

Decision 89 09 070 SEP 27 1989

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Ruben Diaz, Sr.,  
Ruben Diaz, Jr., and Ruben Prayones,  
dba 3R Express, for certificate of  
public convenience and necessity to  
operate a passenger stage service  
between points in the Los Angeles  
County and LAX Airport, Port of Los  
Angeles, Amtrak Station, Long Beach  
Airport, John Wayne Airport, and  
Orange County.

**ORIGINAL**

Application 89-01-006  
(Filed January 6, 1989)

William A. Turkish, Attorney at Law, for  
Ruben Diaz, Sr., Ruben Diaz, Jr., and  
Ruben Prayones, applicants.  
S. E. Rowe, by K. D. Walpert, for the  
Department of Transportation, City of  
Los Angeles, protestant.  
MacDonald Ebi Esule, for the Transportation  
Division.

O P I N I O N

Ruben Diaz, Sr., Ruben Diaz, Jr., and Ruben Prayones, a partnership doing business as 3R Express, request authority under Public Utilities (PU) Code § 1301, et seq., to establish and operate an on-call passenger stage corporation service for the transportation of passengers and their baggage between points in Los Angeles and Orange Counties, on the one hand, and Los Angeles International Airport (LAX), Port of Los Angeles, Amtrak Station, Long Beach Airport, and John Wayne Airport, on the other hand.

A protest having been filed by the Los Angeles Department of Transportation (City), a duly noticed public hearing was held before Administrative Law Judge Orville I. Wright in Los Angeles on June 7, 1989. The matter was submitted upon the filing of optional briefs on July 24, 1989.

Applicants' Evidence

Applicants testified that they have been operating as a charter-party carrier of passengers to and from LAX since January 1989, pursuant to Commission authority, and seek a passenger stage corporation certificate to meet continuing requests for airport service from their existing clientele.

This testimony was supported by a survey of 66 travelers who have used applicants' charter-party service, were satisfied with that service, and would use applicants' certificated service if it was prompt, dependable, and reasonably priced. In addition, the Commission received eight letters from satisfied customers attesting to the professionalism of applicants' drivers and the cleanliness of their vehicles.

Three of applicants' charter-party customers appeared at the hearing to express their satisfaction with applicants' present service and support for their proposed expanded operations.

Applicants propose to utilize 10 vans in transportation service if the requested certificate is granted. A balance sheet attached to the application shows total assets of \$420,500 and net worth of \$389,000 as of September 30, 1988. The partnership agreement, dated May 13, 1988, shows that \$100,000 capital was contributed, divided about equally among the three partners.

Applicants believe that the increasing population in the Los Angeles area and the commensurate increase in passenger volume at LAX augur well for the success of the passenger stage service they propose.

City's Evidence

City's participation in the hearing developed the record with respect to financial projections and the ability of applicants to conduct the sought service. Applicants' projected annual income statement, for example, was shown to have omitted some expenses and to have overestimated revenue. Further, it was shown that only one

of the three partners has had experience prior to 1989 in the transportation business.

City produced two witnesses who testified to the heavy traffic congestion at LAX and who also expressed the opinion that there is adequate on-call, door-to-door transportation at the present time.

Discussion

Need for applicants' service has been shown in this proceeding by evidence that the partners have conducted an apparently successful charter-party airport van service for the past six months and have developed a substantial cadre of loyal customers who would use the proposed on-call service if it is certificated.

While applicant's revenue and expense projections appear wanting in reliability, we note that the parties have made substantial capital contributions to the business, and one partner's balance sheet alone indicates sufficient financial resources to inaugurate the proposed service.

City's testimony that there is adequate on-call service at LAX is based on visual observations of vans leaving the airport by two employees, each of whom admitted that no attempt was made to conduct a definitive survey.

With respect to airport congestion, we note that the Los Angeles Department of Airports is not a party to this proceeding, and that agency's permission to enter LAX must be obtained in addition to certification by this Commission if the proposed operation is to go into effect.

Waiver of Proposed Decision

On June 29, 1989, applicants filed and served a written motion to waive the filing of and comment on the proposed decision (Rule 77.1, Rules of Practice and Procedure).

City filed written opposition to the motion, stating that it would use the comment period to point out factual or technical

errors in the proposed decision resulting from applicants' customer survey and income projection being, perhaps, misconstrued.

We will grant the motion in this case as City was given additional time after availability of the transcript to prepare and file a brief so that its interpretation of the evidence is presently before us. Accordingly, under Rule 77.1 we find that the party objecting to the waiver has not shown that filing and comment is in the public interest.

Findings of Fact

1. Applicants have the ability, equipment, and financial resources to perform the proposed service.

2. Public convenience and necessity require the proposed service.

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

4. As this application is essentially an expansion of existing service, the order should be effective on date of signing.

Conclusion of Law

Public convenience and necessity have been demonstrated and a certificate 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 Ruben Diaz, Sr., Ruben Diaz, Jr., and Ruben Prayones, authorizing them 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-5240, to transport persons and baggage.

