

DEC 6 1990

Decision 90-12-005 December 6, 1990

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 Roberts Holiday Lines, Inc., a)
 California corporation, dba RHL)
 Airporter for a certificate of)
 public convenience and necessity to)
 operate a passenger stage service)
 over the most direct routes from)
 points in Orange County, on the one)
 hand, to John Wayne Airport, on the)
 other hand.)

ORIGINAL

Application 90-04-040
(Filed April 25, 1990)

- William A. Turkish, Attorney at Law, for applicant.
- John deBrauwere, Attorney at Law, for Ground Systems, Inc., protestant.
- James P. Jones, for United Transportation Union, interested party.
- MacDonald Ebi Esule, for the Commission's Transportation Division.

O P I N I O N

Roberts Holiday Lines, Inc. (applicant), dba RHL Airporter, seeks a certificate of public convenience and necessity (CPC&N) authorizing operations as a passenger stage corporation between various points in Orange County, on the one hand, and John Wayne Airport (SNA), on the other hand. The application is protested by Ground Systems Inc. (protestant).

Public hearing was held before Administrative Law Judge (ALJ) O'Leary at Los Angeles on July 11 and 20, 1990. The matter was submitted on August 6, 1990 with the filing of late filed exhibits 27 and 28.

Applicant proposes to provide a regularly scheduled service. Applicant proposes to operate four separate routes, two of which will serve the hotels in the vicinity of Anaheim, Garden

Grove, and Orange on the one hand and SNA on the other hand. These routes will be operated as follows:

Route A from Anaheim hotels to SNA hourly commencing at 4:45 a.m. until 3:45 p.m., and 5:15 p.m., and 7:15 p.m.

Route B from Anaheim hotels to SNA hourly commencing at 5:15 a.m. until 4:15 p.m., and 6:15 p.m., and 8:15 p.m.

Routes A and B will return from SNA every half hour commencing at 6:00 a.m. until 5:30 p.m. and then every hour on the half hour until 9:30 p.m. Both routes will operate seven days per week.

Route C will operate between San Juan Capistrano (Amtrak Station) on the one hand and SNA on the other hand with an intermediate stop at Laguna Hills Mall. This route will operate Monday thru Friday, except holidays, once a day in each direction it will operate northbound at 7:00 a.m. and southbound at 5:45 p.m.

Route D will operate between SNA on the one hand and La Mirada on the other hand via Buena Park. Route D will operate seven days per week.

Applicant holds authority as a charter party carrier of passengers from this Commission and also holds authority from the Interstate Commerce Commission.

Applicant presented letters of support for the proposed service from many of the hotels/motels located in the vicinity of Disneyland.

Applicant also presented evidence concerning the expansion of SNA. SNA is expanding its terminal facilities. It is expected that the passenger traffic in and out of SNA will double in the not to distant future because of the terminal expansion and the addition of more flights in and out of SNA. Part of the expansion of terminal facilities is an expansion of the bus loading and unloading zone to a maximum of 180 feet of curb space.

Presently the only service at SNA similar to that proposed by applicant is the service of the protestant.

Applicant presented letters of support from several hotels and motels in the area of the proposed service. Applicant has a fleet of 39 buses which are 47 passengers' capacity and one bus with a capacity of 46 passengers. Applicant intends to use five of its fleet in the proposed operation.

Applicant's Balance sheet as of December 31, 1989 discloses assets totaling \$1,212,528.83, liabilities totaling \$1,603,948.41 a resultant negative net worth of \$391,419.56. Its Income Statement for the year ended December 31, 1989 discloses total revenues of \$4,248,997.21, operating expenses of \$4,110,588.74, a net profit before taxes and nonoperational expenses of \$138,408.47. Nonoperational income and expenses reduce the net profit to \$1,967.35 for the year. Applicant's president testified that applicant filed Chapter 11 bankruptcy in 1986. A plan for the payment of creditors has been prepared, it is fully funded and is awaiting court approval.

Protestant protests all authority sought with the exception of Route C described above. Protestant holds authority as a passenger stage corporation to provide scheduled service between the Anaheim/Buena Park area on the one hand to SNA on the other hand.

Protestant provides service between the hotels in and around the Disneyland area and SNA daily. The trips are scheduled 45 minutes apart. The first and last trips depart the Sheraton Anaheim Hotel at 5:10 a.m. and 9:40 p.m., respectively.

Protestant's chief executive officer testified that applicant intends to pick up and discharge passengers at 10 hotels/motels that protestant presently serves. He also testified that at four of those properties, protestant has a contract to be the exclusive sales agent for transportation to and from SNA.

Protestant also presented testimony that even with the expansion of the airport terminal, there will not be room for two buses to discharge or pick up passengers simultaneously because of the limited room at the curb in the designated pick up and discharge bus zone.

Protestant is of the opinion that the certification of another carrier to perform a service almost identical to that presently provided by it would be economically infeasible and would have adverse effects on its business. It is also of the opinion that a duplicate service would be very confusing to the public.

Discussion

We will first deal with protestant's contention concerning congestion at SNA should an additional carrier be certificated.

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.

We now turn to the allegation of duplicative service at the area of the hotels presently served by protestant and proposed to be served by the applicant. Disneyland located in Anaheim is one of the major tourist attractions in the Southern California area. The area in the immediate vicinity of Disneyland probably has the largest concentration of hotels and motels in the state. This is so primarily because of the attraction of Disneyland. Tourists from all over the country come to Disneyland each year. We believe that the public benefits from competition between carriers. Competition encourages each to provide the best available service so that it will not lose business to its competitor. When only one carrier serves a route or given area its service can become slipshod since it is the only service available to the traveling public.

