

ORIGINAL

Decision 90 03 011 MAR 14 1990

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
Kenneth Obatusin, dba Shuttle Trak, )  
LA, for authority to operate as a )  
passenger stage between certain )  
portions of Los Angeles and Orange )  
Counties, on one hand, and Los )  
Angeles International (LAX) Airport, )  
Long Beach Airport, John Wayne )  
Airport, Amtrak Station and )  
Los Angeles and Long Beach Harbors )  
on the other hand. )

Application 89-06-004  
(Filed June 5, 1989)

William A. Turkish, Attorney at Law, for  
Kenneth Obatusin, applicant.  
S. E. Rowe, by K. D. Walpert, for the  
Department of Transportation, City of Los  
Angeles, protestant.  
James P. Jones, for United Transportation  
Union, interested party.  
MacDonald Ebi Esule, for the Transportation  
Division.

O P I N I O N

Kenneth Obatusin (applicant), doing business as Shuttle Trak, LA, requests authority under Public Utilities (PU) Code §§ 1031, 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 Long Beach and Los Angeles Harbors, on the other hand.

A protest having been filed by the Los Angeles Department of Transportation (LADOT), a duly noticed public hearing was held before Administrative Law Judge Orville I. Wright in Los Angeles on

October 5, 1989. The matter was submitted upon the filing of the transcript on November 28, 1989.

Applicant's Evidence

Applicant testified that he worked in the Los Angeles area as a cab driver during the years 1983 and 1984, and he claims further transportation experience as an airline reservation agent. He has a degree in accounting and is presently employed in that capacity by Great Western Bank.

Applicant states that need for additional van services at airports is shown by the tremendous growth in airline travel and related ground transportation which has occurred since airline deregulation in 1978 (Decision (D.) 89-10-028, October 12, 1989).

Four public witnesses appeared at the hearing to support the application and testify to the good moral character and business acumen of the applicant.

Additionally, applicant conducted an informal survey of persons waiting for transport at airport terminals. He obtained 80 positive responses to a form letter stating that the intending passenger would use applicant's van service if it was prompt, dependable, and reasonably priced.

Applicant presented a balance sheet dated June 30, 1989, showing \$155,000 in assets, including \$19,000 cash in bank, and liabilities of \$15,000. He has applied for a loan of \$110,000 from a bank in Lagos, Nigeria, furnishing a letter indicating that the loan, collateralized by real property in Africa, is being favorably considered.

Applicant proposes to utilize 8 new 7-passenger vans in transportation service if his application is granted.

LADOT's Evidence

LADOT's participation in the hearing developed the record with respect to financial projections and the ability of applicant to conduct the sought service.

Applicant and LADOT stipulated that the Commission could consider the same evidence in this proceeding as that adduced by LADOT in Application 89-01-006. There protestant sponsored two witnesses who testified to heavy traffic congestion at LAX and expressed the opinion that there is adequate on-call, door-to-door transportation from the airport at the present time.

Discussion

Need for applicant's service has been demonstrated in this proceeding by evidence that there has been a tremendous growth in airline travel and related ground transportation since airline deregulation in 1978, as found by the Commission in D.89-10-028.

LADOT'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).

LADOT 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 only involves the addition of a new on-call carrier to existing services, 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.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Kenneth Obatusin, 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-5828, 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 101, 104, and 158, 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. Before beginning service to any airport, applicant shall notify the airport's governing body. Applicant shall not operate into or on airport property unless such operations are also authorized by the airport's governing body.

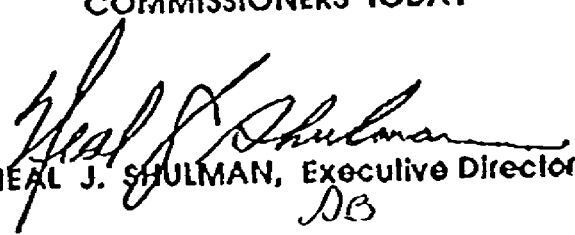
4. Applicant is authorized to begin operations on the date that the Executive Director mails a notice to applicant that his evidence of insurance is on file with the Commission and that the California Highway Patrol has approved the use of applicant's vehicles for service.

5. The application is granted as set forth above.

This order is effective today.

Dated MAR 14 1990, at San Francisco, California.

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

  
NEAL J. SHULMAN, Executive Director

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

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Appendix PSC-5828

Kenneth Obatusin

Original Title Page

CERTIFICATE  
OF  
PUBLIC CONVENIENCE AND NECESSITY  
PSC-5828  
TO OPERATE AS  
PASSENGER STAGE CORPORATION

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

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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.

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Issued under authority of Decision 90 03 011, dated  
MAR 14 1990 of the Public Utilities Commission of the  
State of California in Application 89-06-004.

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Issued by California Public Utilities Commission.

Decision 90 03 011, Application 89-06-004.

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

Kenneth Obatusin, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized as a passenger stage corporation to provide on-call services to transport passengers and baggage between certain points in the counties of Los Angeles and Orange, as described in Section 2, and Los Angeles International Airport (LAX), Burbank Airport (BUR), Long Beach Airport (LGB), John Wayne Airport (SNA), Los Angeles (LA) Amtrak Station, or Los Angeles and Long Beach Harbors, 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 both by 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, BUR, LGB, SNA, Amtrak Station, or LA 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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SECTION 2. SERVICE AREA DESCRIPTIONS

Los Angeles County

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

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, LA Amtrak Station, or LA 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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