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SEP 9 1991

Decision 91-09-007 September 6, 1991

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
Sea Top Shuttle to operate as an "on)
call" PSC between Downtown San Diego)
on one hand and San Diego area)
communities on the other hand.)

ORIGINAL

Application 91-03-060
(Filed March 28, 1991)

OPINION

Hamidreza Tamjidi, doing business as Sea Top Shuttle (applicant), seeks a certificate of public convenience and necessity (CPCN) to operate passenger stage service between certain points within San Diego County, including the downtown Santa Fe Train depot and the downtown Greyhound Bus Terminal and San Diego International Airport (SAN). Authority is sought under Public Utilities Code § 1031.

Applicant initially proposed to perform a scheduled service on a seven-day per week basis. However, on May 10, 1991, applicant filed an amendment to correct discrepancies in, but not limited to, the type of service proposed in the application. Applicant has changed the proposed service from a scheduled to an on-call, door-to-door service. In addition, applicant has reduced the proposed service territory from all points in San Diego County to portions of the Cities of Coronado and San Diego.

Applicant proposes to start service with a 7-passenger van, and will increase the fleet to meet demand. The vehicle will be garaged at applicant's principal place of business in San Diego. He states that the vehicle will have liability insurance in statutory amounts that comply with or exceed the minimum coverage amounts required under the Commission's General Order 101-E.

Applicant has filed a balance sheet and other exhibits to show that he has the ability, equipment and financial resources to perform the proposed service. The balance sheet, dated March 26,

1991, sets forth assets in the amount of \$459,500, liabilities of \$118,000 and a net worth of \$341,500. Applicant believes that public convenience and necessity justify the proposed service for the following reasons:

1. [He] has demonstrated knowledge of the industry by owning and operating a taxi service for a period of four years in the San Diego area.
2. The introduction of any mode of transportation that can reduce parking and drive-through traffic will decrease congestion and increase air quality at the Airport, Santa Fe Train Depot and Greyhound Terminal. Current problems have been exacerbated primarily by the nature of the San Diego Lindberg field roadway access. The Airport is accessible only by way of two paths, one from the north and one from the south, by way of only one road, i.e., North Harbor Drive, San Diego. The shared-ride nature of the service proposed herein will lead to fewer vehicles in the service area.
3. Many passengers arriving and departing from the three locations reside or work in the service area proposed herein. The existence of the service proposed will thus have a major positive impact on those persons who use San Diego International Airport, the Santa Fe Train Depot and the Greyhound Bus Terminal throughout the year.

Procedural History

Notices of the filing of the application and its amendment appeared in the Commission's Daily Transportation Calendars on April 2, and May 16, 1991, respectively. Shuttle Express International (SEI or protestant) initially filed a protest to the application and a request for a public hearing on April 29, 1991. The protest, by failing to provide protestant's mailing address and telephone number, did not satisfy the requirements of

Rule 8.4(a) of the Commission's Rules of Practice and Procedure. Consequently, protestant refiled on May 10, 1991.

Notwithstanding the protest, the Commission's Transportation Division staff (Staff), in its advice of participation dated June 14, 1991, did not recommend that the matter be set for hearing. Staff stated that it has no objection to the granting of this application.

Position of SEI

SEI bases its opposition on several grounds. First, it alleges that applicant is attempting to add a shuttle to its taxicab source and has no intention of running separate and distinct operations. Second, SEI contends that applicant has not indicated how he will protect the public from the potential for abuse in charging taxi versus Public Utilities Commission (PUC) approved rates, as stated in his tariff since he will be running both operations out of the same facility, using the same dispatch equipment.

Third, SEI maintains that because of the cost of air travel and the recent Middle East conflict, demand for passenger stage carrier service has declined since the first of the year. Further, SEI states that the number of carriers operating out of SAN is more than adequate to meet passenger demand, and that the addition of more carriers will constitute an oversaturation of the market. Finally, SEI contends that the operating space at the SAN is barely adequate to facilitate the current carriers and other vehicles, thereby creating unsafe traffic conditions, congestion and air pollution that will worsen with the addition of more carriers.

Discussion

Rule 8.2 of the Commission's Rules of Practice and Procedure explicitly states that the content of a protest, not the mere filing, is determinative of whether a hearing will be held.

Consequently, we are not persuaded after considering the content of SEI's protest that a public hearing is necessary in this matter.

SEI's first two objections anticipate that applicant will violate our Rules if we grant him a certificate. Such concerns, while significant, are not properly raised at this juncture. They are appropriately raised, if substantiated, after applicant has been granted a certificate and is operating. At that time, any protestant or any party having evidence, may file a complaint with the Commission and seek to have applicant's certificate revoked.

