

ORIGINAL

Decision 89 09 015 SEP 7 1989

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
SHUTTLE EXPRESS INTERNATIONAL, INC.)
for authority to operate as a)
passenger stage corporation between)
points in San Diego County, including)
San Diego International Airport)
(Lindbergh Field), and to establish)
a zone of rate freedom for all)
service points.)

Application 89-01-042
(Filed January 20, 1989;
amended April 5, 1989)

Hanson, Bridgett, Marcus, Vlahos & Rudy, by
William D. Taylor, Attorney at Law, for
Shuttle Express International, Inc.,
applicant.

Floyd L. Morrow, Attorney at Law, for Cyrus
Nahavandian; Jose Antonio Hueso, for Red Top
Cab, Inc.; Houshang Nahavandian, for ESM
Corporation; and Robert E. Dietrich, James
K. Burnham, and Sam and Lisa Vertelney, for
themselves; protestants.

James R. Esposito, Joseph Haddad, and Thomas B.
Harmon, for themselves; Jake Keegan, for
CalPac Transport, Inc.; and Colleen D.
Stroup, for Greater San Diego Aero Express
Transportation, Inc.; interested parties.
MacDonald Ebi Esule, for the Transportation
Division.

OPINION

Shuttle Express International, Inc. (SEI), a Colorado corporation qualified to do business within the State of California as The San Diego Shuttle, requests authority under Public Utilities (PU) Code § 1301, et seq. to establish and operate a passenger stage corporation service for the transportation of passengers and their baggage in on-call and scheduled airport transportation between San Diego International Airport (Lindbergh Field)

and the San Diego Harbor area, on the one hand, and all points in San Diego County, on the other hand.

Protests to the application having been filed, a duly noticed public hearing was held before Administrative Law Judge Orville I. Wright in San Diego on April 25 and 26, 1989. The matter was submitted upon the receipt of the transcript on June 14, 1989, briefs and correspondence having been submitted by the parties.

Applicant's Qualifications

SEI's president testified that he is one of the original founders of the SuperShuttle corporations which now are authorized to conduct airport shuttle operations in San Francisco and Los Angeles. While no longer associated with any SuperShuttle operation, the witness explained that the purpose of the SEI application was to initiate airport passenger services in a manner consistent with what he termed the "SuperShuttle concept" of airport shuttle service. To this end, applicant is negotiating with the owners of SuperShuttle to secure licensing rights to the SuperShuttle logo and methodology of operation. If these negotiations are not successful, SEI states that it will conduct operations as "The San Diego Shuttle."

Applicant proposes to acquire and commence operations with 35 new model Dodge vans, offering service 24 hours a day, seven days a week. SEI's balance sheet submitted into evidence shows total assets of \$458,592, including \$38,000 cash in bank accounts, and net worth of \$352,047, as of April 25, 1989. Additionally, the corporation has established a credit line of \$2,000,000, according to the testimony.

Together with its president, applicant presented four operating witnesses, each of whom claimed experience in that facet of the transportation business to which his testimony related.

Need for the Service

Applicant produced a traffic survey of outbound passengers at Lindbergh Field and a second study of inbound passengers at that facility.

This data, according to SEI, substantiates applicant's belief that there is a substantial base of potential customers in San Diego made up of those air passengers who continue to use their private automobiles to and from the airport rather than the vans, buses, and taxis which are presently available.

SEI's evidence shows, for example, that 50 percent of outbound passengers arrive at the airport in private automobiles while only 6 percent use hotel or airport shuttle vans.

With respect to travelers arriving by air in San Diego, the survey shows that nearly 79 percent of the study group leaves the airport by private automobile.

Applicant testified that, based on its managers' prior experience, its marketing effort toward those passengers using private automobiles will result in a substantial increase in the number of persons using shuttle services, an increment which will benefit both applicant and existing van operators.

The application was supported by seven members of the public who testified that they would use and recommend applicant's shuttle service if it were certificated. These witnesses included a travel agent, a van operator, and others familiar with shuttle services to Lindbergh Field.

