

Decision 89 04 062 APR 26 1989

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
Mailed

In the Matter of Application of
HASSAN M. HOSSEINI, dba SUPER
EXPRESS, for an extension of service
by adding additional territory in
Los Angeles to an existing one.

APR 26 1989
Application 88-07-032
(Filed July 20, 1988)

In the matter of the application of
Hassan M. Hosseini, dba Super
Express to transfer to Southern
Super Express, Inc., a California
corporation, the passenger stage
corporation business currently
operated by Hassan M. Hosseini
under authority of decision
No. 85-07-073.

Application 88-08-049
(Filed August 24, 1988)

John E. deBrauwere, Attorney at Law, for
Hassan M. Hosseini and Southern Super
Express, Inc., applicants.

S. E. Rowe, by K. D. Walpert, for
Department of Transportation, City of
Los Angeles, protestant.

Kirby & Kirby, by Steven C. Kirby, Attorney
at Law, for SuperShuttle of Los Angeles,
interested party.

OPINION

Hassan M. Hosseini (Hosseini), an individual doing
business as Super Express, seeks authority in Application
(A.) 88-08-049, to transfer PSC-1388 to Southern Super Express,
Inc. (Southern), a California corporation formed by Hosseini to
conduct his transportation business.

Hosseini and Southern, in A.88-07-032, seek authority to
expand PSC-1388 service area from its present "all points south of
LAX and Century Blvd., west of San Diego Freeway (I-405) and Harbor
Freeway (I-110), to the Pacific Ocean" to include a substantially

larger adjacent area which consists of 28 incorporated cities together with portions of the unincorporated County of Los Angeles and portions of the City of Los Angeles.

Hosseini's request to transfer his operating authority to a corporation in which he is the majority shareholder is unopposed, but his application to expand his service area drew a protest from the Los Angeles Department of Transportation (LADOT). A duly noticed public hearing on the latter application was held before Administrative Law Judge (ALJ) Orville I. Wright in Los Angeles on December 6, 1988, and the matter was submitted upon the filing of concurrent briefs on January 16, 1989.

This decision discusses both applications for reasons of procedural convenience.

A.88-08-049 - Transfer Authority

This application states that Hosseini formed a California Corporation on April 6, 1988. The name of the corporation is Southern. Hosseini is president and secretary, owning 80% of the corporate shares, and Behzad Masooman is vice president, owning 20% of the shares.

A balance sheet attached to the application shows assets of \$144,317.00, including \$11,372.00 cash in bank as of March 31, 1988. Total equity is shown as \$42,046.00. All of Hosseini's assets and liabilities in the transportation business are included in the balance sheet.

There will be no change in management, equipment, or employees if the requested transfer of authority is granted.

A.88-07-032 - Expanded Service Area

At an earlier date, Hosseini applied to this Commission for the same expanded authority he presently seeks (A.87-08-045), but, after protest by LADOT and hearing, the application was denied because public convenience and necessity for the proposed service was not demonstrated and Hosseini was shown to have violated his operating authority by providing service to points outside his

certificated service area. (Decision (D.) 88-05-023.) This decision of denial, however, suggested that the applicant might file a new application at a later time when he could make a showing of public need.

Need for the Service

Applicant's evidence is that he commenced business under the authority of PSC-1388 in 1985 with one vehicle and three drivers. He now operates with 12 vans in service and a 13th vehicle on order at the time of the hearing. He has a present payroll of between 35 and 40 employees.

Results of operation ending June 30, 1988 show gross revenues of \$475,547.00 for the six month period. Salaries are shown at \$207,174.00.

Applicant's manager testified that the company made some 673 trips, on a charter-party basis, to communities and destinations in the area herein sought to be served in the space of two months in the latter part of 1987. Requests for charter-party service average about 29 per month for Hollywood alone, according to this witness.

Additionally, four disinterested witnesses appeared at the hearing in support of the application. These witnesses testified that they would patronize applicant's service themselves and/or arrange airport transportation utilizing applicant's service if the expanded authority sought was granted.

