

JUL 11 1988

Decision 88 97 029 JUL 8 1988**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
Valley Airport Shuttle, Inc. for a)
certificate of public convenience)
and necessity to expand its passenger)
stage service areas between points in)
Los Angeles, Ventura, and Orange)
Counties, on the one hand, and Los)
Angeles International (LAX), Burbank/)
Glendale/Pasadena (BUR), Ontario)
International (ONT), Long Beach)
(LGB), John Wayne (SNA) Airports,)
and San Pedro, Long Beach Harbors,)
on the other hand.)

Application 87-09-001
(Filed September 1, 1987)

John deBrauwere, Attorney at Law, for
applicant.

Reginald T. Charlson, for Great American
Stageline, Inc.; and S. E. Rowe, City
Manager, by K. D. Walpert, for City of
Los Angeles Department of
Transportation; protestants.

Jerilyn Cohen, Attorney at Law, for
SuperShuttle of Los Angeles, interested
party.

Vahak Petrossian, for the Transportation
Division.

OPINION

This application was filed under the title Behzad Platini, Rod H. Ramsey, and Saeid Razzaghipoor, dba Valley Airport Shuttle. In Decision (D.) 87-11-004 issued November 13, 1987, the Commission approved the transfer of all the operative rights and property of Hamid Razzaghipoor, Behzad Platini, and Saeid Razzaghipoor to Valley Airport Shuttle, Inc., a California corporation which was incorporated on June 10, 1986. Applicant moves that Application (A.) 87-09-001 be conformed as to the title of the application by changing the name of applicant from

Behzad Platini, Rod H. Ramsey (formerly known as Hamid Razzaghipoor), and Saeid Razzaghipoor to Valley Airport Shuttle, Inc. according to the offer of proof contained in D.87-11-004 of which we take official notice. The motion is granted.

Applicant Valley Airport Shuttle, Inc. (Valley) requests a certificate of public convenience and necessity (CPC&N) under Section 1031, et seq. for authority to expand its present passenger stage authority service area to include communities in the Los Angeles, Ventura, and Orange counties, on the one hand, and the Los Angeles International (LAX), Burbank/Glendale/Pasadena (BUR), Ontario International (ONT), Long Beach (LGB), John Wayne (SNA) airports, and San Pedro and Long Beach harbors, on the other hand. Valley intends to perform the proposed service on a 7-day per week on-call basis. Only passengers embarking at or destined to LAX, BUR, ONT, LGB, and SNA airports and/or the San Pedro and/or Long Beach harbors will be carried.

Notice of filing of the application appeared in the Commission's Daily Calendar on September 4, 1987. In addition, notice of the filing was served by applicant upon all governmental entities within whose boundaries applicant will be providing the proposed service. Protests to the application were filed by Great American Stageline, Inc. (Great American) and by the City of Los Angeles Department of Transportation (City).

Following notice, a hearing was held on January 25 and 26, 1988 in Los Angeles before Administrative Law Judge William A. Turkish. The matter was submitted on March 17, 1988 upon the receipt of concurrent briefs.

Eight witnesses presented testimony on behalf of Valley. One witness testified on behalf of Great American and two witnesses testified on behalf of City.

Presentation of Valley

Rod Ramsey, president of Valley, testified that his organization has grown, since April 1986, from a one van, two and

one-half employee organization to its present size of 30 to 35 employees, both full and part-time, and nine 7-passenger Dodge vans. Valley currently has 27 drivers and serves approximately nine communities in the San Fernando Valley. It operates two shifts per day and has a service for incoming orders during the third or night shift. Valley is prepared to operate its third shift should demand for service justify the same.

Ramsey projected that the company will operate with 50 vehicles if it is granted the requested authority. He estimated that each vehicle will travel approximately 490 miles per day and average two passengers per trip at an average fare of \$25. He stated that this projection was based upon the company's current one and one-half passengers per trip average. Insurance costs are approximately \$4,000 per vehicle per year. His drivers are paid either the minimum wage or 30% of their shift revenue, whichever is greater.

Ramsey testified that if the authority sought is granted Valley will relocate its home base closer to the LAX area and will have satellite offices in Orange and Ventura counties to increase the availability of vehicles in those areas. He testified that as far as he was aware, Valley had never been cited by LAX airport security. Valley currently monitors passengers boarding its vans at LAX and systematically cross-references the trip sheets with the dispatcher's records several times per week. In addition, Ramsey stated that he personally makes unannounced spot checks of passengers boarding Valley's vans at LAX as an additional check and verifies the trip sheet dispatch records.

He introduced and explained Exhibit 13, which is a 13-page revision of Valley's proposed fare schedule for the cities and communities in Los Angeles, Orange, and Ventura counties to be included in its proposed service area. This revision replaces the initial original offering attached to the application as Exhibit A. He also introduced Exhibit 4, which is a revised corporate balance

sheet and a results of operations statement for the year ending December 31, 1987. Gross revenue for the year ending December 31, 1987 is shown as \$408,691.72 with total operating expenses, excluding taxes, of \$354,060.59. Profit before taxes amounts to \$54,678.88. The exhibit also shows total assets of the corporation to be \$190,248.71.

