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Decision 90-11-067 November 21, 1990

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:)
Metropolitan Paratransit Co., Inc.)
dba Celebrity Airport Livery (aka)
Celebrity Mini-Tours) and Century)
Transit System, Inc. for transfer)
passenger stage authority)
PSC-1316 pursuant to Sections 851 and)
854 of the Public Utilities Code.)

ORIGINAL

Application 90-07-041
(Filed July 10, 1990;
amended August 28, 1990)

In the Matter of the Application of)
Metropolitan Paratransit Co., dba:)
Celebrity Airport Livery, or)
Celebrity Mini-Tours for additional)
passenger stage authority to)
operate as an on-call door-to-door)
hotel and public livery service)
from the five following airports:)
Los Angeles International, Long)
Beach Airport, Ontario Airport)
and John Wayne Airport. Herein)
find request to establish a zone of)
rate freedom for one-way passenger)
stage service from these five)
airports to the proposed points and)
service areas listed within the)
Counties of Los Angeles, Orange, San)
Bernardino, and Riverside.)

Application 87-05-012
(Filed May 8, 1987;
amended July 18, 1988)

O P I N I O N

This decision grants the applications of Metropolitan Paratransit Co. (MPC) to expand its passenger stage operations, to implement a zone of rate freedom (ZORF), and to transfer its operations to Century Transit System, Inc. (CTS).

Background

MPC filed Application (A.) 87-05-012 seeking authority pursuant to Public Utilities (PU) Code Section 1031 et seq. to expand its passenger stage authority. Applicant proposes to

provide on-call service between Los Angeles, Orange, Riverside and San Bernardino Counties and five airports. The airports are Los Angeles International, Long Beach International, Burbank-Glendale-Pasadena, Ontario International, and John Wayne.

Pursuant to PU Code Section 454.2, MPC also seeks authority to establish a ZORF within its proposed service area, which would permit MPC to modify fares by \$2 to \$10 above or below the benchmark fares proposed in its amended application. The Commission has authorized applicant to provide stage service under PSC-1316 and an affiliated company to provide charter-party service in the Los Angeles area.

Several parties protested A.87-05-021, among them, SuperShuttle of Los Angeles, Inc. (SuperShuttle), Inland Express Services, Inc. (Inland), Great American Stageline, Inc. (Stageline), Luxe Livery Services, Inc. (Luxe), and the City of Los Angeles Department of Transportation (DOT). Hearings were held to address the protests.

In A.90-07-041, MPC seeks authority, pursuant to Sections 851 and 854, to transfer its passenger stage license to CTS. CTS currently operates taxicab and dial-a-ride services in the Los Angeles area. No protests were received.

A.90-07-041

MPC states it seeks to transfer its authority to CTS because CTS wishes to expand its current operations rather than refer customers to another company. MPC states it has experienced financial difficulties recently in spite of the demand for its services and believes the consolidated operation would be more efficient.

MPC amended its application in response to requests by the Commission's Transportation Division. No protests to the application were received. It is reasonable to assume that the consolidated operations may improve MPC's profitability and service

to the general public as a result. We will grant MPC's application to transfer its authority.

A.87-05-012

MTC seeks authority to expand its operations so that it may operate between five Los Angeles area counties and five Los Angeles area airports. Several issues were raised in hearings:

The need for the expanded service.

Whether applicant is fit to operate and expand its operations;

Applicants' failure to adhere to its filed tariffs in all cases;

Need for Expanded Service DOT protested MTC's application for expanded authority, arguing that there is an oversupply of van services at Los Angeles International (LAX), resulting in congestion and illegal parking.

The applicant responded to DOT's concern by pointing to the efforts of the Landside Operations Bureau (Landside) at LAX to improve traffic flows and compliance with airport traffic rules. According to a Landside report, some progress has been made in relieving airport congestion, but several steps must be taken to further improve traffic problems over the longer term. MPC believes its proposal in this application will increase passenger density and limit private vehicle use, both of which are consistent with Landside objectives.

MPC presented several witnesses who supported the need for expanded on-call passenger stage service between the points which are the subject of the application. Four of those witnesses were experts in the transportation management and operations. It appears by the testimony of several witnesses that MPC provides services in areas where demand for public transportation exceeds supply.

We believe MPC has demonstrated a need for the service expansion particularly in light of growth and increased traffic

congestion in the Los Angeles area. While we are naturally concerned about congestion problems at LAX, we do not believe that the MPC will be the straw that breaks the camel's back. Landside still has oversight authority at LAX and it is clear by the testimony of several experts that passenger stage services relieve congestion on city streets.

Applicant's Tariff Violations The record shows that MPC has repeatedly violated its tariffs by operating outside its territory, by failing to show its identification number on advertising cards, and by providing cash discounts to senior citizens.

The authority applicant seeks would apparently make its operations consistent with its tariffs. Applicant is put on notice that it must include its identification number on advertising cards, and tariff any discounts it provides to customers.

