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Decision 92-03-073 March 31, 1992

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Axess Limousine Service, Inc., for
the Certificate of Public Convenience
and Necessity to Operate Passenger
Stage and Baggage Service between
San Mateo County, Santa Clara County,
and points to and from San Francisco
International, San José International
and Oakland International Airports.

ORIGINAL

Application 91-08-020
(Filed August 9, 1991)

Daniel W. Baker, Attorney at Law, for Axess
Limousine Service, Inc., applicant.
Cliff Orloff, for Airport Limousine Service
of Sunnyvale, dba Airport Connection;
and Amnon Levy, for Associated
Limousines, protestants.
Arthur P. How, for the Transportation
Division.

OPINION

Applicant, Axess Limousine Service, Inc. (Axess), seeks a certificate of public convenience and necessity to operate a shared limousine service between the three Bay Area airports (SFO, OAK, and SNJ) and points in San Mateo, Santa Clara, Alameda, and Contra Costa Counties. (To the extent that Axess operates unshared service with the occupant or occupants paying a single fare based on time or mileage, such operations are covered by a charter party permit.) The certificated operations would be either on-call or by reservation. The vehicles to be used are either 6-passenger stretch or 8-passenger ultra stretch limousines, built on luxury sedan bodies.

On August 29, 1991, Airport Limousine Service of Sunnyvale (ALSS or protestant) filed a protest alleging that there was sufficient existing competition by limousine and van services to satisfy the public need. ALSS also complained that it did not have access to applicant's showing concerning financial fitness and proposed fares and service rules.

On October 16, 1991, Associated Limousines of San Francisco (ALO or protestant) filed a similar protest. This protest was filed more than thirty days after publication in the Commission's Transportation Calendar, and hence was late-filed. (Both protestants offer permitted and certificated airport limousine service.)

A Prehearing Conference was held before Administrative Law Judge (ALJ) Gilman on December 16, 1991, at which applicant and protestants made appearances.

During the PHC, protestants withdrew the protests to granting authority to operate to and from SJN, and OAK. The ALJ observed that it was unlikely under current Commission policies for entry into the market for airport ground transportation that protestants could prevail. He indicated that a hearing would require significant delay and expense for applicant with little prospect for any benefit to the public.

The protestants responded that the recent moratorium issued by the Commission on the issuance of new SFO authority must presage the formulation of new policies and that this proceeding would offer the perfect opportunity to formulate such policies in an adversary setting. They accordingly argued that the SFO authority should not be granted without an evidentiary hearing.

Applicants responded by noting that under the moratorium resolution, all carriers who filed for authority prior to November 1, 1991 were to be treated under pre-existing policies. It was observed that both the Commission and officials of the City of San Francisco (City) shared that interpretation.

The ALJ adopted this view of the moratorium and decided that no hearing was warranted under those policies and the allegations of the pleadings.

Protestants responded that City officials might wish to express a different view of the moratorium and wish to propose new policies in this proceeding. The ALJ indicated that a formal expression of City's intent to participate in a hearing on this matter might provide grounds for a hearing. He offered protestants an opportunity to persuade City officials to ask for a policy hearing in this matter.

Since the prehearing conference, City officials have not expressed an interest in using this application for SFO van or limousine certificated service as a policy-making proceeding. We therefore ratify the ALJ's conclusion that this applicant was entitled under the terms of the moratorium resolution to have its application decided under pre-existing Commission policy.

Findings of Fact

1. Applicant requests authority to operate a passenger stage corporation between SFO, OAK, and SNJ, on the one hand, and points in San Mateo, Santa Clara, Alameda, and Contra Costa Counties, on the other hand.

2. Applicant possesses the financial fitness necessary to perform the proposed service.

3. Only applicant's proposal to serve San Francisco Airport (SFO) is subject to protest.

4. Additional individual-fare limousine service is necessary at SFO.

Conclusions of Law

1. Since the application meets all current standards for demonstrating public need and financial fitness, the application should be granted without evidentiary hearing.

2. Because there is an immediate opportunity to better serve the public, the effective date of this decision should be today.

ORDER

IT IS ORDERED that:

1. The certificate of public convenience and necessity is granted to Axess Limousines Incorporated, authorizing it to operate as a passenger stage corporation, as defined in Public Utilities (PU) Code § 226, to transport persons and baggage, between the points and over the routes set forth in Appendix PSC 7141 attached.

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. Comply with PU Code §§ 460.7 and 1043, relating to the Workers' Compensation laws of this state.

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.

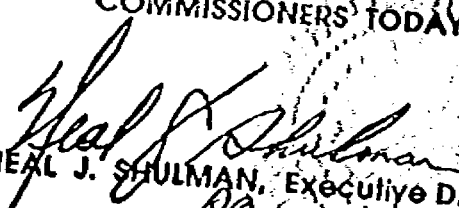
4. The application is granted as set forth above.
This order is effective today.

Dated March 31, 1992, at San Francisco, California.

DANIEL Wm. FESSLER
President

JOHN B. OHANIAN
PATRICIA M. ECKERT
NORMAN D. SHUMWAY
Commissioners

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


NEAL J. SHULMAN, Executive Director

T/APH/jpk *

Appendix PSC-7141 Axess Limousines Incorporated Original Title Page

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
PSC-7141
TO OPERATE AS A
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.

Issued under authority of Decision 92-03-073 dated March 31, 1992,
of the Public Utilities Commission of the State of California in
Application 91-08-020.

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

Axess Limousines Incorporated, 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 San Mateo, Santa Clara, Contra Costa, and Alameda counties, on the one hand, and certain airports, on the other hand, as described in Section II, over and along the route 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. 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 either San Francisco, Oakland, or San José International Airports.
- 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.

- A. San Mateo County
- B. Santa Clara County
- C. Contra Costa County
- D. Alameda County

SECTION III. ROUTE DESCRIPTION.
ON-CALL SERVICE

Commencing from any service point as described in Section II, then over the most convenient streets and highways to San Francisco International Airport, Oakland International Airport, or San Jose International Airport.

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