Valley projects total operating revenues of \$6.3 million with total operating expenses of \$5.5 million, leaving a net income before taxes of \$843,588 for the first year of operations under the expanded authority. This estimated projection was based upon 50 vans operating 350 round trips per day, assuming two passengers per trip at an average of \$25 per passenger.

Protestant Great American raised the issue of the restriction contained in Valley's CPC&N precluding it from seeking a certificate to serve Simi Valley, Santa Susana, Chatsworth, or any area served by Great American for at least two years from the date of D.86-04-071. In response, Ramsey testified that at the time of the hearing in A.85-02-006 which resulted in D.86-04-071, Valley was just starting out, and had only one vehicle to provide shuttle service. There was not much demand for service and Ramsey felt that entering into such a stipulation would be in the best interest of everyone involved; in deference to Great American's pending application at the time to augment its existing bus service with an on-call service, Valley agreed to the restriction prohibiting it from filing an application to serve any of the areas served by Great American.

However, after issuance of D.86-04-071, Great American's then pending application was denied by the Commission. Then, early in 1987 Ramsey and his associates noticed a marked increase in the number of requests from the public to serve the areas not covered in Valley's certificate. During June and July 1987, data obtained from telephone requests and from drivers' reports of requests from passengers at LAX were compiled and projected on a map to give some

idea of the demand clusters. From this data, Valley determined that it had to consider expanding its service areas and, based upon those projections, Valley decided to press forward and petition the Commission for the necessary authority.

Ramsey testified that a larger service area would allow more flexibility in serving the public. It would enable Valley to serve more people, increase revenues, and, as a result, keep fares low. Ramsey stated that after the initial study was made using the input from telephone requests and drivers' reports, this application was filed.

Following the filing of the application, a subsequent survey was conducted at LAX by Valley's drivers who interviewed 385 persons. The purpose of the survey was to attempt to substantiate Valley's belief that the public desires additional van service to and from the airport. The survey contained questions such as "are you satisfied with the service you have been getting?"; "are you willing to switch to another shuttle van company for better service?"; and, "do you believe that, as a user of this service, you would actually benefit from having more companies to compete with each other?"

Ramsey testified that 55% of all passengers surveyed indicated they were waiting for a bus as opposed to 45% of those surveyed who indicated they were waiting for a shuttle van. Sixty-five percent of those passengers waiting for vans indicated dissatisfaction with the service they had used and a desire to switch to another service for improvement. Overall, 50% of all passengers surveyed said they were not satisfied with the level of service they had been receiving and that they would definitely benefit from having more services available to them.

Citing the reluctance of most people to sign their names or give their addresses on the survey, Ramsey testified that the survey forms were completed by his drivers while questioning members of the public.

Ramsey testified that, to the best of his knowledge, his vans do not operate in unauthorized areas.

During cross-examination, Ramsey acknowledged that the stipulation entered into in A.85-02-006 would place a 24-month moratorium on Valley's filing for authority to serve the communities or areas served by Great American. However, he went on to state that subsequent to the granting of that decision, Valley began receiving numerous requests for service to and from areas that it was not authorized to serve and Great American's then pending application for on-call service was denied by the Commission. In addition, two other door-to-door carriers had applied for and received Commission authority to operate in the Thousand Oaks and Ventura County areas. Ramsey testified that since Great American's then pending application had been the main consideration for the stipulation, he believed it was appropriate to file this application even though it was some seven months shy of the two-year moratorium.

David Boger, a resident of West Hills, California, called as a witness by Valley, testified in support of Valley's application to expand its service. He testified that he had occasion to go to LAX from West Hills, approximately three times a year. On those occasions, he either used his car to drive to the airport or took the bus operated by Great American. When he used Great American, his wife drove him to the bus pickup point in Woodland Hills. He believes it to be more convenient for a van to come and pick him up at his home. Using taxi service is prohibitive because of the expense. If Valley is granted authority for the West Hills area, he would use its service.

G. Vincent deCaesar, president of Metropolitan Paratransit Company, Inc., called as a witness by Valley, testified that his company operates 13 mini-vans between points within the "Wilshire corridor" and LAX. At times, he has had to turn down business and refer customers to Valley because the pickups were in

areas outside his authorized service area. He came to the hearing to lend support to Valley's application and also to provide some testimony regarding transportation in the valley as it relates to taxicab operations. He stated that he operates a taxicab service in the San Fernando Valley, but he does not believe that Valley would offer any competition to his cab service because people willing to ride-share will call Valley because of the lower cost. Those individuals who want more direct express service and are not concerned about cost would call a taxicab or a limousine to go to LAX. He testified that Valley is more reputable than many of the newer operators in the business. He believes there is a dire need for additional transportation in the valley and that, even if this application were approved, Valley alone could not fulfill this need.

He also testified that he has an application pending before the Commission to serve both Orange County and the San Fernando Valley and intends to become a competitor of Valley. He does not believe that, even if his application were approved, the transportation needs of the public would necessarily be met in the San Fernando Valley.

Siroos Moatazedi, general manager of Amtrans Airport Shuttle, called as a witness by Valley, testified that Amtrans' operation is similar to that operated by Valley, i.e. it is a door-to-door airport service operating in certain areas of Los Angeles County and in the area known as the mid-cities area. He testified that he had some familiarity with the operation of Valley and from his experience and information believes it has been providing very good and prompt service. His company is not authorized to pick up passengers in the valley and thus when a customer requests service from BUR to and from the valley, his dispatchers normally refer such orders to Valley. Despite the fact that Valley's proposed service area includes part of his service area and that Valley would be a potential competitor, he still supports Valley's

application. He believes competition benefits consumers and he does not fear that Valley would damage his business.