The core of SEI's remaining objections is that more vehicles will add to traffic congestion at SAN and will reduce load factors of other carriers serving SAN. We consider the issue of congestion at the airport to be one best addressed by SAN. Therefore, we note with significance, that although notice of this application was provided to SAN, it did not file a protest. As to reduced load factors, to the extent that it is a problem, the solution does not lie in restricting the entry of new, small operators when there are no limits on the fleets of large operators. In addition, applicant has not limited its proposed service to SAN; it also seeks to operate downtown, at both the Santa Fe Train Depot and the Greyhound Bus Station.

In determining whether public convenience and necessity require that a proposed service be authorized, one of our primary concerns is to see that a broad array of transportation services is provided for the consuming public. Also, in evaluating whether a need exists, we consider not just one site along the proposed route, which may be well-served, but the entire service territory, including all points of origin and destination, some of which may be unserved or underserved. It appears that applicant will be providing a specialized service on a relatively small scale, but in doing so will improve the range of transportation options available to consumers in San Diego County. At the same time, it appears that incremental improvements in traffic congestion will be

encouraged by the reduction of single occupant motorists at SAN, the downtown Santa Fe Train Depot and the downtown Greyhound Bus Station. We conclude that applicant has shown a need for the proposed service.

Since applicant has owned and operated a taxi service for four years in the San Diego area, and has demonstrated that he has the financial resources needed to initiate and expand operations, we conclude further that he has the necessary qualifications to operate the proposed service.

We conclude that a public hearing is not necessary in this matter, and that the proposed service should be authorized as amended.

Findings of Fact

1. Shuttle Express International filed a protest.
2. No protest to the application has been received from any public transit operator serving the territory applicant proposes to serve.
3. No protest to the application has been received from the airport authority involved.
4. The proposed service can be expected to provide incremental improvements to congestion problems in San Diego County.
5. Public convenience and necessity require that the proposed service be established.
6. Applicant is qualified to perform the proposed service.
7. Under Rule 8.2 of the Commission's Rules of Practice and Procedure, a public hearing is not necessary.
8. It can be seen with certainty that the proposed service will have no significant adverse effect on the environment.

Conclusions of Law

1. The protest of Shuttle Express International should be denied.

2. The application should be granted as set forth in the order. Since there is a current need for the proposed service, the order should become effective on the date that it is signed.

3. 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 cancel or modify the monopoly feature of these rights at any time.

ORDER

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Hamidreza Tamjidi, authorizing him to operate as a passenger stage corporation, as defined in Public Utilities (PU) Code § 226, between the points and over the routes set forth in Appendix PSC-7189, 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. Applicant shall comply with PU Code §§ 460.7 and 1043, relating to the Workers' Compensation laws of this state.

6. The application is granted as set forth above.

This order is effective today.

Dated September 6, 1991, at San Francisco, California.

PATRICIA M. ECKERT
President
JOHN B. OHANIAN
DANIEL Wm. FESSLER
NORMAN D. SHUMWAY
Commissioners

I abstain.

/s/ G. MITCHELL WILK
Commissioner

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


NEAL J. SHULMAN, Executive Director
ps

T/MEE/ebi

Appendix PSC-7189

Hamidreza Tamjidi

Original Title Page

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
AS A PASSENGER STAGE CORPORATION
PSC-7189

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 91-09-007, dated
September 6, 1991 of the Public Utilities Commission of the
State of California in Application 91-03-060.

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Issued by California Public Utilities Commission.

Decision 91-09-007, Application 91-03-060.

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

Hamidreza Tamjidi, 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, door-to-door basis, between points in San Diego County, described in Section 2, on the one hand, and the San Diego International (SAN), downtown Santa Fe Train Depot (Amtrak Station) and Greyhound Bus Terminal (Greyhound Station), on the other hand, over and along the routes described in Section 2, 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 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 SAN, Amtrak Station or Greyhound Station.
- (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.

San Diego County

All points within the geographical limits of the cities of Coronado, National City (zip code 91950/Lincoln Acres - 91947), and the following zip code communities in the City of San Diego:

Anti Sub War Station	92147	Marine Recruit -	
Bay Park	92110	Depot	92140
Clairemont	92117	Miramar NAS	92145
Crown Point	92109	Mira Mesa	92126
Del Cerro	92120	Mission Beach	92109
Downtown San Diego	92101	Mission Hills	92108
East San Diego	92105	Mission Valley	92108
Encanto	92114	Mission Village	92123
Grantville	92120	Naval Hospital	92134
Hillcrest	92103	Normal Heights	92116
Kearney Mesa	92111	North Park	92104
Kensington	92116	Ocean Beach	92107
La Jolla	92135	Old Town	92103
Linda Vista	92111	Pacific Beach	92109
Logan Heights	92113	Paradise Hills	92139
Loma Portal	92113	Point Loma	92106

SECTION 3. ROUTE DESCRIPTIONS

On-call, door-to-door, service to LAX

Commencing at SAN, Amtrak Station or Greyhound Station, then via the most convenient streets and highways to any point within the service area described in Section 2.

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