

Decision 89 11 663 NOV 3 1989

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Michael S. Mitchell,)
Space Ship Shuttle, for certificate of)
public convenience and necessity to)
operate as a passenger stage service)
between certain portions of Los)
Angeles County and Orange County and)
Los Angeles International Airport)
(LAX) and John Wayne Orange County)
Airport.)

Application 88-10-054
(Filed October 31, 1988;
amended June 5, 1989)

Bruce Hector, for Michael S. Mitchell
and Bruce Hector, applicants.
S. E. Rowe, by K. D. Walpert, for
Department of Transportation, City of
Los Angeles, protestant.
Lily L. Wong, for the Transportation
Division.

O P I N I O N

Michael S. Mitchell and Bruce Hector, a partnership doing business as Mickey's Space Ship Shuttle request 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 between certain points in Los Angeles and Orange Counties, on the one hand, and Los Angeles International Airport (LAX) and John Wayne Airport (SNA), on the other hand.

The application having been protested by the Department of Transportation, City of Los Angeles (LADOT), a duly noticed public hearing was held in Los Angeles on June 8, 1989, and the matter was submitted for decision upon filing of the transcript on August 7, 1989.

Applicants' Qualifications

Michael S. Mitchell (Mitchell) and Dr. Bruce Hector (Hector) each own a 50% interest in applicant partnership which seeks both scheduled and on-call passenger stage corporation authority in this proceeding.

The testimony is that Mitchell will be the operations manager of the enterprise and Hector will provide the capital. Hector also presented the partnership's case during the hearing, utilizing a letter of instructions to transportation service applicants prepared by the Division of Administrative Law Judges as guidance.

With respect to fitness to operate, Mitchell testified that he has driven for an airport shuttle van service from January to October, 1988, and has managed real estate holdings and businesses in Los Angeles since 1969. He has also held a taxicab license for two years.

Mitchell's evidence of financial resources includes his personal balance sheet showing \$55,000 estimated value of real estate as of October 31, 1988, and Hector's professional resume together with the doctor's 1988 federal income tax return. Hector has been a physician and administrator since 1970. His tax return shows wages of \$98,355 and interest income of \$25,533.

The partnership intends to commence service with four vehicles, and later to operate with seven 10-passenger Dodge vans for use in on-call service and four 15-passenger Dodge buses for its scheduled service. All vans and buses will be purchased new and fully equipped, including two-way radios. ✓

Hector testified that his financial commitment to the company is to provide an initial \$50,000 capital and to pledge his assets in obtaining a loan to the partnership of \$250,000.

Need for the Service

Mitchell relied primarily on his own experience as an airport shuttle van driver and dispatcher in determining that there

was a public need for the service which the applicant proposes to initiate. During his tenure with Valley Airport Shuttle, the witness conducted a personal survey of the passengers he was transporting and of persons at hotel destinations to which he traveled.

Applicants' survey demonstrated to Mitchell that there were many potential users of a door-to-door on-call service between LAX and SNA and the areas sought to be served. Additionally, the witness stated that when he was employed as a driver, his van was often filled to capacity so that he was required to pass intending passengers standing at pickup points en route to the airports.

Mitchell produced statistics showing passenger volume at LAX and SNA to be growing, and he noted that a 1987 landside survey at LAX found that 97% of all air passengers arrived or departed the airport by private car.

One member of the public appeared to testify that Mitchell was a reliable person and that his proposed service would be patronized.

LADOT's Evidence

LADOT'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 was shown to have omitted some expenses, overestimated revenue, and was somewhat speculative.

LADOT 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

The record shows that applicants are qualified by reason of the partners' experience and financial standing to conduct on-call airport van service at the level they propose to commence operations.

While Mitchell's testimony as to need for additional airport shuttle service is largely self-serving, his observations of customer demand while a driver for Valley Airport Shuttle are comparable to testimony of increased demand adduced by certificated on-call carriers whose requests for enlargement of their service areas are granted by the Commission. Our policy in this regard was recently stated in Decision 88-08-037, as follows:

"Although the evidence indicates there are other van transportation services with authority to operate within the area, we have held that competition in the area of bus transportation services was a desirable goal because of its direct bearing on the quality of overall treatment afforded passengers, rates, scheduling, equipment condition, and operational innovation generally."

We will grant authority to applicants for on-call door-to-door service between LAX and SNA to and from the areas they request to serve.

Applicants wish to provide a one-way scheduled service from LAX to hotels in Downtown Los Angeles, such hotels to be selected by on-board passengers. They seek to provide a further one-way scheduled service from LAX to points in Orange County, these points also to be chosen by on-board passengers.

As applicants will be authorized to serve Los Angeles hotels and Orange County points from LAX on an on-call basis, we see no reason to grant one-way scheduled authority in this case.