James E. Beres, owner of an engineering consulting firm in Orange County, called as a witness by Valley, testified that he takes approximately six to seven flights per year from SNA or LAX. On several occasions he has had his wife or associate drive him to the airport and he has also taken a regularly scheduled bus to the airport. He finds traveling by regularly scheduled bus both time-consuming and not very cost-effective. He believes the type of service to be offered by applicant is a most efficient manner of moving people from one location to the other and it is cost-effective. He supports the application of Valley to serve Orange County. He knows Ramsey through their business connections.

Chong Kim, a resident of Simi Valley, called as a witness by Valley, testified that he is required to fly from either BUR or LAX approximately five times per year. His usual way of getting to the airport is either by having his wife drive him to the airport or by taking the Van Nuys Fly-A-Way bus. Sometimes he drives to the airport and parks his car there. He is familiar with the proposed service of Valley and supports this application. Although he is aware that the van service will cost more money than he has paid on the Fly-A-Way bus, he would still utilize Valley's service, if it is approved.

Andrew Tortorici, an employee of the Xerox Corporation, called as a witness by Valley, testified that on occasion he has to fly to the east coast. He prefers to fly out of BUR from his home in Thousand Oaks. When he leaves from BUR he has his wife or a friend drive him there. When he leaves from LAX he uses Great American's bus service. Although he finds Great American adequate and reasonable in price, there are limitations because he does not believe Great American services BUR. Another limitation is that Great American does not come to your house to pick you up. Therefore, a service such as that proposed by Valley would be a

plus since it would pick him up at his home. When he has used Great American he either drove his car to its bus stop in Thousand Oaks and left the car there or had someone drive him to the bus stop. The same problem would arise when he returned from his trip. Although it would be more expensive traveling by van, he is willing to pay for that extra service. He believes the service proposed by Valley is needed in the Thousand Oaks area.

Andrew M. Spitz, a real estate agent and resident of Encino, testified that he travels out of LAX or BUR approximately six or seven times a year. He has utilized taxi service in the past to get to the airport, but the fare has become too expensive for him. At other times he has had friends drive him to the airport. He would prefer to ride in a van or a private vehicle as opposed to utilizing bus transportation to and from the airport. He would utilize the service of Valley if it should be granted a certificate and he testified in support of the application. He has used the services of Valley in the past and found its service to be good.

Burton Cutler, general manager of Celebrity Airport Livery, called as a witness by Valley, testified that from his own observations at the airport and from the monitoring of other drivers by his drivers at the airport, other van company drivers solicit passengers at LAX by calling out service to various destinations where they are unauthorized to operate and this has cost Celebrity a lot of business. The only company he does not have any complaint against is Valley. Although the granting of a certificate to Valley would make Valley a competitor of his company, he supports the application and was present to testify on Valley's behalf. He testified that he has often referred people to Valley and those people have called him and thanked him for referring them.

Presentation of Great American

Reginald Charlson, president of Great American, testifying on its behalf, stated that its protest to the application was based on the fact that in A.85-02-006, he and the principals of Valley entered into a stipulation of a two-year period within which time Valley would not file an application to service the areas served by Great American and that this application appears to breach that stipulation.

He testified that he does not understand why his applications for on-call service were denied by the Commission while other organizations have sought and received certificates to operate in the same areas he sought to serve. He believes that the San Fernando Valley is well proliferated with transportation services to the various airports. He believes the intent of the stipulation entered into by Valley was to protect Great American. His attempt to introduce Exhibit 10 was to show that Valley vans went into unauthorized areas to pick up passengers. He stated that unscrupulous van drivers who have Great American's schedules in their possession arrive at Great American's bus stops just before his buses arrive and the drivers do their best to induce some of the waiting bus passengers to go to the airport by van. This was a general observation and not necessarily directed against Valley.

Presentation of City

Kristen Dickey, a taxicab owner-operator and member of the board of directors of Independent Cab Company, called as a witness by City, testified as to the congestion at LAX resulting from the sheer number of passenger stage vans who oftentimes have to double and triple park while waiting for passengers. She has observed van drivers double park their vans and leave the vans to go into the terminal in search of passengers. As a taxicab driver, she is against this sort of conduct because taxicab drivers are not allowed to leave the cabs in search of passengers. In her opinion, there are a sufficient number of taxicabs to meet the demand for

transportation services at LAX. She also feels there are more than enough vans providing service at LAX. In her opinion, expanding the authority sought by applicant will add to the congestion of the bus stop at LAX.

Dan Brasher, an employee of SuperShuttle of Los Angeles, called as a witness by City, testified that he was assigned to investigate Valley's operations at LAX. He testified that on the morning of November 11, 1987 at approximately 11:18 a.m., he observed his co-worker, Ed DePriest, being picked up at terminal 7 by Valley's shuttle van No. 502. There were two female passengers on board at the time DePriest was picked up. The Valley van then exited the airport with the three passengers. DePriest had asked Valley's driver if he went to the Veterans' Administration (VA) cemetery at Constitution Avenue and Sepulveda Boulevard in Los Angeles and the driver responded affirmatively. The driver drove DePriest to that location. The two female passengers were being transported to the Holiday Inn in Woodland Hills. When DePriest disembarked at the VA cemetery, he was charged a fare of \$15 for which the driver had to call the dispatcher to obtain the correct fare. Brasher testified that he watched the pickup, followed the van, and also watched DePriest leave the van at the cemetery.