While the statement concerning our refusal to accept the entry limitation to airport service set forth above goes primarily to service at the airports, it also applies to duplicate service at the points served away from the airports.

Counsel for applicant moved to waive the filing of a proposed decision (Rule 77.1, Filing of Proposed Decision in the Rules of Practice and Procedure). The motion was denied by the ALJ. We hereby reverse the ALJ's ruling since protestant failed to show that the filing of the proposed decision would be in the public interest.

Findings of Fact

1. Applicant holds authority from this Commission as a charter party carrier of passengers.
2. Applicant seeks authority as a passenger stage corporation between points in Orange County and SNA.
3. SNA is expanding its terminal and it is expected air traffic by scheduled airlines in and out of SNA will increase in the foreseeable future.
4. Protestant provides a service almost identical to that proposed by applicant between the Disneyland environs and SNA.
5. Several hotels/motels in the Disneyland area submitted letters supporting the application.
6. Applicant's service between SNA and the Disneyland area will operate every 30 minutes throughout most of the day.
7. Protestant's service is operated every 45 minutes throughout most of the day.
8. Applicant possesses the ability, experience and financial resources to perform the proposed service.
9. Public convenience and necessity require the proposed service.
10. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Conclusions of Law

1. The ruling of the ALJ denying the motion for waiver of a proposed decision should be reversed.

2. The application should be granted as set forth in the order.

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. The ruling of the ALJ denying the motion for waiver of the filing of the proposed decision is reversed. The motion for waiver of the filing of the proposed decision is granted.

2. A certificate of public convenience and necessity is granted to Roberts Holiday Lines, 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-0165, to transport persons, baggage, and/or express.

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. Reinit 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.

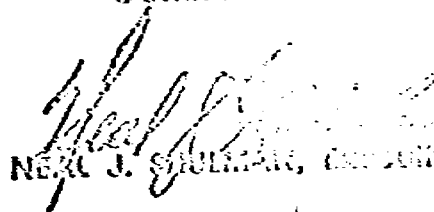
6. The application is granted as set forth above.

This order becomes effective 30 days from today.

Dated December 6, 1990, 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


NEIL J. SULLIVAN, Executive Director

DB

T/NEE/ebi

Appendix PSC-0165

Roberts Holiday Lines, Inc.

Original Title Page

CERTIFICATE

OF

PUBLIC CONVENIENCE AND NECESSITY

AS A PASSENGER STAGE CORPORATION

PSC-0165

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 90-12-005, dated
December 6, 1990 of the Public Utilities Commission of the
State of California in Application 90-04-040.

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Appendix PSC-0165

Roberts Holiday Lines, Inc.

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Issued by California Public Utilities Commission.

Decision 90-12-005, Application 90-04-040.

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

Roberts Holiday Lines, Inc., by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized as a passenger stage corporation to transport passengers and their baggage on scheduled basis, between points within certain cities in the counties of Los Angeles (LA) and Orange, described in Section 2, and John Wayne Airport (SNA), over and along the routes described in Section 3, subject, however, to the authority of this Commission to change or modify the routes 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 authorities 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 SNA.
- (d) The tariffs and timetables shall show the conditions under which the authorized scheduled service will be provided, and shall specify the exact locations of the scheduled stops.

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SECTION 2. SERVICE AREA DESCRIPTION

Scheduled stops, described in Section 3, within the geographical limits of the cities of Anaheim, Garden Grove, Orange, Buena Park, San Juan Capistrano, and Laguna Hills in Orange County, on the one hand, and La Mirada in LA County, on the other hand.

SECTION 3. ROUTE DESCRIPTIONS (Scheduled Service only)

Route A. Commencing at the following hotels/motels:

Rip Van Winkles, Westward Ho, Anaheim Travelodge, Desert Palm Suites, Disneyland Hotel, Pan Pacific, Apollo Inn, Lamplighter, Stoval's Inn, Hyatt Alicante, Anaheim International, Raffles Inn, Anaheim Hilton, Anaheim Marriott, Quality Hotel, Holiday Inn, Zabys, Residence Inn, Grand Hotel, Parkside Hotel, and the Doubletree Organization, then via the most convenient streets and highways to SNA.

Route B. Commencing at the following hotels/motels:

Conestoga Hotel, Anaheim Sheraton, Disneyland Hotel, Travelodge at the Park, Galaxy Motel, Cosmic Age, Candy Cane Motel, Jolly Roger, Inn at the Park, Anaheim Hilton, Anaheim Marriot, Quality Hotel, Holiday Inn, Village Inn, Castle Inn, Anaheim Plaza, Anaheim Inn, Park Vu, Desert Inn, Tropincana, Howard Johnsons, Ramada Maingate, Pennysleeper, Grand Hotel, and the Anaheim Amtrak Station, then via the most convenient streets and highways to SNA.

Route C. Commencing at San Juan Capistrano Amtrak Station, and the Laguna Hills Mall, then via the most convenient streets and highways to SNA.

Route D. Commencing at the following hotels/motels:

Gateway Plaza Holiday Inn (La Mirada), Courtyard by Marriott (Buena Park), Buena Park Hotel, Embassy Suites (Buena Park), and Holiday Inn (Buena Park), then via the most convenient streets and highways to SNA.

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