Mitchell informs us that he has discussed scheduled bus service requirements with the Los Angeles Department of Airports,

but has not yet learned whether, or under what conditions, the 15-passenger vehicles he proposes to operate will be permitted to park and load passengers at LAX.

As "on-call" service at airports simply entails picking up waiting passengers who, in most cases, have no advance reservation, applicants will require only the Department of Airports' approval of outgoing scheduled service from LAX for them to file appropriate tariffs and timetables.

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 study.

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

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.

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 Michael S. Mitchell and Bruce Hector, 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-5244, 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 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 becomes effective 30 days from today.

Dated NOV 3 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 ABC
COMMISSIONERS TODAY.

Wesley Franklin

WESLEY FRANKLIN, Acting Executive Director

T/LW/llw

Appendix PSC-5244

Michael Mitchell
and
Bruce Hector

Original Title Page

CERTIFICATE

OF

PUBLIC CONVENIENCE AND NECESSITY

AS A PASSENGER STAGE CORPORATION

PSC-5244

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 11 663, dated
NOV 3 1989, of the Public Utilities Commission of the
State of California in Application 88-10-054.

T/LW/llw

Appendix PSC-5244

Michael Mitchell
and
Bruce Hector

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Issued by California Public Utilities Commission.

Decision 89 11 003, Application 88-10-054.

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

Michael S. Mitchell and Bruce Hector, by the certificate of public convenience and necessity granted by the decision noted in the margin, are authorized to provide on-call passenger stage services to transport passengers and baggage between points in the Counties of Los Angeles and Orange, described in Section 2, and Los Angeles International Airport (LAX), or John Wayne Airport (SNA), over and along the routes described in Section 3, subject, however, to the authority of this Commission to change or modify the route at any time and subject to the following provisions:

- (a) When route descriptions are given in one direction, they apply to operations 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 shall show the conditions under which the 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.
- (c) Only passengers originating from or destined to LAX, or SNA, shall be transported.
- (d) 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.

Issued by California Public Utilities Commission.

Decision 89 11 003, Application 88-10-054.

SECTION 2. SERVICE AREA DESCRIPTIONS

Los Angeles County

Includes all points within the geographical limits of the cities of Beverly Hills, West Hollywood, and the following zip code communities within the City of Los Angeles:

90004, 90005, 90006, 90010, 90012, 90013, 90014, 90015, 90017, 90019, 90020, 90021, 90023, 90024, 90026, 90027, 90028, 90029, 90032, 90033, 90035, 90036, 90038, 90039, 90042, 90046, 90048, 90057, 90063*, 90065, 90067, 90068, 90069, 90071, 90077, 90079, 91604*, and 91608.

*Includes portions of Los Angeles County.

Orange County

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

Garden Grove, Buena Park and Anaheim.

SECTION 3. ROUTE DESCRIPTIONS

On-call, door-to-door, service

Route 1. Commencing at LAX or SNA, then via the most convenient streets and highways to points within the service areas described in Section 2.

Route 2. Commencing at LAX, then via the most convenient streets and highways to SNA.

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Decision

89 11 003

, Application 88-10-054.

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The testimony is that Mitchell will be the operations manager of the enterprise and Hector will provide the capital. Hector also presented the partnership's case during the hearing, utilizing a letter of instructions to transportation service applicants prepared by the Division of Administrative Law Judges as guidance.

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Need for the Service

Mitchell relied primarily on his own experience as an airport shuttle van driver and dispatcher in determining that there

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

Michael S. Mitchell and Bruce Hector, by the certificate of public convenience and necessity granted by the decision noted in the margin, are authorized to transport passengers and their baggage between Los Angeles International Airport (LAX), and John Wayne Airport (SNA) to points within Los Angeles and Orange Counties, on an on-call basis, subject, however, to the authority of this Commission to change or modify the route at any time and subject to the following provisions:

- (a) When route descriptions are given in one direction, they apply to operations 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 the authorized on-call service will be rendered.
- (c) Passengers originating at or destined to LAX and SNA shall be transported.
- (d) 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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Decision _____, Application 88-10-054.

SECTION 2. SERVICE AREA DESCRIPTIONS.

Los Angeles County

Includes all points within the geographical limits of City of Los Angeles with the following zip codes:

90027, 90039, 90063, 90024, 90031, and 90012.

Orange County

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

Garden Grove, Buena Park and Anaheim

SECTION 3. ROUTE DESCRIPTIONS.

ON-CALL SERVICE, DOOR TO DOOR

Commencing at LAX or SNA, then via the most convenient streets and highways to points within Los Angeles and Orange Counties.

Issued by California Public Utilities Commission.

Decision _____, Application 88-10-054.