He testified that at approximately 12:45 p.m. on the same date he was picked up by Valley's shuttle van No. 507 at terminal 3. There was one passenger already on board who was going to Encino. The van then proceeded to terminal 7 where one more passenger, who was going to the Sheraton Miramar Hotel on Ocean Boulevard, boarded. He testified that he was dropped off by Valley's van at the VA hospital on Wilshire Boulevard and was charged \$15.

He testified that on still another occasion DePriest was picked up at terminal 1 at 2:15 p.m. by one of Valley's vans and was transported to an office building on Wilshire Boulevard. He presented the three receipts that were given to him and DePriest.

According to Brasher, Valley does not have authority to serve any area outside of the San Fernando Valley and the three trips in question were outside of Valley's authorized service area.

Discussion

This application raises two major issues. The primary issue is whether public convenience and necessity have been sufficiently demonstrated to warrant the granting of the requested authority, while another major issue relates to the fitness of applicant to receive additional operating authority.

When considering the granting of a CPC&N, the Commission considers several factors, the greatest of which is evidence that public convenience and necessity exist for such service. One way such public convenience and necessity can be demonstrated is on the basis of a market survey or study which has been made of the demand for the particular service proposed by applicant. Another method of showing public need is by presenting witnesses who promise to be potential customers of the applicant and can testify as to the need for such service. In this proceeding, applicant has attempted to show public need by both methods.

The telephone survey made by Valley is without supporting evidence other than as described by Valley's witness Ramsey in his testimony and summarized in Exhibit 5. Little weight can be given to this testimony since it cannot be corroborated. The survey taken at LAX in which a survey form was used and introduced into evidence, while questionable as to showing a need in the proposed service areas, nevertheless shows an intent on the part of Valley to obtain data as to the public need. Need, however, was indicated from the testimony of Valley's witnesses. Valley has the capability of providing the proposed service as evidenced by its growth in its one year of operation.

We next turn to the issue of fitness. Although Valley's president denies any knowledge of its vans operating outside its authorized service area, the evidence is sufficient to conclude otherwise.

Valley's present authority issued in D.87-11-004 authorized it to operate between nine communities in the San Fernando Valley, on the one hand, and LAX, on the other hand. Valley is not authorized to serve any areas of Los Angeles city or county to the south of the San Fernando Valley except LAX proper. Yet the evidence introduced in this proceeding is sufficient to conclude that Valley has operated in areas in which it is not authorized. From the numerous complaints filed with the Commission, the unauthorized operations by shuttle vans is apparently widespread. We do not condone such practices and although the array of sanctions available to us to redress such violations is broad, ranging from no sanctions to revocation of authority, we are reluctant to revoke a certificate unless the circumstances indicate continued violation after less drastic sanctions have been imposed. We have considered denial of Valley's application, but we will not adopt that course of action. This is the first instance where evidence of operational violations by Valley has been presented to the Commission. Although, the violations do raise questions about Valley's fitness, the number of violations are not great enough to deny the request for extension, since such denial would impact the public adversely given the evidence that the extended service is needed. However, the violations are serious enough to justify our limiting the extension authority to one year and requiring Valley to come in and reapply for permanent authority and show that it is fit to have such permanent authority. If any violations of its certificate or tariff are found to exist within this interim one-year period, the limited extension granted here will not be extended on a permanent basis and an OII will be initiated to determine if revocation of Valley's entire certificate should be ordered.

Finally, we consider the motion of Great American to deny the application of Valley because Valley filed its application within the two-year period restriction contained in its certificate.

In recent years, the Commission has looked with disfavor upon "sweetheart stipulations" entered into between the applicant and an existing operator which primarily serve to protect, without reference to the public interest, the protestant operator's territory and operations in return for withdrawal of its protest. The Commission favors a policy of removing such "sweetheart" restrictions in existing certificates and opposing the placing of such restrictions in new applications for new certificates. We will thus not hold Valley to the restriction contained in its certificate, especially since it filed this application only four months prior to the end of the restrictive period. Additionally, the two-year period will have ended by the time this decision is issued. Therefore, the motion by Great American should be denied.

Comments to the ALJ's Proposed Decision were received from Valley. Other than making a slight change in the wording at the bottom of page 13 as a result of Valley's comments, we do not find reason to make any additional changes in this opinion.

Findings of Fact

1. Applicant has the ability, equipment, and financial resources to perform the proposed service.
2. Public convenience and necessity require the proposed service.
3. The rates proposed in the application are deemed reasonable.
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.
5. Applicant has transported passengers to areas outside of its authorized service area on at least 3 occasions, thus raising

questions about its fitness, which militate against the grant of permanent authority at this time.

Conclusions of Law

1. Public convenience and necessity have been demonstrated and a certificate expanding its passenger stage service area as requested should be granted to Valley for a one year period.

