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Decision 92-07-042 July 22, 1992

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 Angelo Abed, an individual, doing)
 business as USA Airport Shuttle, for)
 authority to operate as a Passenger)
 Stage Corporation between points)
 in Solano, West Contra Costa, and)
 Northern Alameda Counties and the)
 Oakland International Airport,)
 San Francisco International Airport)
 and the Martinez/Richmond Amtrak)
 Stations.)

ORIGINAL
 Application 91-10-041
 (Filed October 16, 1991)

Carl L. Howard, for Angelo Abed, applicant.
Eldon M. Johnson, Attorney at Law, for Travis
 Express, Inc., and Lou Long, for Bay Porter
 Express, Inc., protestants.
Mitch Matsumura, for the Transportation Division.

O P I N I O N

Angelo Abed (Abed), an individual doing business as USA Airport Shuttle, requests authority under Public Utilities (PU) Code § 1031, et seq. to establish and operate an on-call passenger stage corporation service between points in Solano, Contra Costa, and Alameda Counties, on the one hand, and Oakland International Airport (OAK), San Francisco International Airport (SFO), and the Martinez/Richmond Amtrak Stations, on the other hand.

Protests to the application having been filed by Travis Express, Inc. (Travis) and Bay Porter Express, Inc. (Bay Porter), certificated carriers, duly noticed public hearings were held before Administrative Law Judge Orville I. Wright in San Francisco on February 18, 1992 and March 17, 1992. The matter was submitted for decision upon filing of the transcript on April 28, 1992.

Applicant's Evidence

Abed is one of two partners who have been operating as a charter-party carrier of passengers under Commission authority since November 1990. Prior to that time, applicant has had experience as a driver, reservation agent, and dispatcher for Tours Are Us and for Direct Shuttle, both certificated carriers.

Abed's application was supported by testimony of the Special Assistant to the Executive Director of OAK that Abed's charter service to OAK has been satisfactory. The witness stated that the airport is in the process of ensuring that each of its markets is adequately served by competent ground transportation providers. OAK believes applicant's proposed on-call service will provide needed ground transportation service between OAK and the areas of Albany, Berkeley, Benicia, Crockett, El Cerrito, El Sobrante, Hercules, Martinez, Richmond, Rodeo, San Pablo, and Vallejo.

The bell captain at the Marriott Hotel in Berkeley testified that he frequently referred hotel guests to applicant's shuttle service to OAK. He found applicant's service to be reliable and to have the cleanest vans and drivers available.

Abed testified that he had \$12,000 cash in the bank as of March 17, 1992. He listed vans and other assets in the amount of \$49,379. Owner's equity is estimated to be \$10,890.

Applicant submitted a schedule of projected income and expenses for the period April 1, 1992 to December 31, 1992 showing fare revenue of \$302,096, operating expenses of \$144,036, and net income of \$156,852 (51.9% of revenue).

Protestants' Showing

Travis and Bay Porter protest Abed's application on the ground of fitness. During the course of hearings, it was shown that applicant has been operating as a passenger stage, particularly with respect to his service to the Marriott Hotel in Berkeley. Further, protestants, based upon their own experience,

believe that applicant's estimate that he will earn in excess of 50% net income in his van business is unrealistic.

Travis is a scheduled carrier serving OAK and points sought to be served by Abed. Travis has been marginally profitable in its business, a condition which it attributes to a perceived influx of unlicensed carriers into OAK which arrive for loading of passengers shortly ahead of the scheduled arrival of Travis' business.

Business at OAK has been so slow for Travis that it recently discontinued direct service to OAK in favor of a lateral service requiring passengers to transfer between vans to reach their destinations.

Protestants suggest that the Commission deny this application and require Abed to gain more experience as a charter-party carrier adhering to the rules before reapplying for passenger stage corporation authority.

Discussion

Applicant has shown that he has had experience in all phases of airport shuttle operation - scheduling, dispatching, supervision, driving. He has shown adequate financial resources to commence airport transportation service in that he owns three vans and has sufficient cash in the bank to sustain the enterprise he proposes for a reasonable period of time.

Importantly, OAK management is convinced that Abed's service points constitute a market which needs to be served by a reliable on-call carrier. Airport management recommends that the application be approved.

Weighing with these positive factors is the consideration that Abed, whether knowingly or unknowingly, engaged in per capita fare transportation holding only a charter-party permit. However, the record shows that applicant now has engaged the professional services of an experienced transportation consultant who has

provided Abed with the guidance he requires. Applicant assures the Commission that he will follow all applicable laws and regulations.

Findings of Fact

1. Applicant has the ability, equipment, and financial resources to perform the proposed on-call service.

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

3. Public convenience and necessity require the proposed on-call service.

4. Protestants providing transportation services to OAK and SFO have not shown that they will provide on-call service to the satisfaction of the Commission.

5. As there appears to be an immediate need for the proposed service, this order should be effective on the date of signing.

6. No protest to the application has been received from any public transit operator serving the territory applicant proposes to serve.

Conclusion of Law

Public convenience and necessity have been demonstrated, and a certificate 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 of rights and may 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 Angelo Abed, an individual, authorizing him 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-7569, 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.

~~Must~~ 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.

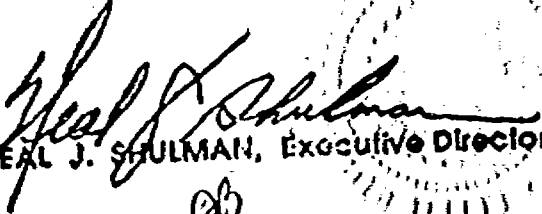
5. Applicant shall comply with PU Code §§ 460.7 and 1043, relating to the Workers' Compensation laws of this State.

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

Dated July 22, 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/MM

Appendix PSC-7569

Angelo Abed

Original Title Page

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
AS A PASSENGER STAGE CORPORATION
PSC-7569

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 92-07-042,
dated July 22, 1992, of the Public Utilities Commission of
the State of California in Application 91-10-041.

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Issued by California Public Utilities Commission.
Decision 92-07-042, Application 91-10-041.

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

Angelo Abed, an individual, 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 the cities and communities in the counties of Solano, Contra Costa, and Alameda, as described in Section II, on one hand, and the Martinez (MAMTRK) and Richmond (RAMTRK) Amtrak Stations, San Francisco (SFO) and Oakland (OAK) International Airports, on the other hand, subject, however, to the authority of this Commission to change or modify this authority 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 SFO, OAK, MAMTRK, or RAMTRK.
- 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 AREA.

cities and communities in the counties of Solano, Contra Costa, and Alameda.

SECTION III. ROUTE DESCRIPTION.

Commencing from any point as described in Section II over the most convenient streets, expressways, and highways to either SFO, OAK, MAMTRK or RAMTRK.

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