Opposition to the Application

The prospect of a new shuttle service to Lindbergh Field of the proposed magnitude of 35 vehicles drew considerable opposition from existing carriers and from taxicab operators in San Diego. These transportation companies argue that applicant's presentation is insufficient to show that the existing passenger stage corporations serving the airport will not provide service to the satisfaction of the Commission (PU Code § 1032 (b)).

Protestants allege that the saturation level for transportation at Lindbergh Field has been reached. They contend that existing carriers include 85 commercial vans from 19 companies, that hotels and rental car agencies operate some 112 courtesy shuttles, that there are 450 taxicabs licensed on a three-day rotation, and that city buses depart every 30 minutes. They further contend that the load factor of existing commercial vans in airport service is from 1.5 passengers to 2.6 passengers, depending on the season.

These data, which protestants offer to prove, demonstrate that there is substantial unused passenger stage capacity at Lindbergh Field which militates against the granting of further certificates of public convenience and necessity, according to protestants.

Additionally, protestants' brief enumerates factors reflecting current congestion problems at the airport. It states that the number of taxicabs serving the airport have been reduced from 600 to 450 per day, then to 225 taxicabs every two days, to, currently, 150 taxicabs every three days.

The San Diego Port Authority has also decreased the allowed waiting period for shuttles from an unlimited time to ten minutes, to, currently, five minutes, according to the brief; there is a proposal that the time be reduced even further to a two-minute maximum wait.

Thus, protestants assert that present unused van capacity together with traffic congestion at the airport indicate that granting the requested certificate can only result in increased airport congestion and the siphoning off of passengers from existing services to the vans of the new entrant.

Discussion

Neither the number of shuttle vans in service at Lindbergh Field nor the load factor of these vehicles compels a finding that existing passenger stage corporations are providing

airport service to the satisfaction of the Commission (PU Code § 1032 (b)). All facets of the business of transportation companies utilizing the airport would be relevant to a determination of whether or not new carriers should be permitted to gain entrance to the market. Few of these facets have been shown on the record in this proceeding.

Applicant, however, has testified that it has studied the San Diego transportation situation, knows the amount and kind of competition it faces, and believes that its marketing methods and operational strategies will enable it to successfully draw upon the large reservoir of airport patrons who now come and go by private automobile. If, in fact, the average number of passengers carried by airport shuttle van is less than three, it would seem as reasonable to conclude that more competition is needed to entice more airport visitors to use public shuttle service as it is to assert that the low-load factor means that the market is saturated.

Protestants and interested parties described the high degree of traffic congestion at Lindbergh Field, suggesting that more vans would adversely affect public safety and air quality.

With respect to the latter concern, we note that whatever success applicant may have in persuading single drivers to leave their private automobiles will necessarily benefit air quality in San Diego.

With respect to airport congestion, we note that the San Diego Port Authority, which oversees airport operations, is not a party to this proceeding. Further, this Commission does not finally decide whether passenger stage operators will be admitted to Lindbergh Field. That determination is made by the San Diego Port Authority, and the order will so provide.

San Diego Harbor

Applicant initially sought to provide on-call service to an area specified as San Diego Harbor as well as to Lindbergh Field. During the course of hearings, the request for authority to

San Diego Harbor, as a point of origin and destination, was withdrawn.

Scheduled Service

SEI's application seeks both on-call and scheduled service authority, but does not set forth any points to or from which it will provide scheduled service.

As notice of points of scheduled service has not been given, scheduled service authority will not be granted by this decision.

Zone of Rate Freedom

SEI's application requests the establishment of a zone of rate freedom (ZORF) pursuant to PU Code § 454.2.

As SEI is not yet certified, the application does not and could not allege facts necessary to establishment of a ZORF. Accordingly, a ZORF will not be authorized by this decision.

Findings of Fact

1. Applicant has the ability, equipment, and financial resources to perform the proposed on-call service.
2. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.
3. Public convenience and necessity require the proposed on-call service.
4. Protestants and interested parties providing transportation services to San Diego International Airport have not shown that they will provide on-call service to the satisfaction of the Commission.
5. Applicant's requests for scheduled service authority and for the establishment of a zone of rate freedom are premature and lack factual substantiation.
6. As there appears to be an immediate need for the proposed service, this order should be effective on the date of signing.