2. The motion of Great American should be denied.

Only the amount paid to the State for operative rights may be used in rate fixing. The State may grant any number of rights and may cancel or modify the monopoly feature of these rights at any time.

ORDER

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Valley Airport Shuttle, Inc., a corporation, on an interim basis, for 12 months, authorizing it 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-1415, 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 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 § 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. Applicant shall file a petition to modify this order and request that the interim authority be made permanent at least 45 days prior to the date this interim authority expires.

6. The protests of Great American Stageline, Inc. and City are denied.

7. The application is granted as set forth above.

This order becomes effective 30 days from today.

Dated JUL 8 1988, at San Francisco, California.

STANLEY W. HULETT
President

DONALD VIAL
G. MITCHELL WILK
JOHN B. OHANIAN
Commissioners

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

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

Victor Weiss

Victor Weiss, Executive Director

AS

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

Valley Airport Shuttle, 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 a door-to-door, on-call basis between points in *Los Angeles, Orange, and Ventura Counties, described in Section 2, and Los Angeles International (LAX), Burbank/Glendale/Pasadena (BUR), Ontario International (ONT), Long Beach (LGB), John Wayne (SNA) Airports, and San Pedro and Long Beach Harbors*, over and along the route described, subject, however, to the authority of this Commission to change or modify the route 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) 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, and shall include the description of the boundary of each fare zone, except when a single fare is charged to all points within a single incorporated city.
- *(d) No passengers shall be transported except those having points of origin or destination at LAX, BUR, ONT, LGB, SNA, San Pedro Harbor or Long Beach Harbor.

Issued by California Public Utilities Commission.

*Revised by Decision 88 07 029, Application 87-09-001.

T/vjk

Appendix PSC-1415
(D.86-04-071,
D.87-11-004)

Valley Airport Shuttle, Inc.

Second Revised Page 3
Cancels
First Revised Page 3

SECTION 1. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS,
AND SPECIFICATIONS. (Continued)

- (e) 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.
- (f) Only vehicles with seating capacity of 8 through 15 passengers shall be used.
- *(g) The authority granted by the decision noted in the margin below shall expire one year from the effective date of the decision. The certificate granted by Decision 87-11-004 is not subject to this expiration.

Issued by California Public Utilities Commission.

88 07 029

*Revised by Decision _____, Application 87-09-001.

/vjk

Appendix PSC-1415 Valley Airport Shuttle, Inc.
(D.86-04-071,
D.87-11-004)

Second Revised Page 4
Cancels
First Revised Page 4

*SECTION 2. SERVICE AREA DESCRIPTION.

Los Angeles County

All points within the geographical limits of Los Angeles County.

Orange County

All points within the geographical limits of Orange County.

Ventura County

All points within the geographical limits of Ventura County south of the Los Padres National Forest.

Issued by California Public Utilities Commission.

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/vjk

Appendix PSC-1415
(D.86-04-071,
D.87-11-004)

Valley Airport Shuttle, Inc.

Second Revised Page 5
Cancels
First Revised Page 5

*SECTION 3. ROUTE DESCRIPTION.

Commencing at any point within the authorized service area described in Section 2, then via the most convenient streets and highways to LAX, BUR, ONT, LGB, SNA, San Pedro Harbor or Long Beach Harbor.

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Decision _____

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Eight witnesses presented testimony on behalf of Valley. One witness testified on behalf of Great American and two witnesses testified on behalf of City.

Presentation of Valley

Rod Ramsey, president of Valley, testified that his organization has grown, since April 1986, from a one van, two and

one-half employee organization to its present size of 30 to 35 employees, both full and part-time, and nine 7-passenger Dodge vans. Valley currently has 27 drivers and serves approximately nine communities in the San Fernando Valley. It operates two shifts per day and has a service for incoming orders during the third or night shift. Valley is prepared to operate its third shift should demand for service justify the same.

Ramsey projected that the company will operate with 50 vehicles if it is granted the requested authority. He estimated that each vehicle will travel approximately 490 miles per day and average two passengers per trip at an average fare of \$25. He stated that this projection was based upon the company's current one and one-half passengers per trip average. Insurance costs are approximately \$4,000 per vehicle per year. His drivers are paid either the minimum wage or 30% of their shift revenue, whichever is greater.

Ramsey testified that if the authority sought is granted Valley will relocate its home base closer to the LAX area and will have satellite offices in Orange and Ventura counties to increase the availability of vehicles in those areas. He testified that as far as he was aware, Valley had never been cited by LAX airport security. Valley currently monitors passengers boarding its vans at LAX and systematically cross-references the trip sheets with the dispatcher's records several times per week. In addition, Ramsey stated that he personally makes unannounced spot checks of passengers boarding Valley's vans at LAX as an additional check and verifies the trip sheet dispatch records.

He introduced and explained Exhibit 13, which is a 13-page revision of Valley's proposed fare schedule for the cities and communities in Los Angeles, Orange, and Ventura counties to be included in its proposed service area. This revision replaces the initial original offering attached to the application as Exhibit A. He also introduced Exhibit 4, which is a revised corporate balance

sheet and a results of operations statement for the year ending December 31, 1987. Gross revenue for the year ending December 31, 1987 is shown as \$408,691.72 with total operating expenses, excluding taxes, of \$354,060.59. Profit before taxes amounts to \$54,678.88. The exhibit also shows total assets of the corporation to be \$190,248.71.