Need for applicant's expanded service is shown in this application by evidence that Hosseini's transportation service has created and fulfilled an increasing demand for airport shuttle service in his present territory, that he currently serves the proposed extended area by frequent charter-party contracts, and that a number of public witnesses appeared at the hearing to testify that they would themselves use and recommend the use of applicant's service to other travelers.

LADOT's Showing

LADOT states that it participates in Commission proceedings respecting the issuance of new passenger stage corporation certificates pursuant to the 1984 recommendations of the Los Angeles Mayor's Taxicab Task Force and that its participation in our hearings has been endorsed by the Los Angeles Department of Airports.

As protestant, LADOT presented a transportation engineer familiar with taxi and van operations at the Los Angeles International Airport (LAX). This witness testified that Commission authorization of additional vans to serve LAX would not only add to traffic congestion at the airport, but also on the access roadways to LAX. The engineer candidly admitted, however, that his opinion would only be true if the additional vans carried fewer passengers than presently arrive by private automobile or taxicab.

In addition to its direct evidence in this case, LADOT conducted cross-examination of applicant with respect to financial and technical qualifications.

In its brief, LADOT notes that the evidence it developed shows that applicant is not knowledgeable of the provisions of General Order (GO) 98-A and thus doesn't know the content of the Commission rules which it must obey. It points out applicant's failure to understand that a holder requesting authority must provide service according to the terms of its certificate and that its advertisements must show the carrier's certificate numbers.

LADOT's questions to applicant also demonstrated that Hosseini's operating statement was suspect in that an indicated profit from operations of \$68,053.00 made no allowance for the owner's draw, and interest expense seemed to be understated.

While not rising to the level of being decisive in this case, LADOT's points in opposition to the application justify our admonishment to applicant that all operations staff should be

familiar with the provisions of GO 98-A and Public Utilities Code provisions governing passenger stage and charter-party operations.

SuperShuttle of Los Angeles Witnesses

In the afternoon of the hearing day devoted to this application, SuperShuttle of Los Angeles (SuperShuttle) entered its appearance as an interested party. It proposed to present testimony from two of its employees who allegedly obtained transportation from applicant in violation of applicant's certificated authority.

After preliminary questioning, applicant objected to the evidence and moved to strike the testimony already of record on the ground that SuperShuttle was not a protestant to the application and the pleadings did not touch upon the issues sought to be raised (Rule 54, Rules of Practice and Procedure). Thus, applicant argued that it was not prepared to respond to complaints of incidents of service allegedly beyond the scope of its certificate.

The ALJ sustained applicant's objection and granted the Motion to Strike, advising SuperShuttle that it might pursue the matter by filing a separate complaint against applicant after having first brought its allegations to the attention of Transportation Division staff for informal resolution (Rule 10, Rules of Practice and Procedure.)

We affirm the ALJ's ruling.

Comments

Pursuant to the Commission's Rules of Practice and Procedure, the proposed decision of the assigned administrative law judge for this proceeding was filed with the Commission and distributed to the parties on March 27, 1989.

Comments were filed by applicant on April 10, 1989 which accept the proposed decision, but request that the accompanying order be changed to take immediate effect rather than in 30 days, as proposed by the administrative law judge. Applicant suggests

that many if not most Commission decisions involving service territory extensions by established carriers take immediate effect.

We find it reasonable that the proposed order take effect on the date of signing.

Findings of Fact

1. Southern is a fit and proper corporation to hold a passenger stage certificate.

2. Operations will not be affected by the transfer of operating authority from Hosseini to Southern, and the transfer is not adverse to the public interest.

3. Southern has the ability, equipment, and financial resources to perform the proposed expanded passenger stage corporation service in the Los Angeles area.

4. Public convenience and necessity require the proposed expanded service.

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

Conclusions of Law

1. The proposed transfer is in the public interest and should be authorized. A public hearing is not necessary.

2. Public convenience and necessity have been demonstrated and a certificate expanding applicant's 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 Southern Super Express, Inc. authorizing it to operate as a passenger stage corporation, as defined in Public Utilities (PU) Code § 226, between the points and over the routes set forth in Appendix PSC-5083, 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. The certificate of public convenience and necessity granted by Decision 85-07-073 is revoked on the effective date of the tariffs.

