

Decision 89 11 024 NOV 3 1989

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 ALI HOMSI, dba LAX CHEQUER VAN, for)
 a certificate of public convenience)
 and necessity to operate as a)
 passenger stage corporation for the)
 transportation of passengers and)
 baggage between points in Los Angeles)
 and Orange Counties, on the one hand,)
 and Los Angeles International)
 Airport (LAX), Burbank Airport (BUR),)
 Long Beach Airport (LB), John Wayne)
 Airport (SNA), and the Los Angeles)
 Harbor Area, on the other hand.)

Application 89-06-019
(Filed June 15, 1989)

William A. Turkish, Attorney at Law, for
 Ali Homs, applicant.
 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

Ali Homs (applicant), doing business as LAX Chequer Van, requests 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), Burbank Airport, Amtrak Station, Long Beach Airport, John Wayne Airport, and the Los Angeles Harbor Area, 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

August 2, 1989. The matter was submitted upon the filing of the transcript on August 18, 1989.

Applicant's Evidence

Applicant testified that he has been operating taxi cabs carrying passengers to and from LAX for three years and seeks a passenger stage corporation certificate to meet increasing demand for on-call van service from his existing clientele and from the general public. Applicant stated that he has observed the transportation business grow in the Los Angeles area, particularly share-the-ride entities such as SuperShuttle, and believes that there is every indication that multi-passenger vans will continue to displace the private automobile in intra-county travel.

A driver for a presently certificated on-call van operator testified that he continually sees many people waiting for van service at LAX and more on-call service is justified.

This testimony was supported by survey responses of 127 travelers who have used applicant's taxi service, were satisfied with that service, and would use applicant's certificated service if it was prompt, dependable, and reasonably priced.

Three of applicant's taxi cab customers appeared in person at the hearing to express their satisfaction with applicant's present service and support for his proposed expanded operations.

Applicant proposes to utilize 5 late-model vans in transportation service if the requested certificate is granted. His balance sheet shows total assets of \$216,000 and net worth of \$165,000 as of July 27, 1989.

City's Evidence

City's participation in the hearing developed the record with respect to financial projections and the ability of applicant to conduct the sought service. Applicant's projected annual income statement, showing \$106,445 profit before taxes, was shown to be of questionable validity.

City produced a record of two citations issued to applicants: one on September 24, 1986, for an inoperative right headlight (high beam); and a second on September 26, 1988, for not wearing a taxi driver's identification badge and for not having filled out his daily waybill. (Applicant could recall only the latter infraction.)

Applicant and City stipulated that the Commission could consider the same evidence and cross-examination in this proceeding as that adduced in Application 89-01-006; i.e. protestant 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 applicant's service has been demonstrated in this proceeding by evidence that applicant has conducted taxicab operations to and from LAX and throughout the Los Angeles area for some three years and has developed a substantial cadre of satisfied travelers who would use the proposed on-call service if it is certificated.

Applicant is cautioned that taxicab vehicles are not to be used in certificated passenger stage corporation service.

While applicant's revenue and expense projections appear wanting in reliability, we note that applicant's balance sheet 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, according to the stipulation.

With respect to airport congestion, we observe 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

At the close of the hearing, applicant moved to waive the filing of and comment on the proposed decision (Rule 77.1, Rules of Practice and Procedure).

City opposed the motion, stating that supervisory personnel at the Department of Transportation would use the comment period to point out factual or technical errors in the proposed decision.

We will grant the motion in this case as, in our view, protestant has not met its burden of demonstrating that the filing and comment procedure is in the public interest.

Findings of Fact

1. Applicant has 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 Ali Homsy, authorizing him 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-5859, 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 his 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 he has evidence of insurance is 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 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 ABOVE
COMMISSIONERS TODAY.

- 6 -

Wesley Franklin
WESLEY FRANKLIN, Acting Executive Director
20

T/MEE/ebi

Appendix PSC-5859

Ali Homs

Original Title Page

CERTIFICATE

OF

PUBLIC CONVENIENCE AND NECESSITY

PSC-5859

TO OPERATE AS

PASSENGER STAGE CORPORATION

Showing passenger stage operative rights, restrictions, limitations,
exceptions, and privileges applicable thereto.

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 11 024, dated
NOV 3 1989 of the Public Utilities Commission of the
State of California in Application 89-06-019.

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Appendix PSC-5859

Ali Homsy

Original Page 1

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 11 024, Application 89-06-019.

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

Ali Homsî, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to provide on-call, door-to-door, passenger stage services to transport passengers and baggage between certain points in the counties of Los Angeles and Orange, described in Section 2, on the one hand, and Los Angeles International Airport (LAX), Burbank Airport (BUR), Long Beach Airport (LGB), John Wayne Airport (SNA), or Los Angeles and Long Beach Harbors, 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 route 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 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, BUR, LGB, SNA, or Los Angeles and Long Beach Harbors.
- (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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89 11 024

Decision _____, Application 89-06-019.

SECTION 2. SERVICE AREA DESCRIPTIONS

Los Angeles County

Includes all points within the geographical limits of Los Angeles County south of the Angeles National Forest.

Orange County

Includes all points within the geographical limits of Orange County.

SECTION 3. ROUTE DESCRIPTIONS

On-Call, Door-to-Door Service

Commencing at LAX, BUR, LGB, SNA, or Los Angeles and Long Beach Harbors, then via the most convenient streets and highways to any point within the service areas described in Section 2.

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