Valley projects total operating revenues of \$6.3 million with total operating expenses of \$5.5 million, leaving a net income before taxes of \$843,588 for the first year of operations under the expanded authority. This estimated projection was based upon 50 vans operating 350 round trips per day, assuming two passengers per trip at an average of \$25 per passenger.

Protestant Great American raised the issue of the restriction contained in Valley's CPC&N precluding it from seeking a certificate to serve Simi Valley, Santa Susana, Chatsworth, or any area served by Great American for at least two years from the date of D.86-04-071. In response, Ramsey testified that at the time of the hearing in A.85-02-006 which resulted in D.86-04-071, Valley was just starting out, and had only one vehicle to provide shuttle service. There was not much demand for service and Ramsey felt that entering into such a stipulation would be in the best interest of everyone involved; in deference to Great American's pending application at the time to augment its existing bus service with an on-call service, Valley agreed to the restriction prohibiting it from filing an application to serve any of the areas served by Great American.

However, after issuance of D.86-04-071, Great American's then pending application was denied by the Commission. Then, early in 1987 Ramsey and his associates noticed a marked increase in the number of requests from the public to serve the areas not covered in Valley's certificate. During June and July 1987, data obtained from telephone requests and from drivers' reports of requests from passengers at LAX were compiled and projected on a map to give some

idea of the demand clusters. From this data, Valley determined that it had to consider expanding its service areas and, based upon those projections, Valley decided to press forward and petition the Commission for the necessary authority.

Ramsey testified that a larger service area would allow more flexibility in serving the public. It would enable Valley to serve more people, increase revenues, and, as a result, keep fares low. Ramsey stated that after the initial study was made using the input from telephone requests and drivers' reports, this application was filed.

Following the filing of the application, a subsequent survey was conducted at LAX by Valley's drivers who interviewed 385 persons. The purpose of the survey was to attempt to substantiate Valley's belief that the public desires additional van service to and from the airport. The survey contained questions such as "are you satisfied with the service you have been getting?"; "are you willing to switch to another shuttle van company for better service?"; and, "do you believe that, as a user of this service, you would actually benefit from having more companies to compete with each other?"

Ramsey testified that 55% of all passengers surveyed indicated they were waiting for a bus as opposed to 45% of those surveyed who indicated they were waiting for a shuttle van. Sixty-five percent of those passengers waiting for vans indicated dissatisfaction with the service they had used and a desire to switch to another service for improvement. Overall, 50% of all passengers surveyed said they were not satisfied with the level of service they had been receiving and that they would definitely benefit from having more services available to them.

Citing the reluctance of most people to sign their names or give their addresses on the survey, Ramsey testified that the survey forms were completed by his drivers while questioning members of the public.

Ramsey testified that, to the best of his knowledge, his vans do not operate in unauthorized areas.

During cross-examination, Ramsey acknowledged that the stipulation entered into in A.85-02-006 would place a 24-month moratorium on Valley's filing for authority to serve the communities or areas served by Great American. However, he went on to state that subsequent to the granting of that decision, Valley began receiving numerous requests for service to and from areas that it was not authorized to serve and Great American's then pending application for on-call service was denied by the Commission. In addition, two other door-to-door carriers had applied for and received Commission authority to operate in the Thousand Oaks and Ventura County areas. Ramsey testified that since Great American's then pending application had been the main consideration for the stipulation, he believed it was appropriate to file this application even though it was some seven months shy of the two-year moratorium.

David Boger, a resident of West Hills, California, called as a witness by Valley, testified in support of Valley's application to expand its service. He testified that he had occasion to go to LAX from West Hills, approximately three times a year. On those occasions, he either used his car to drive to the airport or took the bus operated by Great American. When he used Great American, his wife drove him to the bus pickup point in Woodland Hills. He believes it to be more convenient for a van to come and pick him up at his home. Using taxi service is prohibitive because of the expense. If Valley is granted authority for the West Hills area, he would use its service.

G. Vincent deCaesar, president of Metropolitan Paratransit Company, Inc., called as a witness by Valley, testified that his company operates 13 mini-vans between points within the "Wilshire corridor" and LAX. At times, he has had to turn down business and refer customers to Valley because the pickups were in

areas outside his authorized service area. He came to the hearing to lend support to Valley's application and also to provide some testimony regarding transportation in the valley as it relates to taxicab operations. He stated that he operates a taxicab service in the San Fernando Valley, but he does not believe that Valley would offer any competition to his cab service because people willing to ride-share will call Valley because of the lower cost. Those individuals who want more direct express service and are not concerned about cost would call a taxicab or a limousine to go to LAX. He testified that Valley is more reputable than many of the newer operators in the business. He believes there is a dire need for additional transportation in the valley and that, even if this application were approved, Valley alone could not fulfill this need.

He also testified that he has an application pending before the Commission to serve both Orange County and the San Fernando Valley and intends to become a competitor of Valley. He does not believe that, even if his application were approved, the transportation needs of the public would necessarily be met in the San Fernando Valley.