4. 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.

5. 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 is effective today.

Dated APR 26 1989, at San Francisco, California. ✓

G. MITCHELL WILK
President
FREDERICK R. DUDA
STANLEY W. HULETT
JOHN B. OHANIAN
PATRICIA M. ECKERT
Commissioners

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



Victor Weisser, Executive Director.

T/VP/jd

Appendix PSC-5083

Southern Super Express, Inc.

Original Title Page

CERTIFICATE

OF

PUBLIC CONVENIENCE AND NECESSITY

AS A PASSENGER STAGE CORPORATION

PSC-5083

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.

This certificate supersedes all operative authority (PSC-1388)
previously granted to Hassan Hosseini by D.85-07-073.

Issued under authority of Decision 89 04 062, dated
APR 26 1989 of the Public Utilities Commission of the
State of California in Application 88-07-032 and Application 88-08-049.

T/VP/jd

Appendix PSC-5083

Southern Super Express, Inc.

Original Page 1

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Issued by California Public Utilities Commission.

Decision 89 04 062, Application 88-07-032 and Application 88-08-049.

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

Southern Super Express, 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-call" between certain points in Los Angeles County, as described in Section 2, and Los Angeles International Airport (LAX), 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 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 a point of origin or destination at LAX.
- (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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SECTION 2. SERVICE AREA DESCRIPTION

Includes all points within the geographical limits of the following cities and communities and postal zip codes:

<u>CITY/COMMUNITY</u>	<u>ZIP CODE</u>
Bel Air Estates	90077
Bell	90201
Bellflower	90706
Bell Gardens	90201
Beverly Hills	90210, 90211, 90212
Brentwood	90049
Carson	90745, 90746, 90747
Century City	90067
Commerce	90040
Compton	90220, 90221, 90222
Cudahy	90201
Culver City	90230, 90232
Downey	90240, 90241, 90242
El Segundo	90245
Gardena	90247, 90248, 90249
Harbor City	90710
Hawthorne	90250
Hermosa Beach	90254
Hollywood	90004, 90027, 90028, 90029, 90036, 90038, 90046, 90048, 90068, 90069
Huntington Park	90255
Inglewood	90301, 90302, 90303, 90304, 90305
Lakewood	90712, 90713, 90715
Lawndale	90260
Lomita	90717
Long Beach	90802, 90803, 90804, 90805, 90806, 90807, 90808, 90809, 90810, 90813, 90814, 90815, 90822, 90840, 90846
Los Angeles (central area)	90001, 90002, 90003, 90005, 90008, 90016, 90018, 90019, 90020, 90025, 90034, 90035, 90037, 90043, 90044, 90047, 90056, 90058, 90059, 90061, 90062, 90064, 90066

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SECTION 2. SERVICE AREA DESCRIPTION (cont'd)

<u>CITY/COMMUNITY</u>	<u>ZIP CODE</u>
Los Angeles (downtown area)	90006, 90007, 90010, 90011, 90012, 90013, 90014, 90015, 90017, 90021, 90026, 90057, 90071, 90089
Lynwood	90262
Manhattan Beach	90266
Marina del Rey	90292
Maywood	90270
Pacific Palisades	90272
Palos Verdes Estates	90274
Paramount	90723
Playa del Rey	90293
Rancho Palos Verdes	90274
Redondo Beach	90277, 90278
Rolling Hills	90274
Rolling Hills Estates	90274
San Pedro	90731, 90732
Santa Monica	90401, 90402, 90403, 90404, 90405
South Gate	90280
Torrance	90501, 90502, 90503, 90504, 90505
Venice	90291
Vernon	90058
Westchester	90045
Westwood	90024
Wilmington	90744

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.

Issued by California Public Utilities Commission.

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familiar with the provisions of GO 98-A and Public Utilities Code provisions governing passenger stage and charter-party operations.

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5. 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 _____, at San Francisco, California.