

Decision 89 09 066

SEP 27 1989

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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

ORIGINAL

Application 89-02-041
(Filed February 21, 1989;
amended March 8, 1989)

Donna L. Smith, Attorney at Law, for San Diego
County Transit Management, Inc., applicant.
Jahangir Hamidi, for San Diego International
Taxi Association; Cyrus Nahavandian, for
Red Top Cab, Inc.; and Houshang
Nahavandian, for ESM Corporation;
protestants.
James R. Esposito and James K. Burnham, for
themselves; and Colleen D. Stroup, for
Greater San Diego Aero Express
Transportation, Inc.; interested parties.
Masaru Matsumura, for the Transportation
Division.

O P I N I O N

San Diego County Transit Management, Inc., a California corporation requests authority under Public Utilities (PU) Code § 1031, 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), 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 (ALJ) Orville I. Wright in San Diego on April 26, 1989. The matter

was submitted upon the receipt of the transcript on June 22, 1989, briefs and correspondence having been submitted by the parties.

Applicant's Qualifications

Applicant presently does business as Coast Cab, being the second largest taxicab company in San Diego County, with 83 fully-equipped taxicabs and two full-time radio dispatch frequencies. It operates a full service auto repair shop and radio repair shop on its premises. It also operates as a charter-party carrier of passengers (TCP-4760P.)

A balance sheet attached to the application shows total assets of \$2,107,000 and net worth of \$2,027,000 as of February 14, 1989. An estimated revenue statement for March 1989, assuming an airport shuttle service using five 1990 Dodge Ram vans, shows net income before taxes of \$14,776 based upon gross sales of \$40,924.

Need for the Service

Applicant intends to initiate service with five new Dodge vans which will provide service in response to some 3,000 requests for airport transportation received each month. It testified that peak travel times found it with far more calls for service than it had available taxicabs.

Applicant believes that its years of experience in taxicab and charter-party service ensure that it will be capable of attracting significant new ridership at what it describes as "sorely needed competitive rates." This van service will, in applicant's view, draw upon the reservoir of persons now using private automobiles to and from Lindbergh Field and, thus, not impact adversely upon currently authorized taxicabs and passenger stage operations.

Opposition to the Application

Several of the protestants and interested parties appeared both in this proceeding and in Application (A.) 89-01-042, Shuttle Express International, Inc. As a consequence, a partial

consolidated record was made on April 26, 1989, and some of the text of our decision in A.89-01-042 is applicable here.

Opposing parties 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 protestants; 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 extensive experience in the San Diego transportation business, 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 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.

ESM Corporation Brief

Protestant ESM Corporation (ESM) filed a closing brief in this matter which raised additional points to those discussed above.

This protestant notes that applicant first testified that it would use taxicabs in its passenger stage enterprise and, upon being informed that such practice was not permissible, later changed its evidence to state that van and taxicab operations would be separated.

Given this change in mode of operation, ESM suggests that applicant's projected income statement must be in error since the expenses shown there assume joint taxicab and van operations. Further, this protestant questions whether applicant's balance sheet can be accepted to establish financial integrity when it applies only to a taxicab business.

The Commission does, of course, require that vans and taxicabs not be intermixed. Specifically, taxicabs are not permitted to be used in passenger stage service so that there will be no possibility of confusion of the public as to what type of transportation is offered and provided.

This rule does not, however, prohibit taxicab owners from obtaining passenger stage corporation authority from the Commission. These owners, if certificated, may operate from a single location, service their vehicles at one garage, and conduct day-to-day operations from one office.

Combined operations are permissible so long as the provisions of General Order 98-A and all other Commission rules and regulations are observed. Applicant is cautioned that all of its administrative and operations personnel should be familiar with Commission requirements.

Scheduled Service

Applicant withdrew its request for scheduled service during the course of hearing.

Zone of Rate Freedom

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

As applicant 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 request for the establishment of a zone of rate freedom is premature and lacks 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.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to San Diego County Transit Management, 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-4760, 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 a zone of rate freedom is denied; otherwise the application is granted as set forth above.

This order is effective today.

Dated September 27, 1989, at San Francisco, California.

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

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

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

Wesley Franklin

WESLEY FRANKLIN, Acting Executive Director

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T/MM/mm

Appendix PSC-4760

San Diego County
Transit Management, Inc.

Original Title Page

CERTIFICATE

OF

PUBLIC CONVENIENCE AND NECESSITY

AS A PASSENGER STAGE CORPORATION

PSC-4760

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 09 066,
dated SEP 27 1989, of the Public Utilities Commission of the
State of California in Application 89-02-041.

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Appendix PSC-4760

San Diego County
Transit Management, Inc.

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Issued by California Public Utilities Commission.

Decision 89 09 066, Application 89-02-041.

**SECTION I. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS,
AND SPECIFICATIONS.**

San Diego County Transit Management, Inc., by the certificate of public convenience and necessity granted by decision noted in the margin, is authorized to transport passengers and their baggage on an "on-call" basis between points in San Diego County, on one hand, and San Diego International Airport (SAN) and San Diego Harbor (SDH), on the other hand, over and along the routes described, subject, however, to the authority of this Commission to change or modify the routes at any time and subject to the following provisions:

- a. When route descriptions are given in one direction, they apply to operation in either direction unless otherwise indicated.
- b. 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.
- c. No passengers shall be transported except those having point of origin or destination at either SAN or SDH.
- d. 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.

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SECTION II. SERVICE AREAS.

San Diego County

San Diego Harbor - Broadway Pier

San Diego International Airport

SECTION III. ROUTE DESCRIPTIONS.

Route 1. Commencing from any point in San Diego County
to the San Diego International Airport.

Route 2. Commencing from any point in San Diego County
to San Diego Harbor - Broadway Pier.