in Monterey Park, was essentially as follows:

1. The motel guests are primarily business people and tourists. More than 75% of the tourists are from the Far East with English language unfamiliarity.
2. When guests inquire about getting to LAX, they are told of the various types of transportation available. When they want to go the fastest and cheapest way, he obtains a private driver for them. A taxi is more expensive than a private driver. The motel has a telephone number for a shuttle bus service, but that service will not come for just a few people. There have been times when reservations were made for shuttle bus pickups, but the guests have had to wait a long time for it to show up, or it would fail to show up at all. It is very inconvenient for the guest. So when the guest wants to save time [the witness] calls a "private driver".
3. When guests from Taiwan or China complain that they have difficulty communicating with taxi drivers or shuttle bus drivers, the witness tells the guests that he will get them a Chinese driver who will understand them. Applicant's service to the guests is satisfactory.
4. He has called SuperShuttle in the past for his English-speaking guests, but for the

visitor who does not speak English, he calls John Wang, a "private driver".

The testimony of Janie Chu, a resident of Alhambra, on behalf of applicant, was essentially as follows:

1. In order to use the airport shuttle to LAX, she would first go to the Pasadena hotel from her home and then have to wait there for the shuttle. A friend or relative would have to drive her to the hotel.
2. She finds the services of John Wang very convenient and feels comfortable with him. She met applicant when she first arrived in the United States and he drove her from LAX to her home. Thereafter, since she does not know her way around, she calls applicant to drive her to various places. Applicant charges her \$25 for a round trip to LAX. Sometimes, if she feels he gives her good service, she pays him more. Other times, when she does not have much money, she pays him less. When she took an airport shuttle from LAX to the Pasadena Hilton, it was almost \$30. In the past six months, she has traveled to LAX approximately five times. She finds the services of John Wang satisfactory.

Doris Chen, a resident of Alhambra, called as a witness by applicant, testified that she has lived in Alhambra for one month. When she arrived at LAX from Oklahoma, she had a friend pick her up at the airport and drive her to Alhambra. This was her only experience in traveling from LAX. She has never used the services of applicant.

Paissing Wang, a resident of El Monte, called as a witness by applicant and testifying through another witness acting as an interpreter, testified that he has lived in El Monte one year since arriving from Taiwan. When he arrived at LAX he was picked up by his brother, the applicant herein, and driven to his home.

Loudy Liu, a resident of Arcadia, called as a witness by applicant and testifying through a witness interpreter, testified essentially as follows:

1. She has been living in Arcadia for one year since arriving from Taiwan. A friend had given her applicant's phone number and when friends arriving at LAX from Taiwan or other areas needed to be picked up, she would sometimes drive and pick them up; if she was unable to go to LAX, she would call applicant who then went to pick up her friends. She is very satisfied with applicant because he is Chinese and very trusting with her friends who are also Chinese and speak little or no English.
2. Because of the language problem, her friends do not know how to use the shuttle bus services. She tells all her Chinese friends about applicant and the help he can offer.
3. She has used applicant's services at least 10 times in the past year. She used applicant two times to help her get home from LAX in the past year. She paid him \$25. When her friends wanted to go to San Diego, she called applicant to drive them.

James Washington, a senior public utilities inspector, called as a witness by City, testified essentially as follows:

1. His duties include regulating and monitoring ground transportation units operating in the City of Los Angeles, including LAX.
2. At LAX, there are various transportation services available to the public, such as taxi service, auto-for-hire services, shuttle bus services, large bus service, and private vehicles.
3. SuperShuttle operates a door-to-door bus van shuttle service from LAX to Monterey Park and other areas in the San Gabriel Valley, as well as throughout Southern California. Transportation service to the

San Gabriel Valley from LAX is very adequate. It will pick up one individual or a group on a prearranged basis.

4. There are a large number of auto-for-hire services that cater to persons who do not speak English, but he does not have specific knowledge as to whether they operate out of the Western San Gabriel Valley area.