Conclusion of Law

Public convenience and necessity have been demonstrated, and a certificate should be granted to applicant.

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 Shuttle Express International, 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 Appendix PSC-5465, to transport persons and their 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. The application for scheduled service and for a zone of rate freedom is denied; otherwise the application is granted as set forth above.

This order is effective today.

Dated SEP 7 1989, at San Francisco, California.

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

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

- 8 -

Wesley Franklin
WESLEY FRANKLIN, Acting Executive Director
JG

T/MEE/ebi

Appendix PSC-5465

SHUTTLE EXPRESS
INTERNATIONAL, INC.

Original Title Page

CERTIFICATE

OF

PUBLIC CONVENIENCE AND NECESSITY

AS A PASSENGER STAGE CORPORATION

PSC-5465

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 89 09 015, dated
SEP 7 1989, of the Public Utilities Commission of the
State of California in Application 89-01-042.

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Appendix PSC-5465

SHUTTLE EXPRESS
INTERNATIONAL, INC.

Original Page 1

I N D E X

| | <u>Page</u> |
|--|-------------|
| SECTION 1. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS, AND SPECIFICATIONS..... | 2 |
| SECTION 2. SERVICE AREA DESCRIPTION..... | 3 |
| SECTION 3. ROUTE DESCRIPTIONS..... | 3 |

Issued by California Public Utilities Commission.

Decision 89 09 015, Application 89-01-042.

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

Shuttle Express International, 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 an on-call, door-to-door basis, between points in San Diego County, over and along the routes described in Section 3, subject, however, to the authority of this Commission to change or modify the routes at any time and subject to the following provisions:

- (a) 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.
- (b) When route descriptions are given in one direction, they apply to operations in either direction unless otherwise indicated.
- (c) Only passengers originating at or destined to San Diego International Airport (SAN) shall 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 shall show the conditions under which each authorized 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.

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Decision 89 09 015, Application 89-01-042.

Original

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Appendix PSC-5465

SHUTTLE EXPRESS
INTERNATIONAL, INC.

Original Page 3

SECTION 2. SERVICE AREA DESCRIPTION.

On-Call, Door-to-Door Service

San Diego County Service Area

All points within the geographical limits of San Diego County including, but not limited to the cities of:

Carlsbad, Chula Vista, Coronado, Del Mar, El Cajon, Encinitas, Escondido, Imperial Beach, La Mesa, Lemon Grove, National City, Oceanside, Poway, San Diego, San Marcos, Santee, Solana Beach, and Vista.

SECTION 3. ROUTE DESCRIPTION.

Commencing at San Diego International Airport then via the most convenient streets and highways to any point within the service area described in Section 2.

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and the San Diego Harbor area, on the one hand, and all points in San Diego County, on the other hand.

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Appendix PSC-5465.

SHUTTLE EXPRESS
INTERNATIONAL, INC.

Original Page 3

SECTION 2. SERVICE AREA DESCRIPTION.

SAN DIEGO COUNTY SERVICE AREA.

Includes all points within the geographical limits of the following cities:

Carlsbad, Chula Vista, Coronado, Del Mar, El Cajon, Encinitas, Escondido, Imperial Beach, La Mesa, Lemon Grove, National City, Oceanside, Poway, San Diego, San Marcos, Santee, Solana Beach, Vista, and the following communities and postal zip codes in San Diego County:

| | |
|-----------------|-------|
| Bonsall | 92003 |
| Fallbrook | 92028 |
| Lakeside | 92040 |
| Rancho Santa Fe | 92067 |

SECTION 3. ROUTE DESCRIPTIONS.

Route 1. SAN ON-CALL DOOR-TO-DOOR SERVICE

Commencing at San Diego International Airport then via the most convenient streets and highways to any point within the service area described in Section 2.

Issued by California Public Utilities Commission.

Decision _____, Application 89-01-042.