Siroos Moatazadi, general manager of Amtrans Airport Shuttle, called as a witness by Valley, testified that Amtrans' operation is similar to that operated by Valley, i.e. it is a door-to-door airport service operating in certain areas of Los Angeles County and in the area known as the mid-cities area. He testified that he had some familiarity with the operation of Valley and from his experience and information believes it has been providing very good and prompt service. His company is not authorized to pick up passengers in the valley and thus when a customer requests service from BUR to and from the valley, his dispatchers normally refer such orders to Valley. Despite the fact that Valley's proposed service area includes part of his service area and that Valley would be a potential competitor, he still supports Valley's

application. He believes competition benefits consumers and he does not fear that Valley would damage his business.

James E. Beres, owner of an engineering consulting firm in Orange County, called as a witness by Valley, testified that he takes approximately six to seven flights per year from SNA or LAX. On several occasions he has had his wife or associate drive him to the airport and he has also taken a regularly scheduled bus to the airport. He finds traveling by regularly scheduled bus both time-consuming and not very cost-effective. He believes the type of service to be offered by applicant is a most efficient manner of moving people from one location to the other and it is cost-effective. He supports the application of Valley to serve Orange County. He knows Ramsey through their business connections.

Chong Kim, a resident of Simi Valley, called as a witness by Valley, testified that he is required to fly from either BUR or LAX approximately five times per year. His usual way of getting to the airport is either by having his wife drive him to the airport or by taking the Van Nuys Fly-A-Way bus. Sometimes he drives to the airport and parks his car there. He is familiar with the proposed service of Valley and supports this application. Although he is aware that the van service will cost more money than he has paid on the Fly-A-Way bus, he would still utilize Valley's service, if it is approved.

Andrew Tortorici, an employee of the Xerox Corporation, called as a witness by Valley, testified that on occasion he has to fly to the east coast. He prefers to fly out of BUR from his home in Thousand Oaks. When he leaves from BUR he has his wife or a friend drive him there. When he leaves from LAX he uses Great American's bus service. Although he finds Great American adequate and reasonable in price, there are limitations because he does not believe Great American services BUR. Another limitation is that Great American does not come to your house to pick you up. Therefore, a service such as that proposed by Valley would be a

plus since it would pick him up at his home. When he has used Great American he either drove his car to its bus stop in Thousand Oaks and left the car there or had someone drive him to the bus stop. The same problem would arise when he returned from his trip. Although it would be more expensive traveling by van, he is willing to pay for that extra service. He believes the service proposed by Valley is needed in the Thousand Oaks area.

Andrew M. Spitz, a real estate agent and resident of Encino, testified that he travels out of LAX or BUR approximately six or seven times a year. He has utilized taxi service in the past to get to the airport, but the fare has become too expensive for him. At other times he has had friends drive him to the airport. He would prefer to ride in a van or a private vehicle as opposed to utilizing bus transportation to and from the airport. He would utilize the service of Valley if it should be granted a certificate and he testified in support of the application. He has used the services of Valley in the past and found its service to be good.

Burton Cutler, general manager of Celebrity Airport Livery, called as a witness by Valley, testified that from his own observations at the airport and from the monitoring of other drivers by his drivers at the airport, other van company drivers solicit passengers at LAX by calling out service to various destinations where they are unauthorized to operate and this has cost Celebrity a lot of business. The only company he does not have any complaint against is Valley. Although the granting of a certificate to Valley would make Valley a competitor of his company, he supports the application and was present to testify on Valley's behalf. He testified that he has often referred people to Valley and those people have called him and thanked him for referring them.

Presentation of Great American

Reginald Charlson, president of Great American, testifying on its behalf, stated that its protest to the application was based on the fact that in A.85-02-006, he and the principals of Valley entered into a stipulation of a two-year period within which time Valley would not file an application to service the areas served by Great American and that this application appears to breach that stipulation.

He testified that he does not understand why his applications for on-call service were denied by the Commission while other organizations have sought and received certificates to operate in the same areas he sought to serve. He believes that the San Fernando Valley is well proliferated with transportation services to the various airports. He believes the intent of the stipulation entered into by Valley was to protect Great American. His attempt to introduce Exhibit 10 was to show that Valley vans went into unauthorized areas to pick up passengers. He stated that unscrupulous van drivers who have Great American's schedules in their possession arrive at Great American's bus stops just before his buses arrive and the drivers do their best to induce some of the waiting bus passengers to go to the airport by van. This was a general observation and not necessarily directed against Valley.

Presentation of City

Kristen Dickey, a taxicab owner-operator and member of the board of directors of Independent Cab Company, called as a witness by City, testified as to the congestion at LAX resulting from the sheer number of passenger stage vans who oftentimes have to double and triple park while waiting for passengers. She has observed van drivers double park their vans and leave the vans to go into the terminal in search of passengers. As a taxicab driver, she is against this sort of conduct because taxicab drivers are not allowed to leave the cabs in search of passengers. In her opinion, there are a sufficient number of taxicabs to meet the demand for

transportation services at LAX. She also feels there are more than enough vans providing service at LAX. In her opinion, expanding the authority sought by applicant will add to the congestion of the bus stop at LAX.

