

Decision 90 06 053 JUN 20 1990

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
Futura Transportation Company, Inc.
dba King Shuttle for authority to
operate as a passenger stage
between certain portion
of Los Angeles, Orange, Riverside,
San Bernardino, and Ventura Counties
on one hand and Los Angeles Inter-
national (LAX) Airport, and Burbank
(BUR) Airport, Long Beach Airport,
John Wayne Airport, Ontario Airport,
Amtrak Station, and Los Angeles and
Long Beach Harbors on the other hand.)

Application 89-09-016
(Filed September 11, 1989)

William A. Turkish, Attorney at Law, and
E. Redmond Logan, for Futura
Transportation Company, Inc.
S. E. Rowe, by K. D. Walpert, for the
Department of Transportation, City of
Los Angeles; and Sheryl L. Meshack,
Attorney at Law, for the Department of
Airports, City of Los Angeles;
protestants.
Victor G. Baffoni, for United
Transportation Union, interested party.
Masaru Matsumura, for the Transportation
Division.

O P I N I O N

Futura Transportation Company, Inc., a California corporation, doing business as King Shuttle, 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 the counties of Los Angeles, Orange, Riverside, San Bernardino, and Ventura, on the one hand, and Los Angeles International, Burbank, Long Beach, Ontario International, and John Wayne airports,

Los Angeles Amtrak Station, and Los Angeles and Long Beach harbors, on the other hand.

Protests having been filed by the Los Angeles Department of Transportation (LADOT), the Los Angeles Department of Airports (LADOA), and Great American Stageline, Inc., a duly noticed public hearing was held before Administrative Law Judge Orville I. Wright on January 31, 1990, February 1, 1990 and March 1, 1990. The matter was submitted on March 12, 1990.

Great American Stageline, Inc. did not appear at the hearings.

Applicant's Evidence

E. Redmond Logan, sole shareholder of Futura Transportation Company, Inc., testified on behalf of applicant that he has been in the transportation business for approximately six years as the operator of some 30 taxicabs in Inglewood, Lennox, Lawndale, and South Bay areas of Los Angeles. Applicant also holds a charter-party permit.

Applicant proposes to employ 20 new 7-passenger, fully automatic, air-conditioned vans in on-call door-to-door service seven days per week.

A balance sheet was submitted dated August 18, 1989 which shows total corporate assets of \$627,000, including \$28,000 cash in bank, and net worth of \$310,000.

With respect to public convenience and necessity, applicant relies upon statistics in public documents, including exhibits sponsored by LADOA in this proceeding, showing, for example, that the total number of passengers arriving and departing LAX in 1988 was 44,398,611 and in 1979 was 34,923,205.

LADOA's Evidence

LADOA passed Resolution 16832 on September 13, 1989 imposing a moratorium on new or additional shuttle van service to LAX and requiring the Los Angeles City Attorney to file opposition with the Commission opposing all new passenger stage corporation

applications, except for applications for scheduled bus services, for the duration of the moratorium period.

Resolution 16832 states reasons for the moratorium as follows:

"WHEREAS, the airport and its roadways, curbsides, and other operational areas are being subjected to extreme congestion, double parking, illegal soliciting, unfair and harmful competition practices, and other problems created by the numerous PSC vehicles and their methods of operations; and

"WHEREAS, these problems continue to grow worse and it is imperative that the issues of permitting more vehicles to service the airport and regulating the methods by which they serve the public must be studied and analyzed to determine what future actions should be taken by management and the Board of Airport Commissioners; and

"WHEREAS, the Landside Operations Bureau will study this matter and recommend appropriate solutions to the Board;..."

The resolution includes authorization to formally request the Commission to place a blanket moratorium on authorizing new passenger stage corporations to provide service to and from LAX during LADOA's moratorium period.

Evidence submitted in support of the LADOA resolution is that there are about 630 on-call vans operated by about 30 companies serving LAX at the present time. Pictures were introduced depicting double-parked vans at LAX passenger boarding zones, and testimony was presented detailing LADOA's continuing problems with congested traffic flow.

Van drivers, according to the testimony, frequently crowd the curb, double-park, solicit passengers, and circle the airport in efforts to load their vehicles with passengers. An average number of passengers per van of two to three was reported by the LADOA witness.

An exhibit was introduced showing that LADOA issues approximately 1,300 citations per month to shuttle van operators for violations of airport rules.

Airport statistics with respect to passenger volume at LAX shows a continuing growth from 34,923,205 in 1979 to 44,873,113 in 1987, with a reduction to 44,398,611 in 1988. The period January through August 1989 shows only a 0.6% increase in total domestic and international passenger traffic over the comparable period for 1988.

LADOA and LADOT request that the application be denied in harmony with the terms of Resolution 16832.

Discussion

Applicant's fitness and financial ability to initiate the proposed on-call service is demonstrated by its several years' experience in taxicab and charter-party operations in the Los Angeles area together with the indicated financial reserves of some \$310,000 as of August, 1989.

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 Decision (D.) 89-10-028.

Airport Congestion

LADOA makes an impressive factual showing of the traffic congestion problems it is experiencing at LAX which led to the adoption of the moratorium resolution by the Board of Airport Commissioners. These problems, however, will be unaffected by whatever decision we make in this case.