Discussion

It is evident from the testimony of several of the witnesses as well as from the argument by applicant's counsel that applicant has been operating a shuttle bus service for some time, without having obtained the required authority from this Commission. Whether applicant deliberately violated the law or operated in ignorance of the PU Code requirements is not known since applicant did not testify. In either case, the illegal past operation cannot be condoned by the Commission, which has an obligation to protect the traveling public by regulating transportation companies, to ensure that they are adequately insured, that their vehicles are safe, and that their rates are reasonable. We cannot offer protection to the public by permitting transportation companies to operate outside our regulatory process and jurisdiction. The fact that applicant now seeks to come under Commission authority by way of this application may be worthy of some consideration by this Commission but only after we have examined and considered other issues.

In an application for a certificate of public convenience and necessity, the Commission considers several factors, the greatest of which is evidence that public convenience and necessity require such service. The mere desire of an operator to enter the passenger stage business is by itself insufficient to warrant granting a certificate. Applicant presented five witnesses to testify on his behalf. Of the five, one witness testified he was the brother of applicant and is only a recent arrival from Taiwan.

His testimony offered nothing toward showing public convenience and necessity. Another witness testified that she had never used applicant's service, but that when her husband arrives in California, she will use applicant's service to pick her husband up at the airport. Two witnesses testified that they used applicant's service on several occasions or referred applicant to friends who used applicant's service. The fifth witness, an employee of a motel in Monterey Park, has either called for applicant's service for motel guests or referred guests to applicant. The witnesses were unknowledgeable about present door-to-door van shuttle services in their area which have been authorized by this Commission.

As justification for the issuance of a certificate, applicant relies on the allegation in his application that there is no express passenger stage service to and from LAX and the proposed service area. Applicant's information is not correct and we take official notice that there a number of on-call passenger stage operators presently authorized to serve the San Gabriel Valley area, including at least one operator whose drivers are bilingual, English and Chinese speaking.

Applicant presented no evidence as to the economic or financial feasibility of the proposed service although he did present a balance sheet showing assets of \$68,000 and liabilities of \$56,000.

Although applicant's presentation is not clearly persuasive, the witnesses did present some showing of need for bilingual drivers in the large Asian community. The area to be served by applicant has a large Asian population with Chinese the predominant spoken language. There is no doubt that nonEnglish-speaking Asian visitors who speak Chinese would appreciate Chinese-speaking drivers transporting them to various destinations.

Further, the fact that applicant who has been operating in the past without Commission authority now comes before us to

place himself under our authority is indicative of a desire to operate in a lawful manner and granting applicant the requested authority would be beneficial for the protection of the public.

Because the Commission is currently considering the issuance of an order instituting rulemaking (OIR) into the subject of transportation services and airport access which may alter the manner in which transportation companies are regulated, we will grant applicant a certificate of public convenience and necessity, on an interim basis, for one year, and reevaluate the application in the future on the basis of the Commission's decision in the OIR.

In accordance with Public Utilities Code Section 311, as amended by Assembly Bill 3383, the ALJ's proposed decision was mailed to appearances on January 25, 1988. Comments were received from City.

City commented that even if the Commission grants this application, applicant's total operation will not become legal. City points out that the testimony of several witnesses indicates that applicant has provided and intends to provide charter-party transportation services in addition to the requested passenger stage authority herein. We have considered all of City's comments and find that the above comment is relevant. The remaining comments offered by City do not persuade us that the proposed decision should be changed as requested by City.

Applicant is cautioned that the granting of a certificate to operate a passenger stage service does not permit transportation services which are not authorized in the certificate. Should applicant desire to provide charter-party transportation services, he is advised to apply for such authority.

Findings of Fact

1. Applicant has demonstrated a need for his proposed service, using bilingual drivers.

2. Applicant has been operating as a passenger stage for some time without any authority from this Commission.

3. There are a number of on-call passenger stage service carriers which now adequately provide service from the area applicant proposes to serve although only one provides bilingual drivers.

