

ORIGINAL

Decision 90 08 013 AUG 8 1990

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Land Air Express, A California Limited Partnership for a certificate of public convenience and necessity to operate as a passenger stage service between points in Placer County, Nevada County, El Dorado County, Amador County, and Points along the I-80 and State Route 50 Corridors to Sacramento Metro Airport.

Application 89-12-038  
(Filed December 19, 1989)

Application of Land Air Express, A California Limited Partnership for a certificate of public convenience and necessity to operate as a passenger stage service between points in Placer County, Nevada County, El Dorado County, Amador County, and Points along the I-80 and State Route 50 Corridors to Sacramento Metro Airport.

Application 90-03-019  
(Filed March 16, 1990)

- E. Ronald Kropacek, Attorney at Law, for Land Air Express, a California Limited Partnership, applicant.
- Jeffrey H. Gilliland, for Foothill's Flyer, Inc., protestant.
- Masaru Matsumura, for the Transportation Division.

O P I N I O N

Nabeel Berbawy (Berbawy), an individual doing business as Land Air Express, seeks authority in Application (A.) 90-03-019, to transfer PSC-5450 to Land Air Express (Land Air), a California limited partnership in which Berbawy is the general partner.

Berbawy and Land Air, in A.89-12-038, seek authority to expand the on-call service described in PSC-5450 from its present points in Placer County, and points along the I-80 Corridor to Sacramento Metropolitan Airport to include the Counties of Placer, Nevada, El Dorado, and Amador, on the one hand, and airports at Sacramento, Lincoln, Auburn, and Nevada County, on the other hand.

Berbawy's request to transfer his operating authority to his limited partnership appeared on the Commission's Transportation Calendar, and no protests have been received. However, the application to expand service territory drew a protest from Foothill's Flyer, Inc., and a duly noticed public hearing on the latter application was held before Administrative Law Judge Orville I. Wright in Sacramento on May 24, 1990. The matter was submitted upon the filing of the transcript on June 12, 1990.

This decision discusses both applications for reasons of procedural convenience.

A.90-03-019 - Transfer Authority

A certificate of limited partnership for Land Air Express, a California limited partnership, together with the partnership agreement, is attached to the application and bears the California Secretary of State's filing stamp of June 2, 1989. Nabeel Berbawy is the general partner, and Joseph B. Estass, and Berbawy are named as limited partners.

A financial statement shows assets of \$68,800, including \$6,000 cash in bank, and net worth of \$28,800.

There will be no change in management, equipment, or employees if the requested transfer of authority is granted.

A.89-12-038 - Expanded Service Area

Berbawy seeks to expand his on-call service territory commensurate with requests he testified to receiving from present patrons of his service and from potential customers in surrounding areas.

Need for the Service

Applicant believes that there is no consistently available on-call service between the points it wishes to serve and Lincoln, Auburn, and Nevada County airports. Only Foothill's Flyer, Inc. is attempting to serve both Placer and Nevada Counties, and it has only two vans.

A tabulation of requests to Berbawy for on-call transportation from the Nevada City-Grass Valley area for the past 12 months shows an average of more than 40 per month.

Applicant's reservations for its present service have increased from 35 in July, 1989 to 108, in May, 1990.

Statistics were presented showing population growth: in Amador County from 24,150 in 1987 to 29,150 in 1989; in El Dorado County from 110,000 in 1987 to 124,000 in 1989; in Nevada County from 72,400 in 1987 to 78,800 in 1989.

Waiver of Proposed Decision

It is common in the case of airport shuttle service applications for applicants to move to waive the filing of a 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 present need for the proposed service.

Findings of Fact

1. Land Air Express, a California limited partnership, is a fit and proper entity to hold a passenger stage certificate.

2. Operations will not be affected by the transfer of operating authority from Berbawy to Land Air, and the transfer is not adverse to the public interest.

3. Land Air has the ability, equipment, and financial resources to perform the proposed expanded passenger stage corporation service.

4. Public convenience and necessity require the proposed expanded service.

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

6. As this application involves a service territory expansion by an established carrier, this decision should take effect on the date of signing.

Conclusions of Law

1. The proposed transfer is in the public interest and should be authorized. A public hearing is not necessary.

2. Public convenience and necessity have been demonstrated and a certificate expanding applicant's passenger stage service area as requested 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 or rights and may cancel or modify the monopoly features of these rights at any time.

ORDER

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Nabeel Berbawy, an individual, authorizing him to extend his passenger stage corporation, as defined in Public Utilities (PU) Code § 226, between the points and over the routes as requested in A.89-12-038, to transport persons and baggage.