Applicant's Fitness MPC has had its license suspended several times for failure to provide evidence of liability insurance and for nonpayment of PUCTRA fees. In addition, MPC has not filed timely annual reports with the Commission. MPC attributes its failure to provide evidence of liability insurance to the bankruptcy of two insurance companies and to the embezzlement of funds by its former insurance agent. Applicant's PUCTRA fee checks have been returned for insufficient funds.

MPC's failure to pay its PUCTRA fees in a timely manner suggests financial difficulties. Its application to transfer its operating authority to CTS confirms this, and the transfer is intended to relieve some of the troubles MPC has had under its current operations. The transfer to a more stable carrier may also improve MPC's record with regard to remitting evidence of insurance coverage and annual reports. In light of this, and because of our view that MPC's services are needed, we will grant MPC's application for a ZORF and expanded authority.

The Stipulation with Stageline

MTC entered into a stipulation with Stageline which limits MPC from picking up and delivering passengers within as much as 650 yards from Stageline bus stops. In D.88-07-029, we found that such "sweetheart stipulations" are designed to protect existing carriers without regard for the public interest. We stated our policy of removing such restrictions in existing certificates and opposing such restrictions in new certificates. Consistent with our policy, we will not approve the stipulation between Stageline and MPC.

Conclusion

The proceeding in A.87-05-012 has demonstrated that MPC is not a model carrier. It has failed to comply with Commission rules and with its own tariffs in a consistent fashion. On the other hand, it appears to have provided good service in areas where its services are needed. The protests to A.87-05-012 are primarily by competitors which provided no evidence that the interests of the riding public would not be served by granting MTC's application. Neither SuperShuttle nor Inland pursued their objections to the conclusion of hearings or filed briefs. DOT protests the application because of concerns over airport congestion which we believe can be alleviated by improved multi-passenger transportation services and the efforts of Landside.

MPC's financial difficulties and spotty compliance record may be alleviated by transfer of its authority to CTS. We will grant A.87-05-012. We expect MPC, under its new ownership, to comply with all Commission rules and with its tariffs. If it does not, we will consider an investigation to prohibit its operations in the future.

Findings of Fact

1. MPC has operated an airport van shuttle service in violation of its authority.

2. MPC proposes to expand its on-call service between points in Los Angeles, Orange, Riverside, and San Bernardino Counties on the one hand and LAX, Long Beach, Burbank, Ontario, and John Wayne airports on the other hand. It proposes to expand its van fleet from 21 to 125 vehicles and to operate from five bases.

3. MPC proposes to establish a ZORF provision in its tariffs permitting it to modify fares by \$2 to \$10 above and below the fares proposed in its amended application.

4. The Commission has suspended MPC's license on several occasions for failure to provide evidence of insurance and to pay PUCTRA fees.

5. There is a public need for MPC's proposed services.

6. The transfer of MPC's authority to CTS may improve MPC's financial circumstances and compliance with Commission rules.

7. The stipulation entered into by MPC and Stageline is contrary to Commission policy set forth in D.88-07-029.

8. Transferee is operating in competition with other substantially similar passenger stage transportation services.

9. Transferee requests authority to establish a ZORF of -\$2 to +\$10 around its existing rates.

10. The competitive transportation services will result in reasonable rates when considered with the ZORF authorized below.

11. Granting an exemption from the provisions of PU Code § 460 is appropriate in this case.

Conclusions of Law

1. MPC's request to transfer its operating authority to CTS, as set forth in A.90-07-041, should be granted.

2. MPC's request to establish a ZORF and to expand its operating authority, as set forth in A.87-05-012, should be granted.

3. The stipulation entered into by MPC and Stageline should not be approved.

4. Before transferee charges rates under the ZORF authorized below, 10 days' notice should be given to the Commission.

5. ZORF rates should be included in a tariff amendment showing for each route the high and low ends of the ZORF and the currently effective rate.

ORDER

IT IS ORDERED that:

1. The passenger stage certificate of public convenience and necessity (PSC-1316) issued to Metropolitan Paratransit Co., Inc. (MPC) is amended by substituting PSC-6687 superseding all operative authority previously granted to MPC as set forth in Appendix to this decision.

2. By January 31, 1991, MPC (transferor), may sell and transfer the operative rights and property specified in the application to Century Transit System, Inc. (transferee).

3. Transferee shall:

- a. File with the Transportation Division written acceptance of the certificate and a copy of the bill of sale or other transfer document within 30 days after transfer.
- b. Amend or reissue seller's tariffs and timetables, state in them when the service will start, make them effective 10 or more days after this order is effective, and allow at least 10 days' notice to the Commission.
- c. Comply with General Orders Series 101, 104, and 158, and the California Highway Patrol (CHP) safety rules.
- d. File an annual report of seller's operations for the period from the first day of the current year to the date of transfer.
- e. Maintain accounting records in conformity with the Uniform System of Accounts.

- f. Reimburse to the Commission the Transportation Reimbursement Fee required by PU Code § 403 when notified by mail to do so.

