

ORIGINAL

Decision 88 11 006 NOV 9 1988

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
American Transportation Enterprises)
(AMTRANS), Inc., dba AMTRANS AIRPORT)
SHUTTLE, for authority to extend its)
Passenger Stage Corporation, PSC)
1451, authority and provide service)
between points in Los Angeles,)
Orange, San Bernardino, Riverside,)
and Ventura Counties and Los Angeles)
International, Burbank, Long Beach,)
John Wayne and Ontario Airports.)

Mailed

NOV 10 1988

Application 88-02-021
(Filed February 16, 1988)

John E. deBrauwere, Attorney at Law, for
American Transportation Enterprises,
Inc. (Amtrans), applicant.
Kirby & Kirby, by Steve Kirby, Attorney at
Law, for SuperShuttle, and S. E. Rowe,
by K. D. Walpert, for Department of
Transportation, City of Los Angeles,
protestants.
Vijay Khawani, for the Transportation
Division.

OPINION

Applicant American Transportation Enterprises, Inc. (Amtrans), doing business as Amtrans Airport Shuttle, seeks authority to expand its passenger stage certificate to provide service between points in Los Angeles, Orange, San Bernardino, Riverside, and Ventura Counties and Los Angeles International Airport (LAX), Burbank Airport (BUR), Long Beach Airport, John Wayne (Orange County) Airport and Ontario International Airport (ONT). SuperShuttle of Los Angeles, Inc. (SuperShuttle) a competing passenger stage operator and the City of Los Angeles (City) protest.

Amtrans, in Decision (D.) 87-10-084, was granted a certificate of public convenience and necessity to operate an

on-call airport access van service between some 19 communities in southeast Los Angeles County, on the one hand, and LAX, BUR, and ONT, on the other hand. Service started the first week of January 1988 with four 7-passenger vans; a fifth was added in May and a sixth in July.

A vice-president of Amtrans testified that from the start of service about 80% of the public's requests for service was for transportation outside of Amtrans' certificated area. Experience quickly showed that the certificated area was not adequate. Because drivers are paid on a commission basis there is great temptation to exceed operating authority. He said that the company was operating profitably and that if the new authority were granted Amtrans had the financial resources to expand to 50 vans. It was stipulated that Amtrans has a potential investor who has offered to invest \$200,000 in the business if this application is granted.

The witness testified at great length about insurance problems that beset Amtrans during the first four months of its operations. He said all the problems have been solved and there is adequate insurance on all shuttle vans to the satisfaction of the Commission. He said that the original problems arose because his insurance broker did not fully understand the insurance requirements of the van service and failed to distinguish between the van service and an affiliated taxi service, which also had insurance problems. He admitted that Amtrans had to cease service for a few days because of lack of insurance.

Amtrans presented six public witnesses who testified to the need for expanded service, and a survey which showed a demand for additional van service. The testimony of the public witnesses was to the effect that van service to the airport was a fast, economical mode of transportation - much better than buses or taxis; that they supported additional van service because they

believe more carriers would lead to better and more frequent service at low rates.

The survey that was introduced covered Los Angeles County, Orange County, and Riverside County and was designed to show whether or not there was a need for an airport shuttle service in the community. Some 400 questionnaires were completed in the three counties and the results were tabulated. Approximately 80% of the responses requested more shuttle van service to the airports.

SuperShuttle, which operates over 200 vans from its terminal near LAX, protested. SuperShuttle sought to show that Amtrans was not adequately funded, had a poor insurance record, presented uninformed public witness testimony and a useless survey, and in general is unfit to operate an expanded service. Through cross-examination SuperShuttle brought out that Amtrans management had poor control over its insurance program and probably had operated when its insurance had lapsed or been canceled for unpaid premiums. SuperShuttle also brought out that Amtrans' accounting practices left much to be desired. The true financial condition of the company cannot be ascertained from the submitted statements.

On its direct case SuperShuttle presented two witnesses who testified that on approximately 20 occasions they followed Amtrans' vans from LAX, where they saw passengers transported to points outside of Amtrans' certificated area. Those points were most often the Disneyland/Buena Park area and downtown Los Angeles. The period in question stretched from January 11 through July 21, 1988.

In its defense Amtrans said that it tries to stay within its certificated area and has supervisors who check on drivers to insure compliance. It has disciplined drivers when appropriate. It presented a witness who testified that he had observed SuperShuttle disobeying airport rules at LAX regarding the number

of vehicles at van stops, and further that SuperShuttle operated between LAX and Thousand Oaks, in Ventura County on at least two occasions in March 1988; that destination being beyond SuperShuttle's certificated territory.

The Department of Transportation of the City presented the secretary-treasurer of the Independent Cab Company. Her organization is opposed to new van service at LAX. She testified that shuttle vans are taking business away from taxicabs at LAX. Since 1983, vans are permitted to circle the airport while cabs are required to remain in a holding lot until called. In her opinion there is adequate van service at the airport and a new operator is not needed. She said that SuperShuttle has the lion's share of the vans that are flooding LAX.