2. By September 30, 1990, Naveel Berbawy, an individual may sell and transfer the operative rights specified in A.90-03-019 to Land Air Express, a California limited partnership.

3. 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.

4. 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.

5. 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.

6. If the transfer is completed, on the effective date of the tariffs, a certificate of public convenience and necessity is granted to Land Air Express, a California limited partnership, 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-6208, to transport persons and baggage.

7. The certificate of public convenience granted by Decision 89-03-039 is revoked on the effective date of the tariffs.

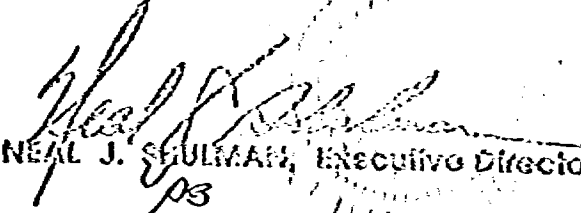
8. The applications are granted as set forth above.

This order is effective today.

Dated AUG 8 1990, at San Francisco, California.

G. MITCHELL WELK  
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

  
NEAL J. SULLIVAN, Executive Director  
PS

Appendix PSC-6208

Land Air Express  
(a Limited Partnership)

Original Title Page

CERTIFICATE  
OF  
PUBLIC CONVENIENCE AND NECESSITY  
AS A PASSENGER STAGE CORPORATION  
PSC-6208

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

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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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Supersedes authority heretofore granted to  
Nabeel Berbawy  
by D.89-03-039

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Issued under authority of Decision 90 08 013,  
dated AUG 8 1990, of the Public Utilities Commission of  
the State of California in Applications 89-12-038 and 90-03-019.

Appendix PSC-6208

Land Air Express  
(a Limited Partnership)

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

This certificate supersedes all operative authority granted to Nabeel Berbaway.

Land Air Express, a California limited partnership, 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 certain points in the counties of Placer, Nevada, El Dorado, and Amador, described in Section II, and Sacramento Metropolitan Airport(SMA), over and along the the routes described in Section III, subject, however, to the authority of this Commission to change or modify the routes 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. 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 each authorized on-call service will be rendered.
- c. No passengers shall be transported except those having a point of origin or destination at SMA.

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

- 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 the airport authority involved.

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## SECTION II. SERVICE AREAS.

Placer and Nevada Counties

## Service Area A.

Communities and places along Interstate 80 corridor between Colfax and Auburn and points intermediate thereto, Auburn Airport, and Foresthill.

## Service Area B.

Communities and places along Interstate 80 corridor between Roseville and Auburn and points intermediate thereto.

## Service Area C.

Communities and places along State Highway 49 between Nevada City and Auburn and points intermediate thereto, and Nevada County Airport.

## Service Area D.

Communities and places along Nicolaus Road between Lincoln Airport and Lincoln and points intermediate thereto.

## Service Area E.

Communities and places along State Route 193 between Lincoln and Auburn and points intermediate thereto.

## Service Area F.

Communities and places along State Highway 65 between Lincoln and Roseville and points intermediate thereto.

Placer, El Dorado, and Amador Counties

## Service Area G.

Communities and places along State Highway 49 between Auburn and Jackson and points intermediate thereto. The communities and places along U.S. Highway 50 between Placerville and El Dorado Hills and points intermediate thereto, and Folsom in Sacramento County.

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## SECTION III. ROUTE DESCRIPTIONS.

Route 1 - SMA/Colfax

Between Sacramento Metropolitan Airport and to points and communities as described in Section II, Service Areas A and B.

Route 2 - SMA/Nevada City

Between Sacramento Metropolitan Airport and to points and communities as described in Section II, Service Areas B and C, including Auburn Airport.

Route 3 - SMA/Auburn/Jackson

Between Sacramento Metropolitan Airport and to points and communities described in Section II, Service Area G.

Route 4 - SMA/Lincoln

Between Sacramento Metropolitan Airport and to points and communities described in Section II, Service Areas E and F.

Route 5 - Lincoln Airport/Nevada City

Between Lincoln Airport and to points and communities described in Section II, Service Areas C, D, and E.

Route 6 - Lincoln Airport/Colfax

Between Lincoln Airport and to points and communities described in Section II, Service Areas A, D, and E.

Route 7 - SMA/Lincoln Airport

Between Sacramento Metropolitan Airport and to points and communities described in Section II, Service Areas D and F.

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