2. Applicants 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 their 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, applicants 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. Applicants are authorized to begin operations on the date that the Executive Director mails a notice to applicants that they have evidence of insurance on file with the Commission and that the California Highway Patrol has approved the use of applicants' vehicles for service.

This order is effective today.

Dated SEP 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

T/MEE/ebi

Appendix PSC-5240

Ruben Diaz, Sr.,  
Ruben Diaz, Jr.,  
Ruben Prayones

Original Title Page

CERTIFICATE

OF

PUBLIC CONVENIENCE AND NECESSITY

AS A PASSENGER STAGE CORPORATION

PSC-5240

---

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 09 070, dated  
SEP 27 1989 of the Public Utilities Commission of the  
State of California in Application 89-01-006.

I N D E X

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

Issued by California Public Utilities Commission.

Decision 89 09 070, Application 89-01-006.



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

Ruben Diaz, Sr., Ruben Diaz, Jr., and Ruben Prayones, by the certificate of public convenience and necessity granted by the decision noted in the margin, are authorized as a passenger stage coach to provide on-call, door-to-door services to transport passengers and their baggage between points in the Counties of Los Angeles and Orange, described in Section 2, on the one hand, and Los Angeles International Airport (LAX), Long Beach Airport (LGB), John Wayne Airport (SNA), Los Angeles Harbor, or Los Angeles Amtrak Station, on the other hand, 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) No passengers shall be transported except those having a point of origin or destination at LAX, LGB, SNA, LA Harbor, or LA Amtrak Station.
- (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.

Issued by California Public Utilities Commission.

Decision 89-09-070, Application 89-01-006.

SECTION 2. SERVICE AREA DESCRIPTIONS.

Los Angeles County

All points within the following cities or zip code areas in Los Angeles County:

Beverly Hills, West Hollywood, Santa Monica, Culver City, Inglewood, El Segundo, Hawthorne, Manhattan Beach, Lawndale, Gardena, Redondo Beach, Harkness Beach, Torrance, Carson, Lomita, Palos Verdes Estates, Rolling Hills Estates, Rolling Hills, Rancho Palos Verdes, Long Beach, Signal Hill, Lakewood, Bellflower, Artesia, Cerritos, Norwalk, La Mirada, Paramount, Compton, Lynwood, Downey, Southgate, Bell, Commerce, Bell Gardens, Cudahy, Maywood, Vernon, Huntington Park, Hawaiian Gardens, and all portions of the City of Los Angeles East of the Pacific Palisades and South of Encino, Sherman Oaks, Studio City, and Universal City.

The proposed service area above, generally, includes portions of unincorporated Los Angeles County contiguous to the cities.

Orange County

All points within the following cities and zip code areas in Orange County:

Buena Park, Cypress, Los Alamitos, Seal Beach, Westminster, Stanton, Anaheim, Anaheim Hills, Garden Grove, Huntington Beach, Fountain Valley, Santa Ana, Tustin, Irvine, Costa Mesa, Newport Beach, Orange, Villa Park, and all unincorporated Orange County contiguous to the above cities.

SECTION 3. ROUTE DESCRIPTIONS.

ON-CALL, DOOR-TO-DOOR SERVICE

Commencing at LAX, LGB, SNA, Los Angeles Harbor, or Los Angeles Amtrak Station then via the most convenient streets and highways to any point within the authorized service area described in Section 2.

Issued by California Public Utilities Commission.

Decision 89 09 070, Application 89-01-006.

errors in the proposed decision resulting from applicants' customer survey and income projection being, perhaps, misconstrued.

We will grant the motion in this case as City was given additional time after availability of the transcript to prepare and file a brief so that its interpretation of the evidence is presently before us.

Findings of Fact

1. Applicants have the ability, equipment, and financial resources to perform the proposed service.
2. Public convenience and necessity require the proposed service.
3. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.
4. As this application is essentially an expansion of existing service, the order should be effective on date of signing.

Conclusion of Law

Public convenience and necessity have been demonstrated and a certificate 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 Ruben Diaz, Sr., Ruben Diaz, Jr., and Ruben Prayones, authorizing them 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-5240, to transport persons and baggage.

2. Applicants 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 their 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, applicants 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.

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

Ruben Diaz, Sr., Ruben Diaz, Jr., and Ruben Prayones, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized as a passenger stage coach to provide on-call, door-to-door services to transport passengers and their baggage between points in the Counties of Los Angeles and Orange, described in Section 2, on the one hand, and Los Angeles International Airport (LAX), Long Beach Airport (LGB), John Wayne Airport (SNA), Los Angeles Harbor, or Los Angeles Amtrak Station, on the other hand, 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) No passengers shall be transported except those having a point of origin or destination at LAX, LGB, SNA, LA Harbor, or LA Amtrak Station.
- (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.

Issued by California Public Utilities Commission.

Decision 89 09 070, Application 89-01-006.