Dan Thrasher, an employee of SuperShuttle of Los Angeles, called as a witness by City, testified that he was assigned to investigate Valley's operations at LAX. He testified that on the morning of November 11, 1987 at approximately 11:18 a.m., he observed his co-worker, Ed DePriest, being picked up at terminal 7 by Valley's shuttle van No. 502. There were two female passengers on board at the time DePriest was picked up. The Valley van then exited the airport with the three passengers. DePriest had asked Valley's driver if he went to the Veterans' Administration (VA) cemetery at Constitution Avenue and Sepulveda Boulevard in Los Angeles and the driver responded affirmatively. The driver drove DePriest to that location. The two female passengers were being transported to the Holiday Inn in Woodland Hills. When DePriest disembarked at the VA cemetery, he was charged a fare of \$15 for which the driver had to call the dispatcher to obtain the correct fare. Thrasher testified that he watched the pickup, followed the van, and also watched DePriest leave the van at the cemetery.

He testified that at approximately 12:45 p.m. on the same date he was picked up by Valley's shuttle van No. 507 at terminal 3. There was one passenger already on board who was going to Encino. The van then proceeded to terminal 7 where one more passenger, who was going to the Sheraton Miramar Hotel on Ocean Boulevard, boarded. He testified that he was dropped off by Valley's van at the VA hospital on Wilshire Boulevard and was charged \$15.

He testified that on still another occasion DePriest was picked up at terminal 1 at 2:15 p.m. by one of Valley's vans and was transported to an office building on Wilshire Boulevard. He presented the three receipts that were given to him and DePriest.

According to Thrasher, Valley does not have authority to serve any area outside of the San Fernando Valley and the three trips in question were outside of Valley's authorized service area.

Discussion

This application raises two major issues. The primary issue is whether public convenience and necessity have been sufficiently demonstrated to warrant the granting of the requested authority, while another major issue relates to the fitness of applicant to receive additional operating authority.

When considering the granting of a CPC&N, the Commission considers several factors, the greatest of which is evidence that public convenience and necessity exist for such service. One way such public convenience and necessity can be demonstrated is on the basis of a market survey or study which has been made of the demand for the particular service proposed by applicant. Another method of showing public need is by presenting witnesses who promise to be potential customers of the applicant and can testify as to the need for such service. In this proceeding, applicant has attempted to show public need by both methods.

The telephone survey made by Valley is without supporting evidence other than as described by Valley's witness Ramsey in his testimony and summarized in Exhibit 5. Little weight can be given to this testimony since it cannot be corroborated. The survey taken at LAX in which a survey form was used and introduced into evidence, while questionable as to showing a need in the proposed service areas, nevertheless shows an intent on the part of Valley to obtain data as to the public need. Need, however, was indicated from the testimony of Valley's witnesses. Valley has the capability of providing the proposed service as evidenced by its growth in its one year of operation.

We next turn to the issue of fitness. Although Valley's president denies any knowledge of its vans operating outside its authorized service area, the evidence is sufficient to conclude otherwise.

Valley's present authority issued in D.87-11-004 authorized it to operate between nine communities in the San Fernando Valley, on the one hand, and LAX, on the other hand. Valley is not authorized to serve any areas of Los Angeles city or county to the south of the San Fernando Valley except LAX proper. Yet the evidence introduced in this proceeding is sufficient to conclude that Valley has operated in areas in which it is not authorized. From the numerous complaints filed with the Commission, the unauthorized operations by shuttle vans is apparently widespread. We do not condone such practices and although the array of sanctions available to us to redress such violations is broad, ranging from no sanctions to revocation of authority, we are reluctant to revoke a certificate unless the circumstances indicate continued violation after less drastic sanctions have been imposed. We have considered denial of Valley's application, but we will not adopt that course of action. This is the first instance where evidence of operational violations by Valley has been presented to the Commission. Although, the violations do raise questions about Valley's fitness, the number of violations are not great enough to deny the request for extension, since such denial would impact the public adversely given the evidence that the extended service is needed. However, the violations are serious enough to justify our limiting the extension authority to one year and requiring Valley to come in and reapply for permanent authority and show that it is fit to have such permanent authority. If additional violations of service territory boundaries have occurred in that one year period, the limited

extension granted here will not be extended on a permanent basis and an OII will be initiated to determine if revocation of Valley's entire certificate should be ordered.

Finally, we consider the motion of Great American to deny the application of Valley because Valley filed its application within the two-year period restriction contained in its certificate.

In recent years, the Commission has looked with disfavor upon "sweetheart stipulations" entered into between the applicant and an existing operator which primarily serve to protect, without reference to the public interest, the protestant operator's territory and operations in return for withdrawal of its protest. The Commission favors a policy of removing such "sweetheart" restrictions in existing certificates and opposing the placing of such restrictions in new applications for new certificates. We will thus not hold Valley to the restriction contained in its certificate, especially since it filed this application only four months prior to the end of the restrictive period. Additionally, the two-year period will have ended by the time this decision is issued. Therefore, the motion by Great American should be denied.

Findings of Fact

1. Applicant has the ability, equipment, and financial resources to perform the proposed service.
2. Public convenience and necessity require the proposed service.
3. The rates proposed in the application are deemed reasonable.
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.
5. Applicant has transported passengers to areas outside of its authorized service area on at least 3 occasions, thus raising

- 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 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. Applicant shall file a petition to modify this order and request that the interim authority be made permanent at least 45 days prior to the date this interim authority expires.

6. The protests of Great American Stageline, Inc. and City are denied.

7. The application is granted as set forth above.

This order becomes effective 30 days from today.

Dated _____, at San Francisco, California.