The Commission has consistently acknowledged that our granting a certificate of public convenience and necessity does not convey airport access rights. No carrier shall conduct any operations on the property of or into any airport unless such operations are authorized by both this Commission and the airport

authority involved. LADOA reserves authority to continue to enforce its moratorium resolution by denying applicants here an operating permit at LAX.

Questions of airport congestion policy were before us in the Order Instituting Rulemaking (R.) concerning the regulation of passenger carrier services (R.88-03-012). We declined to adopt policies which tended to duplicate and interfere with airport jurisdiction and future airport regulation established to resolve congestion problems and facilities constraints. At page 3 of D.89-10-028 we said:

"We decline to limit entry of carriers to airport service because a greater need for more transportation service is created by the increase in air passengers since airline deregulation in 1978. We believe such action to be premature until airport traffic and facilities studies presently in progress are complete."

Findings of Fact in that decision included the following:

- "2. Tremendous growth in airline travel and related ground transportation have occurred since airline deregulation in 1978. Competition due to this passenger growth has resulted in an increase in applications for new carrier authority, requests for service changes, and competitor complaints.
- "3. Overlapping problems of solicitation, illegal operations, and carriers operating outside authority are occurring at the state's major airports. In addition, traffic congestion is continually increasing at major airports due to the increase in the number of carriers serving air passengers.
- "4. The increase in passenger stage and charter-party carriers at airports is a

natural and proper response to the increase in air passengers needing transportation to and from airports."

* * *

- "13. The cause of airport traffic congestion is the significant increase in the numbers of airline passengers.
- "14. Limiting the number of carriers to reduce traffic congestion may cause insufficient transportation services at a time when increased service is needed the most."

We continue to adhere to the views expressed in D.89-10-028.

Waiver of Proposed Decision

It is common in the case of airport shuttle service applications for applicants to move to waive the filing of and comment on the proposed decision (Rule 77.1, Rules of Practice and Procedure), which motion has been uniformly granted.

While applicant in this instance has not requested waiver of the comment procedure, we will make and grant such action on our own motion as the evidence shows a compelling need for the proposed service.

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 the evidence in this case shows a compelling present need for the proposed 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.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Futura Transportation Company, Inc., a corporation, 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-3840, 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 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 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 its 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.

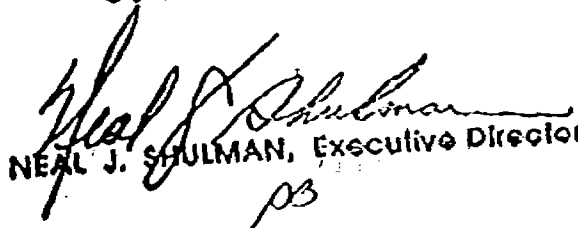
This order is effective today.

Dated JUN 20 1990, at San Francisco, California.

FREDERICK R. DUDA
STANLEY W. HULETT
JOHN B. OHANIAN
PATRICIA M. ECKERT
Commissioners

President G. Mitchell Wilk,
being necessarily absent, did
not participate.

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


NEAL J. SHULMAN, Executive Director
PS

Appendix PSC-3840

Futura
Transportation, Inc.

Original Title Page

CERTIFICATE

OF

PUBLIC CONVENIENCE AND NECESSITY

AS A PASSENGER STAGE CORPORATION

PSC-3840

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 90 06 053,
dated JUN 20 1990, of the Public Utilities Commission of
the State of California in Application 89-09-016.

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Issued by California Public Utilities Commission.

Decision 90 06 053, Application 89-09-016.

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

Futura Transportation, Inc., by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to transport passengers and their baggage on an "on-call" basis, between points in the Counties of Los Angeles, Orange, Riverside, San Bernardino, and Ventura, on the one hand, and Los Angeles International, Burbank, Long Beach, Ontario International, and John Wayne Airports, and AMTRAK Station (AMTRAK), Los Angeles, and Los Angeles and Long Beach Harbors (Harbors), on the other hand, over and along the routes described in Section III, 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 operation in either direction unless otherwise indicated.
- b. No passengers shall be transported between or within any points in the authorized counties described in Section II, or between any of the authorized airports, or between any of the authorized Harbors, described in Section II, except those having either a point of origin or destination at any of the authorized airports, Amtrak, or Harbors described in Section II.
- c. This certificate does not authorize the holder to conduct any operation on the property of or into any airports, train station, or Harbors named in Section II unless such operation is authorized by the airport, train station, or Harbor authorities involved.

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SECTION I. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS,
AND SPECIFICATIONS. (Continued)

- d. 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 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 II. SERVICE AREAS.

Counties

Los Angeles, Orange, Riverside, San Bernardino, and
Ventura.

Airports

Los Angeles International, Burbank, Long Beach, John
Wayne, and Ontario International.

Train Station

AMTRAK, Los Angeles.

Harbors

Los Angeles and Long Beach

SECTION III. ROUTE DESCRIPTION.

Commencing from any point in the counties described in
Section II and to the airports, train station and Harbors
described in Section II.

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