4. If the transfer is completed, on the effective date of the tariffs a certificate of public convenience and necessity is granted to transferee, 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 6687, to transport persons and baggage.

5. The certificate of public convenience and necessity granted by D.83-10-084 dated October 19, 1983 and D.85-08-079 dated August 21, 1985 is revoked on the effective date of the tariffs.

6. Transferees are authorized to begin operations on the date that the Executive Director mails a notice to transferee that they have evidence of insurance on file with the Commission and that the California Highway Patrol has approved the use of transferees' vehicles for service.

7. If the transfer is not consummated January 31, 1991, the authority granted in Ordering Paragraph 1 shall lapse.

8. Transferee is authorized to establish the ZORF rates proposed in A.87-05-012. Applicant may set rates within a ZORF between the lower limit of the ZORF as the minimum fares (\$2 below authorized rates) and the upper limit of the ZORF as the maximum fares (\$10 above authorized rates).

9. Transferee shall file a ZORF tariff on not less than 10 days' notice to the Commission and to the public and subject to Commission approval. The ZORF authority shall expire unless exercised within 60 days after the effective date of this order.

10. Transferee may make rate changes within the ZORF by filing amended tariffs on not less than 10 days' notice to the Commission and to the public. The tariff shall include for each route the authorized maximum and minimum rates and the rate to be charged.

11. Transferee is exempted from the long- and short-haul provisions of the PU Code § 460 in setting the authorized ZORF rates.

12. In addition to posting and filing proposed tariff changes, transferee shall post notices explaining rate changes in its terminals and passenger-carrying vehicles. The notices shall be posted at least 5 days before the effective date of the rate changes and shall remain posted for at least 30 days.

13. The applications are granted as set forth above.

14. The stipulation entered into by Great American Stageline, Inc. and MPC is not approved.

This order is effective today.

Dated November 21, 1990, at San Francisco, California.

G. MITCHELL WILK
President
STANLEY W. HULETT
JOHN B. OHANIAN
PATRICIA M. ECKERT
Commissioners

Commissioner Frederick R. Duda,
being necessarily absent, did not
participate.

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

NEAL J. ... Executive Director

T/MEE/ebi

Appendix PSC-6687

CENTURY TRANSIT SYSTEM, INC.

Original Title Page

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
PSC-6687
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.

This certificate supersedes all operative authority previously
granted to Metropolitan Paratransit Co., Inc., or its
predecessors by D.83-10-084 and D.85-08-020.

Issued under authority of Decision 90-11-067, dated
November 21, 1990 of the Public Utilities Commission of the
State of California in Applications 90-07-041 and 87-05-012.

T/MEE/ebi

Appendix PSC-6687

CENTURY TRANSIT SYSTEM, INC.

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 90-11-067, Applications 90-07-041 and 87-05-012.

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

Century Transit System, 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-call basis, between certain points in the counties of Los Angeles, Orange, Riverside and San Bernadino, described in Section 2, and the Los Angeles International (LAX), Burbank (BUR), Long Beach (LGB) and John Wayne (SNA) Airports, on the one hand, and scheduled service between certain hotels in the City of West Hollywood, described in Section 3, and LAX, 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 excepted those having a point of origin or destination at LAX, BUR, LGB, SNA.
- (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 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.

Issued by California Public Utilities Commission.

Decision 90-11-067, Applications 90-07-041 and 87-05-012.

SECTION 2. SERVICE AREA DESCRIPTIONS.

Los Angeles County

All points within the geographic limits of Los Angeles County.

Orange County

All points within the geographic limits of Orange County.

Riverside County

All points within the geographical limits of the cities of Corona, Lake Elsinore, Moreno Valley, Norco, Perris, Riverside, and the following zip code communities: March Air Force Base, Mira Loma, Riverside County (92509, 92324, 92387), and Sun City.

San Bernardino County

All points within the geographical limits of the cities of Chino, Colton, Etiwanda, Fontana, Grand Terrace, Highland, Loma Linda, Montclair, Ontario, Rancho Cucamonga, Redlands, Rialto, San Bernardino, Upland, and the following zip code communities: Alta Loma, Bloomington, Bryn Mawr, Guasti, Mount Baldy Village and Norton Air Force Base.

SECTION 3. ROUTE DESCRIPTIONS.

Route 1. On-Call Service

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

Route 2. Scheduled Service

Commencing at LAX then over the most convenient route(s) to the following hotels:

- | | | |
|--------------------------|-------------------------|----------------|
| 1. Park Sunset Hotel | 8462 Sunset Blvd. | West Hollywood |
| 2. Sunset Plaza Hotel | 8400 Sunset Blvd. | West Hollywood |
| 3. Sunset Hyatt Hotel | 8401 Sunset Blvd. | West Hollywood |
| 4. Beverly Sunset Hotel | 8775 Sunset Blvd. | West Hollywood |
| 5. Tropicana Motor Hotel | 8585 Santa Monica Blvd. | West Hollywood |

Issued by California Public Utilities Commission.

Decision 90-11-067, Applications 90-07-041 and 87-05-012.