Discussion

The issues presented in this case - (1) the need for additional service, (2) the congestion at LAX, (3) service outside of Amtrans' certificated area, and (4) failure to comply with Commission requirements - have been the subject of numerous recent decisions which granted applications for service despite negative findings on one or more of the issues. See, for example, D.88-07-028 in Application (A.) 87-12-033; D.88-07-029 in A.87-09-001; D.88-03-046 in A.86-12-045; and D.88-01-057 in A.87-02-039.

Amtrans is in a position comparable to the applicants in the cited cases. The problems at LAX are not going to be helped or hindered by the grant of this application. SuperShuttle, with its 200 vans, and other operators can always add equipment and, to the extent competitors are kept out of the airport, the remaining carriers may exercise quasi-monopoly powers over ground transportation.

The testimony of six public witnesses and the results of a random survey show that the public seeks more service, not less service, to and from the Los Angeles area airports. Whether

Amtrans is financially able to provide that service is questionable; but, if it is not, the public is not harmed; other carriers are well able to take up the slack. Service beyond one's certificated area seems to be endemic in this business; no one is immune, not even SuperShuttle, who challenges other carriers on this issue.

The most serious allegation against Amtrans concerns its problem with insurance. In our regulation of van service one of the most important functions is to assure the public that certificated operators have the insurance required by law. To that end our rules provide that evidence of insurance must be filed with the Commission before a certificate is issued and that insurance covers all certificated operations whether or not specifically endorsed on the insurance policy. For instance, if an operator of five vans with evidence of insurance for five vans increases the number of vans it operates, the insurance policy covers the increased vans automatically. (General Order (GO) 101-E.) The insurance broker for Amtrans' insurance carrier testified that because of the GO his company must "cover all claims regardless of whether the vehicle is scheduled in the policy or not." He said that his company insures Amtrans' airport van service as required by this Commission. We take official notice that Amtrans has fulfilled the Commission's insurance requirements and has a valid certificate in effect.

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.

Conclusion of Law

Public convenience and necessity have been demonstrated and a certificate expanding its passenger stage service area as requested should be granted.

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 American Transportation Enterprises, Inc. 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 the attached revised pages to Appendix PSC-1451, 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.

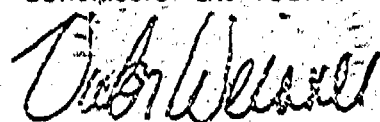
4. Applicant is authorized to begin operations on the date that the Executive Director mails a notice to applicant that it has evidence of insurance on file with the Commission, and that the California Highway Patrol has approved the use of applicant's vehicles for service.

This order becomes effective 30 days from today.

Dated NOV 9 1988, at San Francisco, California.

STANLEY W. HULETT
President
DONALD VIAL
FREDERICK R. DUDA
C. MITCHELL WILK
JOHN B. OHANIAN
Commissioners

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



Victor Weisser, Executive Director

T/VJ/vjk

Appendix PSC-1451
(D.87-10-084)

American Transportation
Enterprises, Inc.

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Issued by California Public Utilities Commission.

*Revised by Decision 88 11 006, Application 88-02-021.

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

American Transportation Enterprises, Inc., by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to transport passengers and baggage on a door-to-door, on-call basis between points in *Los Angeles, Orange, Ventura, Riverside and San Bernardino Counties, described in Section 2, and Los Angeles International (LAX), Burbank/Glendale/Pasadena (BUR), Ontario International (ONT), Long Beach (LGB), John Wayne (SNA) Airports, Los Angeles Harbor, Long Beach Harbor and the Los Angeles Amtrak Station*, 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 operations 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 the authorized door-to-door on call service will be provided, 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 a point of origin or destination at LAX, BUR, ONT, LGB, SNA, Los Angeles Harbor, Long Beach Harbor or the Los Angeles Amtrak Station.
- (e) This certificate does not authorize the holder to conduct any operation on the property of or into any airport unless such operation is authorized by both this commission and the airport authority involved.

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Appendix PSC-1451
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*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.

Riverside County

All points within the geographical limits of the following cities and communities (postal zip codes):

Corona
Lake Elsinore
Mira Loma (91752)
Norco
Riverside

San Bernardino County

All points within the geographical limits of the following cities and communities (postal zip codes):

Alta Loma (91701)	Montclair
Bloomington (92316)	Ontario
Chino	Rancho Cucamonga
Colton	Redlands
Etiwanda (91739)	Rialto
Fontana	San Bernardino
Highland (92346)	Upland
Loma Linda	

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Appendix PSC-1451
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*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, Los Angeles Harbor, Long Beach Harbor or the Los Angeles Amtrak Station.

Issued by California Public Utilities Commission.

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