4. Applicant has the financial ability to carry on the proposed service.

Conclusion of Law

Applicant has presented a minimum showing of public convenience and necessity. Since an OIR is presently being conducted by the Commission on the subject of on-call transportation services and airport access transportation services, which may have significant impact on the service proposed by applicant, we will grant the certificate on an interim basis and reevaluate the application on the basis of our decision in the current OIR, which is expected in the next 12 to 18 months. Further, granting the requested certificate will bring applicant under our jurisdiction, which will permit greater protection for the public than if applicant continued to operate in an unlawful manner without authority.

INTERIM ORDER

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to John Wang, on an interim basis, for 12 months, authorizing him to operate as a passenger stage corporation, as defined in PU Code § 226, between the points and over the routes set forth in Appendix PSC-1456, to transport persons and baggage.

2. Applicant shall:

a. File a written acceptance of this certificate within 30 days after this order is effective.

- b. Establish the authorized service and file tariffs and timetables within 120 days after this order is effective.
- c. State in his 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 § 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 he has evidence of insurance on file with the Commission and, if applicable, that the California Highway Patrol has approved the use of applicant's vehicles for service.

5. This interim authority shall be reevaluated on the basis of the Commission's decision in the Order Instituting Rulemaking (OIR) now being considered by the Commission.

6. Applicant shall file a petition to modify this order and request that the interim authority be made permanent at least 45 days after the OIR decision on transportation services is issued by the Commission or at least 45 days prior to the date this interim authority expires, whichever comes first.

7. The application is granted as set forth above.

This order becomes effective 30 days from today.

Dated FEB 24 1988, at San Francisco, California.

STANLEY W. HULETT
President
DONALD VIAL
JOHN B. OHANIAN
Commissioners

Commissioner Frederick R. Duda,
being necessarily absent, did
not participate.

Commissioner G. Mitchell Wilk,
being necessarily absent, did
not participate.

MAILED
FEB 24 1988
CALIFORNIA
STATE BOARD OF
GEOLOGICAL ENGINEERS
AND SURVEYORS
AT THIS DECISION
APPROVED BY THE ABOVE
COMMISSIONERS TODAY.

Victor Weisskopf
Victor Weisskopf, Executive Director

AB

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Appendix PSC-1456

John Wang

Original Title Page

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
AS A PASSENGER STAGE CORPORATION

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

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 88 02 048, dated FEB 24 1988
of the Public Utilities Commission of the State of California, in
Application 87-05-040.

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Appendix PSC-1456

John Wang

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

John Wang 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 on-call services to transport passengers and baggage between points in Los Angeles County and Los Angeles International Airport 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. No service shall be provided to or between intermediate points. Only passengers originating at or destined to Los Angeles International Airport will be transported.
- d. 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.

Issued by California Public Utilities Commission.

Decision 88 02 048, Application 87-05-040.

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Appendix PSC-1456

John Wang

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- e. All transportation of passengers shall originate at and shall be destined to the cities specified in Section 2.
- f. This authority expires one year from the effective date.

SECTION 2. AUTHORIZED CITIES OF ORIGIN/DESTINATION FOR ON-CALL SERVICE.

- 1. San Marino
- 2. South Pasadena
- 3. Arcadia
- 4. Temple City
- 5. San Gabriel
- 6. Rosemead
- 7. El Monte
- 8. South El Monte
- 9. Alhambra
- 10. Monterey Park

Issued by California Public Utilities Commission.

Decision 88 02 048, Application 87-05-040.

place himself under our authority is indicative of a desire to operate in a lawful manner and granting applicant the requested authority would be beneficial for the protection of the public.

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Findings of Fact

1. Applicant has demonstrated a need for his proposed service, using bilingual drivers.
2. Applicant has been operating as a passenger stage for some time without any authority from this Commission.
3. There are a number of on-call passenger stage service carriers which now adequately provide service from the area applicant proposes to serve although only one provides bilingual drivers.
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Dated _____, at San Francisco, California.